
HOUSE BILL 2099

State of Washington

57th Legislature

2001 Regular Session

By Representatives G. Chandler and Grant

Read first time 02/14/2001. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to compliance with water discharge permits;
2 amending RCW 90.48.160, 90.48.180, and 90.48.260; and creating a new
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature, through
6 the provisions of this act, to clarify existing law. Namely, the
7 intent of the legislature is to clarify that water discharge permits
8 issued by the department of ecology contain a permit shield consistent
9 with the federal water pollution control act.

10 **Sec. 2.** RCW 90.48.160 and 1989 c 293 s 2 are each amended to read
11 as follows:

12 Any person who conducts a commercial or industrial operation of any
13 type which results in the disposal of solid or liquid waste material
14 into the waters of the state, including commercial or industrial
15 operators discharging solid or liquid waste material into sewerage
16 systems operated by municipalities or public entities which discharge
17 into public waters of the state, shall procure a permit from either the
18 department or the (~~thermal power plant~~) energy facility site

1 evaluation council as provided in RCW 90.48.262(2) before disposing of
2 such waste material: PROVIDED, That this section shall not apply to
3 any person discharging domestic sewage only into a sewerage system.

4 Compliance with a permit issued under this section is deemed
5 compliance with this chapter. The department must incorporate this
6 permit shield into any individual, general, or group permits and
7 permitting programs developed by the department under this section.
8 The department may reopen and modify a discharge permit where the
9 permitted activity causes exceedances of water quality standards, after
10 allowing for appropriate dilution. However, discharge permits may not
11 contain conditions or limitations creating liability for exceedances of
12 water quality standards caused by discharges otherwise in compliance
13 with all conditions of the permit.

14 The department may, through the adoption of rules, eliminate the
15 permit requirements for disposing of wastes into publicly operated
16 sewerage systems for:

17 (1) Categories of or individual municipalities or public
18 corporations operating sewerage systems; or

19 (2) Any category of waste disposer;
20 if the department determines such permit requirements are no longer
21 necessary for the effective implementation of this chapter. The
22 department may by rule eliminate the permit requirements for disposing
23 of wastes by upland finfish rearing facilities unless a permit is
24 required under the federal clean water act's national pollutant
25 discharge elimination system.

26 **Sec. 3.** RCW 90.48.180 and 1987 c 109 s 137 are each amended to
27 read as follows:

28 The department shall issue a permit unless it finds that the
29 disposal of waste material as proposed in the application will pollute
30 the waters of the state in violation of the public policy declared in
31 RCW 90.48.010. The department shall have authority to specify
32 conditions necessary to avoid such pollution in each permit under which
33 waste material may be disposed of by the permittee. Permits may be
34 temporary or permanent but shall not be valid for more than five years
35 from date of issuance.

36 Compliance with a permit issued under this section is deemed
37 compliance with this chapter and is deemed compliance with the federal
38 clean water act, except as specifically limited by 33 U.S.C. Sec.

1 1342(k). The department must incorporate this permit shield into any
2 individual, general, or group permits or permitting programs developed
3 by the department under this section. The department may reopen and
4 modify a discharge permit where the permitted activity causes
5 exceedances of water quality standards, after allowing for appropriate
6 dilution. However, discharge permits may not contain conditions or
7 limitations creating liability for exceedances of water quality
8 standards caused by discharges otherwise in compliance with all
9 conditions of the permit.

10 **Sec. 4.** RCW 90.48.260 and 1988 c 220 s 1 are each amended to read
11 as follows:

12 The department of ecology is hereby designated as the State Water
13 Pollution Control Agency for all purposes of the federal clean water
14 act as it exists on February 4, 1987, and is hereby authorized to
15 participate fully in the programs of the act as well as to take all
16 action necessary to secure to the state the benefits and to meet the
17 requirements of that act. With regard to the national estuary program
18 established by section 320 of that act, the department shall exercise
19 its responsibility jointly with the Puget Sound ((~~water quality~~
20 ~~authority~~)) action team. The powers granted herein include, among
21 others, and notwithstanding any other provisions of chapter 90.48 RCW
22 or otherwise, the following:

23 (1) Complete authority to establish and administer a comprehensive
24 state point source waste discharge or pollution discharge elimination
25 permit program which will enable the department to qualify for full
26 participation in any national waste discharge or pollution discharge
27 elimination permit system and will allow the department to be the sole
28 agency issuing permits required by such national system operating in
29 the state of Washington subject to the provisions of RCW 90.48.262(2).
30 Program elements authorized herein may include, but are not limited to:
31 (a) Effluent treatment and limitation requirements together with timing
32 requirements related thereto; (b) applicable receiving water quality
33 standards requirements; (c) requirements of standards of performance
34 for new sources; (d) pretreatment requirements; (e) termination and
35 modification of permits for cause; (f) requirements for public notices
36 and opportunities for public hearings; (g) appropriate relationships
37 with the secretary of the army in the administration of ((~~his~~)) the
38 secretary's responsibilities which relate to anchorage and navigation,

1 with the administrator of the environmental protection agency in the
2 performance of his duties, and with other governmental officials under
3 the federal clean water act; (h) requirements for inspection,
4 monitoring, entry, and reporting; (i) enforcement of the program
5 through penalties, emergency powers, and criminal sanctions; (j) a
6 continuing planning process; and (k) user charges.

7 (2) The power to establish and administer state programs in a
8 manner which will (~~insure~~) ensure the procurement of moneys, whether
9 in the form of grants, loans, or otherwise; to assist in the
10 construction, operation, and maintenance of various water pollution
11 control facilities and works; and the administering of various state
12 water pollution control management, regulatory, and enforcement
13 programs.

14 (3) The power to develop and implement appropriate programs
15 pertaining to continuing planning processes, areawide waste treatment
16 management plans, and basin planning.

17 Compliance with a permit issued under this section is deemed
18 compliance with this chapter and is deemed compliance with the federal
19 clean water act, except as specifically limited by 33 U.S.C. Sec.
20 1342(k). The department must incorporate this permit shield into any
21 individual, general, or group permit or permitting programs developed
22 by the department under this section. The department may reopen and
23 modify a discharge permit where the permitted activity causes
24 exceedances of water quality standards, after allowing for appropriate
25 dilution. However, discharge permits may not contain conditions or
26 limitations creating liability for exceedances of water quality
27 standards caused by discharges otherwise in compliance with all
28 conditions of the permit.

29 The governor shall have authority to perform those actions required
30 of him or her by the federal clean water act.

--- END ---