

SHB 2222 - H AMD 350

By Representative Blake

ADOPTED 03/11/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.48.555 and 2004 c 225 s 2 are each amended to read
4 as follows:

5 The provisions of this section apply to the construction and
6 industrial storm water general permits issued by the department
7 pursuant to the federal clean water act, 33 U.S.C. Sec. 1251 et seq.,
8 and this chapter.

9 (1) Effluent limitations shall be included in construction and
10 industrial storm water general permits as required under the federal
11 clean water act, 33 U.S.C. Sec. 1251 et seq., and its implementing
12 regulations. In accordance with federal clean water act requirements,
13 pollutant specific, water quality-based effluent limitations shall be
14 included in construction and industrial storm water general permits if
15 there is a reasonable potential to cause or contribute to an excursion
16 of a state water quality standard.

17 (2) Subject to the provisions of this section, both technology and
18 water quality-based effluent limitations may be expressed as:

19 (a) Numeric effluent limitations;

20 (b) Narrative effluent limitations; or

21 (c) A combination of numeric and narrative effluent discharge
22 limitations.

23 (3) The department must condition storm water general permits for
24 industrial and construction activities issued under the national
25 pollutant discharge elimination system of the federal clean water act
26 to require compliance with numeric effluent discharge limits when such
27 discharges are subject to:

28 (a) Numeric effluent limitations established in federally adopted,
29 industry-specific effluent guidelines;

1 (b) State developed, industry-specific performance-based numeric
2 effluent limitations;

3 (c) Numeric effluent limitations based on a completed total maximum
4 daily load analysis or other pollution control measures; or

5 (d) A determination by the department that:

6 (i) The discharges covered under either the construction or
7 industrial storm water general permits have a reasonable potential to
8 cause or contribute to violation of state water quality standards; and

9 (ii) Effluent limitations based on nonnumeric best management
10 practices are not effective in achieving compliance with state water
11 quality standards.

12 (4) In making a determination under subsection (3)(d) of this
13 section, the department shall use procedures that account for:

14 (a) Existing controls on point and nonpoint sources of pollution;

15 (b) The variability of the pollutant or pollutant parameter in the
16 storm water discharge; and

17 (c) As appropriate, the dilution of the storm water in the
18 receiving waters.

19 (5) Narrative effluent limitations requiring both the
20 implementation of best management practices, when designed to satisfy
21 the technology and water quality-based requirements of the federal
22 clean water act, 33 U.S.C. Sec. 1251 et seq., and compliance with water
23 quality standards, shall be used for construction and industrial storm
24 water general permits, unless the provisions of subsection (3) of this
25 section apply.

26 (6) Compliance with water quality standards shall be presumed,
27 unless discharge monitoring data or other site specific information
28 demonstrates that a discharge causes or contributes to violation of
29 water quality standards, when the permittee is:

30 (a) In full compliance with all permit conditions, including
31 planning, sampling, monitoring, reporting, and recordkeeping
32 conditions; and

33 (b)(i) Fully implementing storm water best management practices
34 contained in storm water technical manuals approved by the department,
35 or practices that are demonstrably equivalent to practices contained in
36 storm water technical manuals approved by the department, including the
37 proper selection, implementation, and maintenance of all applicable and
38 appropriate best management practices for on-site pollution control.

1 (ii) For the purposes of this section, "demonstrably equivalent"
2 means that the technical basis for the selection of all storm water
3 best management practices are documented within a storm water pollution
4 prevention plan. The storm water pollution prevention plan must
5 document:

6 (A) The method and reasons for choosing the storm water best
7 management practices selected;

8 (B) The pollutant removal performance expected from the practices
9 selected;

10 (C) The technical basis supporting the performance claims for the
11 practices selected, including any available existing data concerning
12 field performance of the practices selected;

13 (D) An assessment of how the selected practices will comply with
14 state water quality standards; and

15 (E) An assessment of how the selected practices will satisfy both
16 applicable federal technology-based treatment requirements and state
17 requirements to use all known, available, and reasonable methods of
18 prevention, control, and treatment.

