
**Agriculture & Natural Resources
Committee**

HB 2840

Brief Description: Establishing a water discharge permit for concentrated animal feeding operations that is issued under the sole authority of state law.

Sponsors: Representatives Pettigrew, Chandler, Blake and Buys.

Brief Summary of Bill

- Requires the Department of Ecology, in consultation with the Department of Agriculture, to establish a general permit for concentrated animal feeding operations (CAFO) that discharge exclusively to groundwater under the sole authority of the state and separate from any delegated federal authority.
- Allows a qualifying CAFO to choose permit coverage under either a state issued permit or a combined permit offered under both state and federal authority.

Hearing Date: 1/28/16

Staff: Jason Callahan (786-7117).

Background:

A concentrated animal feeding operation (CAFO) is an agricultural operation with its definition primarily found in federal law. With some exception and clarification in federal rules, a CAFO is generally a facility that confines animals for 45 days or more during any 12 month period in an area that does not contain forage or crops.

The Department of Ecology (DOE), as the state agency delegated the responsibility for implementing the federal Clean Water Act in Washington, is responsible for permitting CAFOs in regards to water quality regulations. An existing general permit relating to CAFOs expired in the year 2011. That permit was issued as a combined National Pollutant Discharge Eliminations

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

System (NPDES) permit issued under federal authority and a State Waste Discharge permit issued under state authority. The DOE is in the early stages of a process to update that permit.

Under state law, all CAFOs must operate in a way that does not discharge into the waters of the state. This includes both surface and ground waters. In addition, CAFOs that are also dairies must register with the Washington State Department of Agriculture (WSDA) and operate under a dairy nutrient management plan that has been approved by their local conservation district. The administration and enforcement of programs including inspections, relating to CAFOs are outlined in a memorandum of understanding (MOU) entered into between the DOE and the WSDA. The lead agency for various administrative actions depends on a number of factors, such as whether the CAFO is permitted under a NPDES permit or not. Generally, inspection and compliance actions at dairies are the primary responsibility of the WSDA.

Summary of Bill:

The DOE, in consultation with the WSDA, must establish a general permit for CAFOs discharging exclusively to groundwater under the sole authority of the state and separate from any delegated federal authority (state only permit). A CAFO that qualifies by storing manure, storing manure effluent, or applying manure nutrients to the land without discharging to surface waters must have the option of being permitted either under the state only permit or under a combined permit issued under both state and federal authority.

The state only permit must be administered jointly by both the DOE and the WSDA. That joint administration must be laid out in a MOU between the two agencies. The MOU must cover both the administration and enforcement of the state only permit, including how manure lagoons and effluent storage systems that pose a risk to groundwater will be identified and how federal and state cost-share programs can be facilitated. The MOU must provide for the primary inspection responsibility to belong to the WSDA.

Various enforcement and administrative provisions are updated to reflect the state only permit and clarify the ability of the WSDA to take enforcement actions for permit violations at CAFOs.

A joint report from the DOE and the WSDA is due to the Legislature in 2018 regarding progress made towards implementing a state only permit. The report must specifically include recommendations for establishing or improving a permit that allows for shared costs of improving manure lagoons or effluent storage systems.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.