
HOUSE BILL 2093

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63rd Legislature

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By Representatives Overstreet, Shea, Taylor, Scott, Condotta, Haler, Buys, Rodne, Pike, and Magendanz

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1 AN ACT Relating to applying federal environmental review and
2 protection requirements to transportation projects conducted by or for
3 the department of transportation; amending RCW 90.48.260; adding a new
4 section to chapter 36.70A RCW; adding a new section to chapter 90.58
5 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the federal
8 government has created extensive rules and regulations related to
9 environmental protection so that duplicative state rules and
10 regulations on the same issues are more burdensome than productive. It
11 is the intent of the legislature to provide cost reductions on
12 transportation projects by applying federal standards without
13 additional state requirements to transportation projects.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
15 to read as follows:

16 Comprehensive plans and development regulations adopted in
17 accordance with this chapter do not require modification of or limit
18 transportation projects, as defined in RCW 47.29.020, conducted by or

1 for the Washington state department of transportation that comply with
2 applicable federal environmental review requirements or protection
3 requirements, or both.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.58 RCW
5 to read as follows:

6 Guidelines adopted by the department and master programs developed
7 or amended by local governments in accordance with RCW 90.58.080 do not
8 require modification of or limit transportation projects, as defined in
9 RCW 47.29.020, conducted by or for the Washington state department of
10 transportation that comply with applicable federal environmental review
11 requirements or protection requirements, or both.

12 **Sec. 4.** RCW 90.48.260 and 2012 1st sp.s. c 1 s 313 are each
13 amended to read as follows:

14 (1) The department of ecology is hereby designated as the state
15 water pollution control agency for all purposes of the federal clean
16 water act as it exists on February 4, 1987, and is hereby authorized to
17 participate fully in the programs of the act as well as to take all
18 action necessary to secure to the state the benefits and to meet the
19 requirements of that act. With regard to the national estuary program
20 established by section 320 of that act, the department shall exercise
21 its responsibility jointly with the Puget Sound partnership, created in
22 RCW 90.71.210. The department of ecology may delegate its authority
23 under this chapter, including its national pollutant discharge
24 elimination permit system authority and duties regarding animal feeding
25 operations and concentrated animal feeding operations, to the
26 department of agriculture through a memorandum of understanding. Until
27 any such delegation receives federal approval, the department of
28 agriculture's adoption or issuance of animal feeding operation and
29 concentrated animal feeding operation rules, permits, programs, and
30 directives pertaining to water quality shall be accomplished after
31 reaching agreement with the director of the department of ecology.
32 Adoption or issuance and implementation shall be accomplished so that
33 compliance with such animal feeding operation and concentrated animal
34 feeding operation rules, permits, programs, and directives will achieve
35 compliance with all federal and state water pollution control laws.

1 The powers granted herein include, among others, and notwithstanding
2 any other provisions of this chapter or otherwise, the following:

3 (a) Complete authority to establish and administer a comprehensive
4 state point source waste discharge or pollution discharge elimination
5 permit program which will enable the department to qualify for full
6 participation in any national waste discharge or pollution discharge
7 elimination permit system and will allow the department to be the sole
8 agency issuing permits required by such national system operating in
9 the state of Washington subject to the provisions of RCW 90.48.262(2).

10 Program elements authorized herein may include, but are not limited to:

11 (i) Effluent treatment and limitation requirements together with timing
12 requirements related thereto; (ii) applicable receiving water quality
13 standards requirements; (iii) requirements of standards of performance
14 for new sources; (iv) pretreatment requirements; (v) termination and
15 modification of permits for cause; (vi) requirements for public notices
16 and opportunities for public hearings; (vii) appropriate relationships
17 with the secretary of the army in the administration of his or her
18 responsibilities which relate to anchorage and navigation, with the
19 administrator of the environmental protection agency in the performance
20 of his or her duties, and with other governmental officials under the
21 federal clean water act; (viii) requirements for inspection,
22 monitoring, entry, and reporting; (ix) enforcement of the program
23 through penalties, emergency powers, and criminal sanctions; (x) a
24 continuing planning process; and (xi) user charges.

25 (b) The power to establish and administer state programs in a
26 manner which will ensure the procurement of moneys, whether in the form
27 of grants, loans, or otherwise; to assist in the construction,
28 operation, and maintenance of various water pollution control
29 facilities and works; and the administering of various state water
30 pollution control management, regulatory, and enforcement programs.

31 (c) The power to develop and implement appropriate programs
32 pertaining to continuing planning processes, area-wide waste treatment
33 management plans, and basin planning.

34 (2) The governor shall have authority to perform those actions
35 required of him or her by the federal clean water act.

36 (3) By July 31, 2012, the department shall:

37 (a) Reissue without modification and for a term of one year any

1 national pollutant discharge elimination system municipal storm water
2 general permit applicable to western Washington municipalities first
3 issued on January 17, 2007; and

4 (b) Issue an updated national pollutant discharge elimination
5 system municipal storm water general permit applicable to western
6 Washington municipalities for any permit first issued on January 17,
7 2007. An updated permit issued under this subsection shall become
8 effective beginning August 1, 2013.

9 (i) Provisions of the updated permit issued under (b) of this
10 subsection relating to new requirements for low-impact development and
11 review and revision of local development codes, rules, standards, or
12 other enforceable documents to incorporate low-impact development
13 principles must be implemented simultaneously. These requirements may
14 go into effect no earlier than December 31, 2016, or the time of the
15 scheduled update under RCW 36.70A.130(5), as existing on July 10, 2012,
16 whichever is later.

17 (ii) Provisions of the updated permit issued under (b) of this
18 subsection related to increased catch basin inspection and illicit
19 discharge detection frequencies and application of new storm water
20 controls to projects smaller than one acre may go into effect no
21 earlier than December 31, 2016, or the time of the scheduled update
22 under RCW 36.70A.130(5), as existing on July 10, 2012, whichever is
23 later.

24 (4) By July 31, 2012, the department shall:

25 (a) Reissue without modification and for a term of two years any
26 national pollutant discharge elimination system municipal storm water
27 general permit applicable to eastern Washington municipalities first
28 issued on January 17, 2007; and

29 (b) Issue an updated national pollutant discharge elimination
30 system municipal storm water general permit for any permit first issued
31 on January 17, 2007, applicable to eastern Washington municipalities.
32 An updated permit issued under this subsection becomes effective August
33 1, 2014.

34 (5) The department may not adopt or maintain any rule that
35 includes, or includes in any permit, a requirement under this chapter
36 that is applicable to transportation projects, as defined in RCW
37 47.29.020, conducted by or for the Washington state department of
38 transportation if the requirement is more stringent than would be

1 required for a similar project in an abutting jurisdiction that is
2 subject to the federal clean water act. If a rule of the department,
3 or a condition of a department permit, applies to more than just
4 transportation projects, this subsection only applies as that rule or
5 permit requirement affects the transportation project.

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