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## Environment & Energy Committee

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### HB 1937

**Brief Description:** Establishing a presumption of compliance for entities covered under the state's industrial stormwater general permit under certain circumstances.

**Sponsors:** Representative Fey.

#### Brief Summary of Bill

- Establishes a presumption of compliance with water quality standards by industrial stormwater general permit (ISGP) holders under specified circumstances.
- Prohibits the Department of Ecology (Ecology) from requiring stormwater sampling at transportation facilities under the ISGP.

**Hearing Date:** 2/17/25

**Staff:** Jacob Lipson (786-7196).

#### Background:

The federal Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES), which regulates wastewater discharges. The NPDES permitting authority is delegated to the state, and state law authorizes the Department of Ecology (Ecology) to issue NPDES and state wastewater permits to cities and counties. The NPDES permits are required for anyone, including local governments, who discharges wastewater to state surface waters, while state waste discharge permits additionally regulate discharges to groundwater.

The CWA requires states to prepare a list for EPA approval every two years of the specific water bodies or water body segments that do not meet state water quality standards, also known as the 303(d) list. A water body can be removed from the 303(d) list when the state develops a

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required water quality improvement process known as a Total Maximum Daily Load (TMDL) and the TMDL is approved by the Environmental Protection Agency.

Ecology issues a number different types of water quality general permits under federal and state law to regulate specific discharge categories with similar characteristics. The industrial stormwater general permit (ISGP) is issued as both an NPDES and state water discharge permit and applies, with some exceptions, to facilities conducting industrial activities that discharge stormwater to surface waters of the state. Ecology's most recent iteration of the ISGP took effect January 1, 2025.

To be covered by the ISGP, a facility required to obtain a water discharge permit from Ecology must notify Ecology of its intent to receive coverage under the IGSP. The IGSP holders must implement a stormwater pollution prevention plan that includes, among other criteria, best management practices (BMPs) to provide all known, available, and reasonable methods of prevention, control, and treatment, and ensure that discharges do not cause or contribute to water quality violations. The BMPs must be consistent with Ecology-issued stormwater management manuals for Eastern or Western Washington, as appropriate, or else be demonstrably equivalent and consistent with other pollution prevention measures incorporated into the ISGP by Ecology. The ISGP also requires permit holders to conduct site inspections and stormwater sampling in accordance with conditions set in both the ISGP and the stormwater prevention plan implemented by the industrial facility. Sampling requirements apply to designated locations at least once per quarter, during the first fall storm event, and within the first 12 hours of stormwater discharge events. Sampling is not required to occur outside of regular business hours or during unsafe conditions. An ISGP holder may receive a waiver from sampling requirements if the permit holder demonstrates to Ecology that sampling is not feasible. An ISGP holder that exceeds specified water quality benchmarks in sampling of their stormwater discharges must take specified types of corrective actions.

Under the ISGP, Ecology presumes compliance with water quality standards unless discharge monitoring data or site-specific information demonstrates that a discharge causes or contributes to a water quality standard violation, so long as the permittee is in full compliance with all permit conditions and is fully implementing stormwater best management practices contained in Ecology-approved stormwater technical manuals or demonstrably equivalent practices.

Persons that willfully violate ISGP conditions are subject to criminal penalties and fines, while persons that violate ISGP conditions are subject to civil penalties. Appeals of ISGP penalties may be made to the Pollution Control Hearings Board. Any United States citizen may commence a civil action in federal court, often referred to as "citizen suits", to enforce federal CWA requirements. By contrast, state water quality requirements are enforceable only by Ecology, and state water quality laws do not provide for citizen suits.

### **Summary of Bill:**

Under state water quality laws, ISGP holders are presumed to be in compliance with water

quality standards unless discharge monitoring data or site-specific information demonstrates that a discharge causes or contributes to a water quality standard violation, so long as the permittee is in full compliance with all permit conditions and is fully implementing stormwater BMPs contained in Ecology-approved stormwater technical manuals or demonstrably equivalent practices.

An ISGP holder is again presumed to be in compliance with water quality standards when it notifies Ecology, by providing specified information, within 30 days of becoming aware of site-specific information that a discharge from the industrial facility caused or contributed to a potential violation of water quality standards. For ongoing discharges, a single notification to Ecology suffices.

If Ecology determines that additional actions are required, it must notify the ISGP holder that the presumption of compliance will resume following specified corrective action unless Ecology also determines that the potential water quality violation is already being addressed by a TMDL or other enforceable water quality cleanup plan or that the ISGP holder's discharges will be addressed through implementation of other ISGP requirements.

Stormwater sampling at transportation facilities is not required until Ecology has determined that ISGP sampling provisions can be satisfied without endangering the health and safety of persons conducting the sampling. In evaluating a sampling waiver application, Ecology must determine whether the sampling provisions in the ISGP can be satisfied without endangering the sampler's health or safety. Stormwater sampling is not required while a waiver authorized under the ISGP is under Ecology consideration or appeal.

**Appropriation:** None.

**Fiscal Note:** Requested on February 12, 2025.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.