
HOUSE BILL 2731

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By Representatives Eickmeyer, Kristiansen, Blake, Schoesler, Buck, Quall, Grant, Orcutt, Cox, Roach, Pearson and Woods

Read first time 01/20/2004. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to conditioning storm water general discharge
2 permits; and adding a new section to chapter 90.48 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.48 RCW
5 to read as follows:

6 The department is authorized to issue storm water general permits
7 under the national pollution discharge elimination system of the
8 federal clean water act if such permits are required to comply with
9 federal standards or are necessary for the effective implementation of
10 this chapter. However, the permits are subject to the following
11 conditions:

12 (1) The implementation and maintenance of best management practices
13 for on-site pollution control is presumed to constitute compliance with
14 the standards and requirements of the permit, subject to the conditions
15 of subsection (2) of this section.

16 (2) For purposes of storm water discharges, meeting effluent
17 discharge limits must be demonstrated through implementation of best
18 management practices sufficient to equate to all known and reasonable
19 treatment. The department may monitor best management practices, for

1 as long as deemed necessary, to determine their effectiveness in
2 managing pollutants in storm water. Compliance with numeric effluent
3 discharge limitations on any waterbody may not be a condition of the
4 permit unless:

5 (a) Compliance is required in order to comply with federally
6 adopted effluent limits;

7 (b) Water quality impacts of a specific storm water discharge on
8 the receiving waterbody have been determined to have a sustained
9 adverse impact on water quality. This determination is to be through
10 the collection of substantial time weighted and statistically
11 significant numeric and/or biological data. This determination is
12 subject to appeal. During the data collection phase, the effluent
13 discharge limitation must be set equivalent to the current discharge;
14 or

15 (c) Numeric effluent limitations are derived from a finalized and
16 approved total daily maximum load study of the applicable waterbody.

17 (3)(a) Standard mixing zones must be allowed for all applicable
18 permittees. Additional application for coverage under a general permit
19 or further approval by the department under the terms of a permit may
20 not be a condition on the use of standard mixing zones. Standard
21 mixing zones shall be based on the following six criteria:

22 (i) The allowable size and location of a mixing zone and the
23 associated effluent limits shall be established in discharge permits,
24 general permits, or orders, as appropriate;

25 (ii) A discharger shall be required to fully apply all known,
26 available, and reasonable methods of prevention, control, and treatment
27 prior to being authorized a mixing zone;

28 (iii) Mixing zone determinations shall consider critical discharge
29 conditions;

30 (iv) No mixing zone shall be granted unless the supporting
31 information clearly indicates the mixing zone would not have a
32 reasonable potential to cause a loss of sensitive or important habitat,
33 substantially interfere with the existing or characteristic uses of the
34 water body, result in damage to the ecosystem, or adversely affect
35 public health as determined by the department;

36 (v) Water quality criteria shall not be violated outside of the
37 boundary of a mixing zone as a result of the discharge for which the
38 mixing zone was authorized; and

1 (vi) The size of a mixing zone and the concentrations of pollutants
2 present shall be minimized.

3 (b) When the department determines that a granted standard mixing
4 zone based on the six criteria in (a) of this subsection, will cause
5 significant degradation to the environment, the department must notify
6 the permittee and provide a compliance schedule and technical
7 assistance, as identified in subsection (5) of this section, to:

8 (i) Correct the problems identified with the mixing zone;

9 (ii) Conduct studies as necessary to support an alternative mixing
10 zone; or

11 (iii) Make physical and operational changes as necessary to meet
12 applicable discharge standards under the permit for a facility without
13 a mixing zone. The department shall adopt rules to implement this
14 subsection.

15 (4) The department must follow the requirements of chapter 34.05
16 RCW in establishing any provisions of a storm water manual or other
17 technical guidance document issued by the department or a federal
18 agency as a condition of a permitted discharge. Any state-issued
19 guidance document that is not required to meet chapter 34.05 RCW
20 requirements must be plainly marked "guidance only" on each page and is
21 not considered a mandatory component of the permit writer's manual.

22 (5) Storm water discharges under the permit are required to achieve
23 compliance with effluent discharge standards within the shortest time
24 economically and technically practicable, but in no case over one
25 hundred twenty months after the initial determination of adverse impact
26 as defined in subsection (2)(a) of this section, except: Where the
27 pollutant is of such a widespread nature in the environment and
28 receiving waters as to require a completed total maximum daily load or
29 other pollution control measure to address the water quality concerns.
30 In that case:

31 (a) The total maximum daily load waste or waste load allocation
32 constitutes the basis for effluent discharge standards that will
33 supersede the effluent discharge standard;

34 (b) Prior to and during the development of the total maximum daily
35 load, or other pollution control measures, the storm water permittee
36 must be given an interim effluent discharge standard equivalent to
37 current discharges;

1 (c) The permittee is required to take prudent actions to reduce the
2 discharge of these wide-area pollutants to the maximum extent
3 practicable;

4 (d) The permittee must provide an annual report on efforts taken to
5 reduce discharges to the responsible agency in conjunction with any
6 required discharge monitoring reports; and

7 (e) At the request of the permittee, the department must provide
8 the permittee with technical assistance to assist with the application
9 of best management practices or other methods that may allow the
10 permittee to come into compliance with the permit.

11 (6) Ambient instream monitoring is the responsibility of the state.
12 In consideration of the health and safety of the general permittee and
13 their employees, instream sampling is not a requirement of an
14 industrial or construction general permit. The department is
15 authorized to use fees collected in conjunction with storm water
16 permits to support necessary storm water-related ambient monitoring,
17 subject to budgetary approval by the legislature.

18 (7) Notwithstanding any other provision of law, a permittee is only
19 liable for that portion of storm water-borne pollution or storm water
20 flow that originates from facilities owned or operated by the
21 permittee. This provision specifically includes combined discharges
22 from privately or municipally owned storm water conveyances.

23 (8) Upon application by the permittee who requires a mixing zone,
24 compliance schedule, or is subject to a total maximum daily load, the
25 department shall issue an individual permit in lieu of coverage under
26 a general permit. After application, and prior to the issuance of an
27 individual permit, the permittee will be covered under the general
28 permit. The department shall, if necessary, assign interim effluent
29 discharge standards equivalent to current discharges during the
30 development of the individual permit.

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