
**Agriculture & Ecology
Committee**

HB 2847

Brief Description: Improving water quality through sound storm water management.

Sponsors: Representatives Cooper, Roach, Berkey, Cairnes, Linville, Esser, Kirby, Reardon, Casada, Doumit, Ogden, Chase and Pearson.

Brief Summary of Bill

- Requires the Independent Science Panel to review the science supporting the development of the Department of Ecology's (DOE's) Storm Water Management Manuals (Manuals).
- Requires the DOE to conduct a cost-benefit analysis for use of the Manuals.
- Requires the DOE to establish a Storm Water Advisory Committee to coordinate and assist with development, review, and implementation of the Manuals.

Hearing Date: 2/5/02

Staff: Caroleen Dineen (786-7156).

Background:

The Department of Ecology (DOE) administers a state program for discharge of pollutants to state waters. State permits are required for anyone who discharges waste materials from a commercial or industrial operation to ground or to publicly-owned treatment plants. State permits are also required for municipalities that discharge to ground.

The DOE also provides storm water management manuals (Manuals) to assist local governments and businesses to develop storm water programs. The DOE completed its revision of the western Washington Manual and is currently working to complete the Eastern Washington Manual.

The federal Clean Water Act (CWA) prohibits the discharge of pollutants in toxic amounts. Storm water is a pollutant under the CWA. The CWA also establishes the National Pollution Discharge Elimination System (NPDES) permit system to regulate wastewater discharges

from point sources to surface waters. NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters. Washington's DOE has been delegated authority by the United States Environmental Protection Agency (EPA) to administer NPDES permits.

In the state and NPDES permit programs, the DOE issues both individual permits (covering single, specific activities or facilities) and general permits (covering a category of similar dischargers). These permits includes 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.

Phase I of the NPDES storm water permit program applies to six local governments (Seattle, Tacoma, and the unincorporated areas of Clark, Pierce, King, and Snohomish Counties) and to the Washington State Department of Transportation (WSDOT) facilities within those jurisdictions. The 1999 NPDES rules Phase II of the permit program apply to operators of small municipal separate storm sewer systems serving fewer than 100,000. The Phase II communities are required to apply for a storm water permit by March 2003.

Washington is currently subject to several ESA listings of salmon, steelhead, and bull trout. The federal Endangered Species Act (ESA) establishes required actions and imposes certain responsibilities when a species is listed as either threatened or endangered by federal agencies administering the ESA. The ESA includes a prohibition against "take" of a listed species a broad term meaning to harass, harm, pursue, hunt, shoot, wound, kill, capture or collect, or to attempt any of these actions with regard to a listed species. For threatened species, the take prohibitions are specified in federal regulations, which also may include exemptions from take determinations.

In 1998 the Legislature created the Independent Science Panel (Panel), a five-member panel of scientists with specified expertise who are appointed by the Governor, to ensure that sound science is used in salmon recovery efforts. The Panel is responsible for reviewing salmon recovery plans from the Salmon Recovery Office, recommending standardized monitoring indicators and data quality guidelines related to habitat projects and salmon recovery efforts, and recommending criteria for evaluation of monitoring data.

Summary of Bill:

The Independent Science Panel (Panel) must review the Department of Ecology's (DOE's) storm water management manuals (Manuals). The Panel must determine:

- what scientific information was used to develop the Manuals, especially with respect to development of management practices and thresholds; and
- whether the Manuals' recommendations are supportable by the cited science and, if recommendations are based on inadequate scientific support, what specific scientific studies are needed to address any identified limitations;

The Panel must report its results for the western Washington Manual by December 31, 2002 and for the eastern Washington Manual no later than six months after that Manual is

completed.

The DOE must evaluate the costs and benefits of using the Manuals. The DOE evaluation must determine whether the probable benefits of the best management practices are greater than their probable costs, considering both the qualitative and quantitative factors. The DOE must report its results for the western Washington Manual by December 31, 2002, and for the eastern Washington Manual by March 1, 2003.

The DOE also must convene a Storm Water Advisory Committee (Committee) to coordinate and assist with the final development of the eastern Washington Manual and for the review and implementation of both Manuals. The Committee must include at least one representative selected by the following:

- DOE;
- Department of Natural Resources;
- Department of Fish and Wildlife;
- Department of Transportation;
- Washington State Association of Counties;
- Association of Washington Cities;
- Washington Environmental Council;
- People for Puget Sound;
- Associated General Contractors of Washington; and
- Association of Washington businesses.

Membership on the Committee is open to other interested environmental, business, professional, and citizen groups. The DOE also must invite and encourage representatives from federal agencies and tribes to participate.

The Committee must work with the DOE to:

- improve coordination between state and local government agencies on storm water management, including the appropriate use of the new Manuals and a streamlined permit process with consistent outcome goals;
- develop recommendations for alternative watershed-based practices for flow control and water quality treatment utilizing watershed planning to assess the use of regional storm water facilities to augment or as an alternative to site-by-site storm water controls;
- study and evaluate the feasibility of alternative water quality objectives for severely impaired waterbodies in highly urbanized areas;
- study the appropriate use of off-site mitigation for storm water flow and water quality impacts, including issues related to stream flow impacts on fish species;
- study, evaluate, and make recommendations on the funding needs for local governments to meet the new federal storm water regulations;
- assist in developing the cost-benefit analysis required of the DOE; and

- to the maximum extent possible, coordinate efforts with the Transportation Projects Efficiency and Accountability Committee established in statute (RCW 47.06C.030).

In addition, the Committee must build upon the: (1) 2000 Storm Water Advisory Committee report to the Legislature, (2) Panel's review of the Manuals, and (3) DOE's cost-benefit analysis.

The Committee must begin its work no later than July 1, 2002, and complete its work by December 31, 2003. The DOE is required to provide a progress report to the Legislature on storm water management issues no later than December 31, 2002.

The DOE and other resource agencies are strongly encouraged to use flexibility in conditioning permits dealing with storm water management while an integrated storm water management process is being developed.

These provisions expire June 30, 2004.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill contains an emergency clause for the provisions to take effect immediately.