
SENATE BILL 5670

State of Washington

56th Legislature

1999 Regular Session

By Senators Snyder and Rasmussen

Read first time 02/01/1999. Referred to Committee on Natural Resources, Parks & Recreation.

1 AN ACT Relating to water pollution control; amending RCW 90.48.445;
2 and declaring an emergency.

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

4 **Sec. 1.** RCW 90.48.445 and 1995 c 255 s 3 are each amended to read
5 as follows:

6 (1) The director shall issue or approve water quality permits for
7 use by federal, state, or local governmental agencies and licensed
8 applicators for the purpose of using, for aquatic noxious weed control,
9 herbicides and surfactants registered under state or federal pesticide
10 control laws, and for the purpose of experimental use of herbicides on
11 aquatic sites, as defined in 40 C.F.R. Sec. 172.3. The issuance of the
12 permits shall be subject only to compliance with: Federal and state
13 pesticide label requirements, the requirements of the federal
14 insecticide, fungicide, and rodenticide act, the Washington pesticide
15 control act, the Washington pesticide application act, and the state
16 environmental policy act(~~and~~), except that:

17 (a) When the director issues water quality permits for the purpose
18 of using glyphosate and surfactants registered by the department of

1 agriculture to control spartina, as defined by RCW 17.26.020, the water
2 quality permits shall contain the following criteria:

3 (i) Spartina treatment shall occur between June 1st and October
4 31st of each year unless the department, the department of agriculture,
5 and the department of fish and wildlife agree to add additional dates
6 beyond this period, except that no aerial application shall be allowed
7 on July 4th or Labor Day and for ground application on those days the
8 applicator shall post signs at each corner of the treatment area;

9 (ii) The applicator shall take all reasonable precautions to
10 prevent the spraying of nontarget vegetation and nonvegetated areas;

11 (iii) A period of fourteen days between treatments is required
12 prior to re-treating the previously treated areas;

13 (iv) Aerial or ground broadcast application shall not be made when
14 the wind speed exceeds ten miles per hour; and

15 (v) An application shall not be made when a tidal regime leaves the
16 plants dry for less than four hours.

17 (b) The director shall issue water quality permits for the purpose
18 of using herbicides or surfactants registered by the department of
19 agriculture to control aquatic noxious weeds, other than spartina, and
20 the permit shall state that aerial and ground broadcast applications
21 may not be made when the wind speed exceeds ten miles per hour.

22 (c) The director shall issue water quality permits for the
23 experimental use of herbicides on aquatic sites, as defined in 40
24 C.F.R. Sec. 172.3, when the department of agriculture has issued an
25 experimental use permit, under the authority of RCW 15.58.405(3).
26 Because of the small geographic areas involved and the short duration
27 of herbicide application, water quality permits issued under this
28 subsection are not subject to state environmental policy act review.

29 (2) Applicable requirements established in an option or options
30 recommended for controlling the noxious weed by a final environmental
31 impact statement published under chapter 43.21C RCW by the department
32 prior to May 5, 1995, by the department of agriculture, or by the
33 department of agriculture jointly with other state agencies shall be
34 considered guidelines for the purpose of granting the permits issued
35 under this chapter. This section may not be construed as requiring the
36 preparation of a new environmental impact statement to replace a final
37 environmental impact statement published before May 5, 1995, but
38 instead shall authorize the department of agriculture, as lead agency
39 for the control of spartina under RCW 17.26.015, to supplement, amend,

1 or issue addenda to the final environmental impact statement published
2 before May 5, 1995, which may assess the environmental impact of the
3 application of stronger concentrations of active ingredients, altered
4 application patterns, or other changes as the department of agriculture
5 deems appropriate.

6 ((+2)) (3) The director of ecology may not utilize this permit
7 authority to otherwise condition or burden weed control efforts.
8 Except for permits issued by the director under subsection (1)(c) of
9 this section, permits issued under this section are effective for five
10 years, unless a shorter duration is requested by the applicant. The
11 director's authority to issue water quality modification permits for
12 activities other than the application of surfactants and approved
13 herbicides, to control aquatic noxious weeds or the experimental use of
14 herbicides used on aquatic sites, as defined in 40 C.F.R. Sec. 172.3,
15 is unaffected by this section.

16 ((+3)) (4) As used in this section, "aquatic noxious weed" means
17 an aquatic weed on the state noxious weed list adopted under RCW
18 17.10.080.

19 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 immediately.

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