
SUBSTITUTE HOUSE BILL 2172

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Economic Development, Agriculture & Trade
(originally sponsored by Representatives Newhouse, Linville and
Clements)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to department of ecology water discharge permit
2 fees; and amending RCW 90.48.465.

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

4 **Sec. 1.** RCW 90.48.465 and 2002 c 361 s 2 are each amended to read
5 as follows:

6 (1) The department shall establish annual fees to collect expenses
7 for issuing and administering each class of permits under RCW
8 90.48.160, 90.48.162, and 90.48.260. An initial fee schedule shall be
9 established by rule and be adjusted no more often than once every two
10 years. This fee schedule shall apply to all permits, regardless of
11 date of issuance, and fees shall be assessed prospectively. All fees
12 charged shall be based on factors relating to the complexity of permit
13 issuance and compliance and may be based on pollutant loading and
14 toxicity and be designed to encourage recycling and the reduction of
15 the quantity of pollutants. Fees shall be established in amounts to
16 fully recover and not to exceed expenses incurred by the department in
17 processing permit applications and modifications, monitoring and
18 evaluating compliance with permits, conducting inspections, securing
19 laboratory analysis of samples taken during inspections, reviewing

1 plans and documents directly related to operations of permittees,
2 overseeing performance of delegated pretreatment programs, and
3 supporting the overhead expenses that are directly related to these
4 activities.

5 (2) The annual fee paid by a municipality, as defined in 33 U.S.C.
6 Sec. 1362, for all domestic wastewater facility permits issued under
7 RCW 90.48.162 and 90.48.260 shall not exceed the total of a maximum of
8 fifteen cents per month per residence or residential equivalent
9 contributing to the municipality's wastewater system.

10 (3) The department shall ensure that indirect dischargers do not
11 pay twice for the administrative expense of a permit. Accordingly,
12 administrative expenses for permits issued by a municipality under RCW
13 90.48.165 are not recoverable by the department. In the event the
14 department delegates the federal pretreatment program duties to a
15 municipality, and the delegation results in a municipality issuing a
16 permit and collecting a fee from the indirect discharger, the:

17 (a) Municipality's permit fee must be the lesser of the
18 municipality's actual cost for issuing the permit or the permit fee
19 established by the department according to this section for that type
20 of permit; and

21 (b) Department's permit fee shall be reduced by at least fifty
22 percent for any permit issued by the department to the indirect
23 discharger.

24 (4) In establishing fees, the department shall consider the
25 economic impact of fees on small dischargers and the economic impact of
26 fees on public entities required to obtain permits for storm water
27 runoff and shall provide appropriate adjustments.

28 (5) The fee for an individual permit issued for a dairy farm as
29 defined under chapter 90.64 RCW shall be fifty cents per animal unit up
30 to one thousand two hundred fourteen dollars for fiscal year 1999. The
31 fee for a general permit issued for a dairy farm as defined under
32 chapter 90.64 RCW shall be fifty cents per animal unit up to eight
33 hundred fifty dollars for fiscal year 1999. Thereafter, these fees may
34 rise in accordance with the fiscal growth factor as provided in chapter
35 43.135 RCW.

36 (6) The fee for a general permit or an individual permit developed
37 solely as a result of the federal court of appeals decision in
38 *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th Cir.

1 2001) is limited, until June 30, 2003, to a maximum of three hundred
2 dollars. Such a permit is required only, and as long as, the
3 interpretation of this court decision is not overturned or modified by
4 future court rulings, administrative rule making, or clarification of
5 scope by the United States environmental protection agency or
6 legislative action. In such a case the department shall take
7 appropriate action to rescind or modify these permits.

8 (7) All fees collected under this section shall be deposited in the
9 water quality permit account hereby created in the state treasury.
10 Moneys in the account may be appropriated only for purposes of
11 administering permits under RCW 90.48.160, 90.48.162, and 90.48.260.

12 (8) The department shall present a biennial progress report on the
13 use of moneys from the account to the legislature. The report will be
14 due December 31st of odd-numbered years. The report shall consist of
15 information on fees collected, actual expenses incurred, and
16 anticipated expenses for the current and following fiscal years.

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