
SUBSTITUTE HOUSE BILL 2171

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Linville, G. Chandler, B. Chandler and Parlette)

Read first time 03/08/1999.

1 AN ACT Relating to water pollution control; amending RCW 90.48.010,
2 90.48.020, and 43.21C.0383; reenacting and amending RCW 43.21B.110;
3 adding new sections to chapter 90.48 RCW; creating new sections; and
4 providing expiration dates.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 90.48.010 and 1973 c 155 s 1 are each amended to read
7 as follows:

8 (1) It is declared to be the public policy of the state of
9 Washington to maintain the highest possible standards to insure the
10 purity of all waters of the state consistent with public health and
11 public enjoyment thereof, the propagation and protection of wild life,
12 birds, game, fish and other aquatic life, and the ~~((industrial))~~
13 development of the state, and to that end require the use of all known
14 available and reasonable methods by industries and others to prevent
15 and control the pollution of the waters of the state of Washington.
16 Consistent with this policy, the state of Washington will exercise its
17 powers, as fully and as effectively as possible, to retain and secure
18 high quality for all waters of the state. The state of Washington in
19 recognition of the federal government's interest in the quality of the

1 navigable waters of the United States, of which certain portions
2 thereof are within the jurisdictional limits of this state, proclaims
3 a public policy of working cooperatively with the federal government in
4 a joint effort to extinguish the sources of water quality degradation,
5 while at the same time preserving and vigorously exercising state
6 powers to insure that present and future standards of water quality
7 within the state shall be determined by the citizenry, through and by
8 the efforts of state government, of the state of Washington.

9 (2) The legislature finds that while existing federal and state
10 water pollution control laws have resulted in cleaner water for
11 citizens of Washington state, too many water bodies still exceed
12 existing water quality standards. Such exceedances are caused both by
13 point and nonpoint sources of pollution. It is the policy of the state
14 of Washington to ensure the attainment of water quality standards that
15 protect and restore the ability of the state's waters to provide
16 multiple benefits; including, but not limited to, domestic, municipal,
17 and industrial water supply; aquatic species; irrigation; and
18 recreation.

19 (3) Water quality standards should be attained through a variety of
20 means, including the development and implementation of total maximum
21 daily loads as provided under the clean water act, and the
22 implementation of other pollution control measures. The legislature
23 believes that such flexibility must be available if the state is to
24 attain water quality standards as soon as possible. The legislature
25 also believes that most water segments should meet water quality
26 standards as soon as possible after first being identified as water
27 quality limited, and that five-year and ten-year milestones should be
28 established that include pollutant reduction targets that lead to this
29 goal. The legislature further believes that the burden for attaining
30 water quality standards must be shared among the various contributors
31 to water quality impairment in proportion to their contribution.

32 (4) The legislature finds that a watershed approach to water
33 quality improvement allows the consideration of multiple factors and of
34 their interactions. It also provides a means for bringing together
35 those persons who will need to implement necessary measures to improve
36 water quality, as well as others who may be interested in water
37 quality.

38 (5) Water quality monitoring is becoming increasingly important as
39 the state makes commitments to attain water quality standards, recover

1 aquatic species, and evaluate the effectiveness of actions taken to
2 attain those goals. As a result, the legislature believes it is
3 important to enhance the quality and breadth of existing water quality
4 monitoring programs.

5 (6) The legislature finds that a state-managed plan using a mixture
6 of total maximum daily loads and other pollution control measures is
7 the most effective and efficient method for the state to improve water
8 quality. While the legislature believes the state is the best manager
9 of the state's water quality, it recognizes that the federal government
10 has ultimate authority over any state total maximum daily load program
11 under the federal clean water act. Therefore, it is the intent of the
12 legislature to make sections 3 through 11 of this act operative only if
13 the federal government does not assume complete responsibility for the
14 state total maximum daily load program under the clean water act.
15 However, this section does not affect the ability of the state to
16 continue implementing programs that improve water quality.

17 **Sec. 2.** RCW 90.48.020 and 1995 c 255 s 7 are each amended to read
18 as follows:

19 ~~((Whenever the word))~~ Unless the context clearly requires
20 otherwise, the definitions in this section apply throughout this
21 chapter.

22 (1) "Characteristic use" means the uses for which a water body has
23 been classified by the department.

24 ~~(2) "Person" ((is used in this chapter, it shall be construed to))~~
25 includes any political subdivision, government agency, municipality,
26 industry, public or private corporation, copartnership, association,
27 firm, individual or any other entity whatsoever.

28 ~~((Wherever the words))~~ (3) "Waters of the state" ((shall be used in
29 this chapter, they shall be construed to)) includes lakes, rivers,
30 ponds, streams, inland waters, underground waters, salt waters and all
31 other surface waters and watercourses within the jurisdiction of the
32 state of Washington.

33 ~~((Whenever the word))~~ (4) "Pollution" ((is used in this chapter, it
34 shall be construed to)) means such contamination, or other alteration
35 of the physical, chemical or biological properties, of any waters of
36 the state, including change in temperature, taste, color, turbidity, or
37 odor of the waters, or such discharge of any liquid, gaseous, solid,
38 radioactive, or other substance into any waters of the state as will or

1 is likely to create a nuisance or render such waters harmful,
2 detrimental or injurious to the public health, safety or welfare, or to
3 domestic, commercial, industrial, agricultural, recreational, or other
4 legitimate beneficial uses, or to livestock, wild animals, birds, fish
5 or other aquatic life.

