
Environment & Energy Committee

HB 1166

Brief Description: Improving climate resiliency through the development of a water quality trading program for recipients of national pollutant discharge elimination system general permits.

Sponsors: Representatives Dye and Walsh.

Brief Summary of Bill

- Requires the Department of Ecology (Ecology) to offer a water quality trading program to certain National Pollutant Discharge Elimination System (NPDES) permittees who are not in compliance with the terms of their permit.
- Requires Ecology, as part of any such water quality trading program, to offer incentives whenever feasible to do so for any improvements made on behalf of the permittee that take place in the built environment or that otherwise address the urban heat island effect on waters of the state.

Hearing Date: 1/16/23

Staff: Robert Hatfield (786-7117).

Background:

Clean Water Act.

The federal Clean Water Act sets effluent limitations for discharges of pollutants. "Pollutant" is defined in the Clean Water Act to include a variety of materials that may be discharged into water through human activities, construction or industrial processes, or other methods.

The Department of Ecology (Ecology) is delegated federal Clean Water Act authority by the

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United States Environmental Protection Agency (EPA). Ecology also is the agency authorized by state law to implement state water quality programs.

The Clean Water Act establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. Point sources are defined generally as discernable, discrete, and confined conveyances from which pollutant discharges can or do occur. NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters.

A wastewater discharge permit places limits on the quantity and concentrations of contaminants that may be discharged. Permits may require wastewater treatment or impose operating or other conditions, including monitoring, reporting, and spill prevention planning.

Ecology issues both individual NPDES permits covering single, specific activities or facilities; and general NPDES permits covering a category of similar dischargers. These permits include limits on the quantity and concentrations of contaminants that may be discharged. These permits also may require wastewater treatment or impose operating or other conditions.

Total Maximum Daily Loads.

One of Ecology's other duties under its delegated Clean Water Act authority is to develop total maximum daily load assessments and allocations (TMDLs) for water bodies that violate water quality standards. The objective of a TMDL is to allocate allowable loads among different pollutant sources so that the appropriate control actions can be taken and water quality standards achieved. TMDLs are submitted to the EPA for approval. Temperature is a pollutant for which a TMDL can be developed.

Water Quality Trading.

Generally speaking, water quality trading is a voluntary exchange of pollutant reduction credits. A facility with a higher pollutant control cost can buy a pollutant reduction credit from a facility with a lower control cost, thus reducing their cost of compliance. A permitted facility or a point source can trade with another point source or with a nonpoint source.

A credit is a unit of pollutant reduction. Credits can be generated by a point source overcontrolling its discharge or by a nonpoint source installing best management practices beyond its baseline.

Summary of Bill:

If a National Pollutant Discharge Elimination System (NPDES) general permittee discharges to a waterbody for which a total maximum daily load (TMDL) for temperature has been issued and the permittee is not in compliance with the terms of the permit, the Department of Ecology (Ecology) must offer the permittee a watershed-based water quality trading program to assist the permittee to come into compliance with the terms of the permit through a community-based or market-based water quality trading program.

In any such water quality trading program, Ecology must offer incentives whenever feasible to do so for any improvements made by or on behalf of the permittee that take place in the built environment or that otherwise address the urban heat island effect on waters of the state.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.