

SENATE BILL REPORT

SB 5326

As of February 7, 2013

Title: An act relating to delaying new storm water requirements.

Brief Description: Delaying new storm water requirements.

Sponsors: Senators Rivers, Benton, King, Ericksen and Shin.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/05/13.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jan Odano (786-7486)

Background: The federal Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. NPDES permits are required for stormwater discharges from certain industries, construction sites of specified sizes, and municipalities operating municipal separate storm sewer systems that meet specified criteria. The Department of Ecology (DOE) administers permits, including municipal stormwater general permits, under the CWA.

Phase I municipal stormwater permits were first issued by EPA in 1990. Medium and large cities or populations of 100,000 or more are required to have a phase I permit. The permit is to address stormwater runoff for medium and large municipal storm sewer systems, construction activity disturbing five acres of land or more, and certain categories of industrial activity. Phase II permits extends NPDES stormwater program to small systems in urbanized areas not already covered by the Phase I program.

On January 17, 2007, DOE reissued the phase I municipal stormwater general permit and issued two phase II municipal stormwater permits, one for western Washington and one for eastern Washington, all with an effective date of February 16, 2007. As a result of 2011 legislation, by July 31, 2012, DOE must extend the phase II permits for a term of one year and without modification. Additionally, DOE must issue updated phase II permits, which become effective on August 1, 2013.

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.

On August 1, 2012, DOE released phase I municipal stormwater permits and phase II western Washington municipal stormwater permits. The scheduled effective date is August 1, 2013.

Summary of Bill: DOE must reissue without modification any phase I municipal stormwater general permit in effect on September 1, 2012. The effective date of the permit must be modified to become effective on August 1, 2016.

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: PRO: The requirements of the Phase I Municipal Permits negatively impact builders and other businesses. More time needs to be given to DOE and Clark County to address the outstanding issues. The permit is still in the appeals process and the new requirements should not be effective until the appeals process is complete. There needs to be certainty with the first permit prior to going forward with the second permit.

CON: DOE has been working for two years to update the Phase I permits. This bill would undo the coordination and alignment efforts between the western Washington Phase I and Phase II permits. It would also impact synchronization with growth management plan updates. Due to public participation and notice requirements, DOE could not re-issue the permit within the timeframe required in the bill. There have been a series of delays to update the municipal Phase I permits. This would be a nine-year delay to the five-year permit. The state would be in violation of EPA's backsliding laws.

Persons Testifying: PRO: Laura Merrill, WA State Assn. of Counties; Mike Burgess, Clark County.

CON: Don Seeberger, DOE; Bruce Wishart, People for Puget Sound, Washington Environmental Council, Puget Soundkeeper.