

SENATE BILL REPORT

EHB 2469

As Reported by Senate Committee On:
Environment, February 21, 2012

Title: An act relating to boatyard storm water treatment systems.

Brief Description: Regarding boatyard storm water treatment systems.

Sponsors: Representatives Upthegrove, Angel, Takko and Asay.

Brief History: Passed House: 2/08/12, 97-0.

Committee Activity: Environment: 2/15/12, 2/21/12 [DPA].

SENATE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass as amended.

Signed by Senators Nelson, Chair; Rolfes, Vice Chair; Ericksen, Ranking Minority Member; Chase, Fraser, Honeyford, Morton and Pridemore.

Staff: Karen Epps (786-7424)

Background: The federal Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater and storm water discharges from point sources to surface waters. NPDES permits are required for anyone who discharges wastewater or storm water to surface waters or who has a significant potential to impact surface waters. The Department of Ecology (DOE) is delegated federal CWA authority by the United States Environmental Protection Agency.

DOE also administers state discharge permits. A wastewater discharge permit places limits on the quantity and concentrations of contaminants that may be discharged and may require wastewater treatment or impose operating or other conditions. DOE issues individual permits, covering single, specific activities or facilities and general permits, covering a category of similar dischargers, in the state and NPDES permit programs. General permits include, but are not limited to, the construction storm water general permit, the sand and gravel general permit, the municipal storm water permits, and the industrial storm water general permit.

The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines. SMA involves a cooperative regulatory approach between local governments and the state. At the

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local level, SMA regulations are developed in city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. Master programs, which must be approved by DOE, must be consistent with guidelines adopted by DOE.

Development may not be undertaken on the shorelines of the state unless it is consistent with SMA, applicable rules, and the locally-adopted master program and associated permit system. SMA exempts certain remedial actions by DOE and others from the procedural requirements of SMA.

Summary of Bill (Recommended Amendments): Requirements to obtain a substantial development permit, conditional use permit, or variance do not apply to the installation of site improvements for storm water treatment in an existing boatyard facility if the improvements are conducted to meet requirements of an NPDES storm water general permit. DOE is obligated to ensure that the site improvements comply with the substantive requirements of SMA through the review of engineering reports, site plans, and other documents related to the installation of the boatyard storm water treatment facilities.

EFFECT OF CHANGES MADE BY ENVIRONMENT COMMITTEE (Recommended Amendments): Amends language in existing law regarding exemption from procedural requirements of this chapter to refer to the permits defined in the shoreline management act, including substantial development permits, conditional use permits, and variances.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The boatyards have a responsibility under the CWA to treat storm water and they are struggling to do so. Boatyards want to do the right thing and comply with their permit. However, boatyards face an additional permitting hoop, having to obtain a substantial development permit under the SMA. Everyone seems to agree that if a boatyard needs to do this under its storm water permit, it should not also have to get a substantial development permit. Boatyards are struggling to meet the benchmarks in the storm water permit. This bill corrects an unnecessary burden that affects boatyards. The storm water permit in many cases requires the boatyard to do improvements that will trigger the need for a substantial development permit. The bill takes a simple approach in that, when the boatyards are doing improvements under their storm water permit, the boatyard submits engineering reports, DOE reviews those reports and as part of that review DOE can verify that the improvements meet the substantive requirements under the SMA. This bill is good for boatyard operators because it takes the uncertainty out of having to comply with the SMA and their storm water permit.

OTHER: The bill talks about exempting these activities from the procedural requirements of the SMA, but that is somewhat unclear. The issue stems from boatyards having to get a

couple of particular permits under the SMA when making improvements in order to meet their storm water permit. An amendment to clarify what is being exempt, specifically substantial development permits, conditional use permits, and variances, under this bill would be helpful. This would make sure there are no unintended consequences.

Persons Testifying: PRO: Representative Upthegrove, prime sponsor; Peter Schrapen, NW Marine Trade Assn.; Donald Seeberger, DOE; Bruce Marshall, Port of Olympia.

OTHER: Carl Schroeder. Assn. of WA Cities.