19 (7)(a) By November 1, 2009, the department shall modify or reissue
20 the industrial storm water general permit to require compliance ((by
21 May 1, 2009,)) with appropriately derived numeric water quality-based
22 effluent limitations for existing discharges to water bodies listed as
23 impaired according to 33 U.S.C. Sec. 1313(d) (Sec. 303(d) of the
24 federal clean water act, 33 U.S.C. Sec. 1251 et seq.).

25 (b) ((No later than September 1, 2008,)) The industrial storm water
26 general permit must require permittees to comply with appropriately
27 derived numeric water quality-based effluent limitations in the permit,
28 as described in (a) of this subsection, by no later than six months
29 after the effective date of the industrial storm water general permit.

30 (c) For permittees that the department determines are unable to
31 comply with numeric water quality-based effluent limitations required
32 by (a) of this subsection, within the timeline established in (b) of
33 this subsection, the department shall establish a compliance schedule.

34 (i) A compliance schedule provided by the department must require
35 compliance as soon as possible, but no later than eighteen months after
36 the effective date of the industrial storm water general permit.

37 (ii) The department shall post the compliance schedule on the
38 department's web site prior to issuing the compliance schedule.

1 (d) The department shall report to the appropriate committees of
2 the legislature specifying how the numeric effluent limitation in (a)
3 of this subsection would be implemented. The report shall identify the
4 number of dischargers to impaired water bodies and provide an
5 assessment of anticipated compliance with the numeric effluent
6 limitation established by (a) of this subsection.

7 (8)(a) Construction and industrial storm water general permits
8 issued by the department shall include an enforceable adaptive
9 management mechanism that includes appropriate monitoring, evaluation,
10 and reporting. The adaptive management mechanism shall include
11 elements designed to result in permit compliance and shall include, at
12 a minimum, the following elements:

13 (i) An adaptive management indicator, such as monitoring
14 benchmarks;

15 (ii) Monitoring;

16 (iii) Review and revisions to the storm water pollution prevention
17 plan;

18 (iv) Documentation of remedial actions taken; and

19 (v) Reporting to the department.

20 (b) Construction and industrial storm water general permits issued
21 by the department also shall include the timing and mechanisms for
22 implementation of treatment best management practices.

23 (9) Construction and industrial storm water discharges authorized
24 under general permits must not cause or have the reasonable potential
25 to cause or contribute to a violation of an applicable water quality
26 standard. Where a discharge has already been authorized under a
27 national pollutant discharge elimination system storm water permit and
28 it is later determined to cause or have the reasonable potential to
29 cause or contribute to the violation of an applicable water quality
30 standard, the department may notify the permittee of such a violation.

31 (10) Once notified by the department of a determination of
32 reasonable potential to cause or contribute to the violation of an
33 applicable water quality standard, the permittee must take all
34 necessary actions to ensure future discharges do not cause or
35 contribute to the violation of a water quality standard and document
36 those actions in the storm water pollution prevention plan and a report
37 timely submitted to the department. If violations remain or recur,
38 coverage under the construction or industrial storm water general

1 permits may be terminated by the department, and an alternative general
2 permit or individual permit may be issued. Compliance with the
3 requirements of this subsection does not preclude any enforcement
4 activity provided by the federal clean water act, 33 U.S.C. Sec. 1251
5 et seq., for the underlying violation.

6 (11) Receiving water sampling shall not be a requirement of an
7 industrial or construction storm water general permit except to the
8 extent that it can be conducted without endangering the health and
9 safety of persons conducting the sampling.

10 (12) The department may authorize mixing zones only in compliance
11 with and after making determinations mandated by the procedural and
12 substantive requirements of applicable laws and regulations.

13 (13) The industrial storm water general permit must include a
14 provision to allow an entity subject to coverage by the permit to apply
15 for an individual storm water permit or coverage under another
16 alternative permit as provided in the industrial storm water general
17 permit.

18 NEW SECTION. Sec. 2. A new section is added to chapter 90.48 RCW
19 to read as follows:

20 The provisions of this section apply to the construction and
21 industrial storm water general permits issued by the department
22 pursuant to the federal clean water act, 33 U.S.C. Sec. 1251 et seq.,
23 and this chapter.

