
ADMINISTRATIVE PROCEDURE ACT - WASHINGTON

City of Tacoma v. Department of Ecology

Supreme Court of Washington, En Banc - September 5, 2024 - P.3d - 2024 WL 4048335

Municipalities and special purpose districts that operated wastewater treatment plants that discharged into Puget Sound filed petition for judicial review and declaratory judgment, alleging that the state's Department of Ecology had unlawfully promulgated rules in violation of the Administrative Procedure Act (APA) in issuing portions of report that identified the most likely sources of human-produced nitrogen in Puget Sound and in making commitment to environmental organization, in letter denying organization's rulemaking petition, to set nutrient-loading limits at current levels through the individual permitting process.

The Superior Court ruled in favor of the municipalities and districts. Department appealed. The Court of Appeals affirmed in part and reversed in part, upholding the ruling that the Department's commitment in denial letter was an unlawfully promulgated rule. Department filed petition for review, which was granted.

The Supreme Court held that Department's commitment in the denial letter was not a "directive of general applicability" and, thus, was not a "rule" under the APA.

Commitment made by state's Department of Ecology to environmental organization, in letter denying organization's rulemaking petition relating to nitrogen levels in Puget Sound, to set nutrient-loading limits at current levels through the individual permitting process was not a "directive of general applicability" and, thus, was not a "rule" subject to the rulemaking procedures of the Administrative Procedure Act (APA); Department's commitment in the denial letter did not eliminate staff discretion or prevent a case-by-case analysis of permit holder's operations when issuing permits, and denial letter was ultimately not binding on those regulated.

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