Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Environment & Energy Committee

HB 1381

Brief Description: Concerning salmon-safe communities.

Sponsors: Representatives Dye, Lekanoff and Pollet.

Brief Summary of Bill

- Requires certain information to be submitted by certain recipients of municipal stormwater general permits as part of their annual reporting obligations, including information related to impervious surfaces, vegetative cover, and stream temperatures.
- Directs the Department of Ecology to issue certain awards and designations to recipients of municipal stormwater general permits who make specific efforts toward addressing the urban heat island effect.

Hearing Date: 1/23/23

Staff: Andrew Hatt (786-7296) and Robert Hatfield (786-7117).

Background:

Clean Water Act.
The federal Clean Water Act (CWA) sets effluent limitations for discharges of pollutants. Pollutant is defined in the CWA to include a variety of materials that may be discharged into water through human activities, construction or industrial processes, or other methods.

The Department of Ecology (Ecology) is delegated federal CWA authority by the United States Environmental Protection Agency (EPA). Ecology also is the agency authorized by state law to implement state water quality programs.

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

Clean Water Act—National Pollutant Discharge Elimination System Permits.
The CWA establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. Point sources are defined generally as discernable, discrete, and confined conveyances from which pollutant discharges can or do occur. The NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters.

A wastewater discharge permit places limits on the quantity and concentrations of contaminants that may be discharged. Permits may require wastewater treatment or impose operating or other conditions, including monitoring, reporting, and spill prevention planning. NPDES permits are valid for five years and may be renewed thereafter.

In the NPDES permit programs, Ecology issues individual permits covering single, specific activities or facilities, and general permits covering a category of similar dischargers. These permits include 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.

One category of general NPDES permits issued by Ecology are municipal stormwater general permits, issued in connection with stormwater that drains into waterways from surfaces such as parking lots, streets, and highways. The municipal stormwater general permits are divided into different phases depending on the individual jurisdiction. The Phase I municipal stormwater general permit regulates systems owned or operated by:

- Clark, King, Pierce, and Snohomish counties;
- the cities of Seattle and Tacoma;
- the ports of Seattle and Tacoma;
- incorporated cities with a population of over 100,000 people; and
- unincorporated counties with populations of more than 250,000 people.

Endangered Species Act—Critical Habitat.
When a species is proposed for listing as endangered or threatened under the Endangered Species Act, the United States Fish and Wildlife Service, or the National Marine Fisheries Service, depending on the species, must consider whether there are areas of habitat believed to be essential to the species' conservation. Those areas may be proposed for designation as critical habitat. A critical habitat designation requires federal agencies to ensure that actions they plan to undertake, fund, or authorize to not destroy or adversely modify that habitat.

Summary of Bill:

A local government operating under the National Pollutant Discharge Elimination System Phase I municipal stormwater general permit is required to monitor and report on an annual basis certain information regarding the impacts of the urban heat island effect in its jurisdiction. The information that must be reported includes:

- the amount of the land base within the permittee's jurisdiction, on both a percentage basis

and an overall acreage basis, that is an impervious surface, and how that percentage and overall acreage has changed since the issuance of the previous permit;
- the amount of the land base within the permittee's jurisdiction, on both a percentage basis and an overall acreage basis, that is covered by tree or other vegetation canopy, and how that percentage and overall acreage has changed since the issuance of the previous permit;
- the monthly median temperature of all waterbodies within the permittee's jurisdiction that have been designated as critical habitat under the federal Endangered Species Act for salmon, steelhead, or bull trout, and how those monthly median temperatures have changed since the issuance of the previous permit;
- a narrative description of factors in addition to urban heat islands that may have had a measurable impact on the temperature of all waterbodies within the permittee's jurisdiction that have been designated as critical habitat under the federal Endangered Species Act for salmon, steelhead, or bull trout in the report year; and
- a description of the permittee's approach to reducing the impact of the urban heat island effect on waterbodies within the permittee's jurisdiction.

The land base reporting described above must use data obtained from the Department of Fish and Wildlife (WDFW). The temperature reporting described above must use a formula developed by the Department of Ecology (Ecology), which must be designed to cost-effectively capture a representative range of stream temperatures.

Annually, Ecology must issue awards to permittees whose work to address the urban heat island effect best demonstrates innovation and achievement. Ecology will issue an award:
- for innovative urban forest conservation and sustainability programs designed to reduce power loads during peak heat and cold weather events;
- for the most effective vertical garden installation, or programs that produce significant adoption of vertical gardens;
- to recognize the implementation of innovative green roof programs that increase the adoption of green roof technology;
- for the newest and most innovative development of reflective roof technology based on effectiveness of reducing stormwater runoff temperature;
- for the most innovative use of permeable pavement technology and adoption of permeable surfaces; and
- for restoring streams from pipes and buried locations under the urban core to natural channels.

Beginning 2027 and continuing every year thereafter, Ecology, in consultation with WDFW, may award one or more permittees with the designation of a salmon-safe community for that year, based on the permittee's achievements within the following performance metrics:
- compliance with the letter and spirit of the reporting requirements related to reporting and monitoring;
- objectively quantifiable progress with regard to implementing the urban heat island mitigation strategies identified above; and
- achievement of measurable gains toward salmon recovery in the waterbodies within the

permittee's jurisdiction.

Appropriation: None.

Fiscal Note: Requested on January 17, 2023.

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