24 By July 1, 2010, the department shall implement a technical
25 assistance program as provided by RCW 43.05.030, 43.05.040, 43.05.050,
26 43.05.060, and 43.05.070. The department shall seek input from
27 stakeholders prior to establishing the technical assistance program and
28 periodically thereafter in an effort to maximize the effectiveness of
29 the technical assistance program. The department shall also seek input
30 from stakeholders to help identify resources needed to implement the
31 department's technical assistance program.

32 NEW SECTION. Sec. 3. A new section is added to chapter 90.48 RCW
33 to read as follows:

34 (1) The provisions of this section apply to the construction and
35 industrial storm water general permits issued by the department

1 pursuant to the federal clean water act, 33 U.S.C. Sec. 1251 et seq.,
2 and this chapter.

3 (2) By June 30, 2010, the department shall develop a long-term
4 compliance assessment and enforcement plan for the construction and
5 industrial storm water general permits in accordance with RCW
6 90.48.560. The plan must:

7 (a) Be developed with the assistance of a stakeholder advisory
8 committee with representatives of at least industrial and construction
9 permittees, nongovernmental organizations, affected agencies, tribes,
10 and local governments. The department may establish separate
11 stakeholder committees for the industrial storm water general permit
12 and the construction storm water general permit.

13 (b) Contain provisions to identify entities required to be covered
14 by the permits that are not covered and maximize the number of
15 facilities covered by the permit that are required to be covered by the
16 permit by June 30, 2011.

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

19 (1) The department shall create a storm water technical resource
20 center in partnership with a university, nonprofit organization, or
21 other public or private entity to provide tools for storm water
22 management. The center shall use its authority to support the duties
23 listed in this subsection through research, development, technology
24 demonstration, technology transfer, education, outreach, recognition,
25 and training programs. The center may:

26 (a) Review and evaluate emerging storm water technologies;

27 (b) Research and develop innovative and cost-effective technical
28 solutions to remove pollutants from runoff and to reduce or eliminate
29 storm water discharges;

30 (c) Conduct pilot projects to test technical solutions;

31 (d) Serve as a clearinghouse and outreach center for information on
32 storm water technology;

33 (e) Assist in the development of storm water control methods to
34 better protect water quality, including source control, product
35 substitution, pollution prevention, and storm water treatment;

36 (f) Coordinate with federal, state, and local agencies and private

1 organizations in administering programs related to storm water control
2 measures; and

3 (g) Collaborate with existing storm water outreach programs.

4 (2) The department shall consult with an advisory committee in the
5 development of the storm water technical resource center. The advisory
6 committee must include representatives from relevant state agencies,
7 local governments, the business community, the environmental community,
8 tribes, and the building and development industry.

9 (3) The department, in consultation with the storm water technical
10 resource center advisory committee, shall identify a funding strategy
11 for funding the storm water technical resource center.

12 (4) The department shall encourage all interested parties to help
13 and support the technical resource center with in-kind services.

14 (5) The department shall prepare and submit a biennial progress
15 report to the legislature.

16 NEW SECTION. **Sec. 5.** Section 1 of this act expires January 1,
17 2015."

18 Correct the title.

EFFECT: By November 1, 2009, the department of ecology (DOE) must modify or reissue the industrial storm water general permit to require compliance with appropriately derived numeric water quality-based effluent limitations for existing discharges to 303(d) water bodies. The industrial storm water general permit must require permittees to comply by no later than 6 months after the effective date of the industrial storm water general permit. The DOE may establish a compliance schedule up to 18 months after the effective date of the permit, for permittees that the DOE determines are unable to comply by the original compliance date.

The industrial storm water general permit must include a provision to allow an entity subject to coverage by the permit to apply for an individual storm water permit or coverage under another alternative permit.

By July 1, 2010, the DOE must implement a technical assistance program. By June 30, 2010, the DOE must develop a long-term compliance assessment and enforcement plan for the industrial and construction general storm water permits.

The DOE, in consultation with an advisory committee, must create a storm water technical resource center in partnership with a university, nonprofit organization, or other public or private entity to provide

tools for storm water management. The center must use its authority to support research, development, technology demonstration, technology transfer, education, outreach, recognition, and training programs.

The DOE, in consultation with an advisory committee, must identify a funding strategy for funding the storm water technical resource center. The DOE must encourage all interested parties to help and support the technical resource center with in-kind services.

The DOE must prepare and submit a biennial progress report to the legislature.

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