6 ~~((Wherever the word))~~ (5) "Department" ~~((is used in this chapter it
7 shall))~~ means the department of ecology.

8 ~~((Whenever the word))~~ (6) "Director" ~~((is used in this chapter it
9 shall))~~ means the director of ecology.

10 ~~((Whenever the words))~~ (7) "Clean water act" means the federal
11 water pollution control act of 1972, as amended (86 Stat. 896; 33
12 U.S.C. Sec. 1251 et seq.).

13 (8) "Aquatic noxious weed" ~~((are used in this chapter, they have))~~
14 has the meaning prescribed under RCW 17.26.020.

15 (9) "Listing cycle" means the four-year period, or other period as
16 determined by the federal environmental protection agency, between
17 adoption by rule of a list of water quality limited segments by the
18 department and the adoption by rule of the next list of such segments
19 by the department.

20 (10) "Load" means an amount of matter or thermal energy that is
21 introduced into a receiving water.

22 (11) "Loading" means to introduce matter or thermal energy into a
23 receiving water.

24 (12) "Loading capacity" means the greatest amount of loading that
25 a water can receive without violating water quality standards.

26 (13) "Allocation" means the portion of a receiving water's loading
27 capacity that is attributed to an existing or future point or nonpoint
28 source of pollution, to natural background sources, or to nonpoint
29 sources in the aggregate.

30 (14) "Total maximum daily loads" means the sum of allocations for
31 point and nonpoint sources and natural background, plus a margin of
32 safety and a reserve for growth.

33 (15) "Other pollution control measures" means the implementation of
34 voluntary actions, or incentive-based or regulatory measures, that are
35 applied to specific water quality limited segments, that are intended
36 to achieve attainment with water quality standards as soon as possible,
37 and that include monitoring and adaptive management. This definition
38 is not intended to expand the reach of existing regulatory controls.
39 Such actions and measures include, but are not limited to, the

1 conservation reserve enhancement program, provisions pertaining to on-
2 site septic systems and to storm water, dairy nutrient management under
3 chapter 90.64 RCW, the forest practices act, or habitat conservation
4 plans as provided under section 9 of this act.

5 (16) "Wastewater discharge permit" means an individual, model, or
6 general permit issued by the department that specifies treatment,
7 monitoring, and reporting requirements for the discharge of wastewater,
8 and that is intended to satisfy the requirements of the clean water act
9 and of this chapter.

10 (17) "Water quality limited segment" means any surface water
11 segment, as defined by the department, where it is known that water
12 quality does not meet applicable water quality standards, even after
13 the application of technology-based effluent limitations required by
14 sections 301(b) and 306 of the clean water act.

15 (18) "Effluent trading" means a method to attain or maintain water
16 quality standards by allowing sources of pollution that can achieve
17 greater pollutant reduction than is otherwise required to sell or
18 barter the credits for its excess reduction to another source unable to
19 reduce its own pollutants as cheaply.

20 NEW SECTION. Sec. 3. WATER QUALITY LIMITED SEGMENTS--DATA
21 RELIABILITY FOR DECISIONS TO LIST--ACCESS TO PRIVATE PROPERTY. (1) The
22 list of water quality limited segments that is required to be submitted
23 to the federal environmental protection agency under the clean water
24 act shall be based upon data that are accurate and reflective of
25 current conditions and that comply with the high professional standards
26 of quality assurance and quality control as determined by the advisory
27 committee identified in subsection (3) of this section. A water
28 segment may be listed as water quality limited under section 4 of this
29 act only when:

30 (a) Documentation is provided showing the submitted data have met
31 the data quality objectives and other requirements of an approved
32 quality assurance program plan; or

33 (b) The department independently samples the water body segment to
34 verify the suspected water quality exceedance.

35 (2) The department shall coordinate a reliable, state-wide water
36 quality monitoring network that relies upon existing water quality data
37 collected by the department and others in compliance with the data
38 quality objectives and quality assurance and quality control guidelines

1 recommended by the advisory committee in subsection (3) of this section
2 and adopted by the department. To the extent possible and appropriate,
3 the water quality monitoring network shall also include other state
4 agencies, tribes, counties, cities, federal agencies, water and
5 wastewater utilities, and special purpose districts, as well as private
6 entities that wish to provide such data. The network shall provide
7 data for both ambient water quality monitoring and development of the
8 list of water quality limited segments. The department shall
9 coordinate the collection of water quality data among state agencies to
10 ensure that monitoring is comprehensive without being duplicative, and
11 that state monitoring resources are directed toward filling the most
12 critical information gaps. In coordinating this network, the
13 department shall ensure state-wide consistency, provide calibration of
14 local monitoring efforts, provide data verification and validation, and
15 assess long-term water quality trends.

16 (3) By October 1, 1999, the department shall appoint an advisory
17 committee comprised of one representative from each of the following
18 agencies and interests: The department, the United States
19 environmental protection agency, the United States geological survey,
20 the department of health, the department of fish and wildlife, the
21 department of transportation, one representative appointed by the
22 Washington state association of counties, one representative appointed
23 by the association of Washington cities, a public water supply utility,
24 the conservation commission, the University of Washington, Washington
25 State University, the association of Washington business, the
26 agricultural sector, an irrigation district, and an environmental
27 group. Each of these representatives shall have experience in the
28 collection, analysis, and interpretation of environmental data. The
29 committee shall also consist of a state senator from each of the two
30 major caucuses appointed by the president of the senate, and a state
31 representative from each of the two major caucuses appointed by the
32 speaker of the house of representatives. The committee shall have the
33 following purposes:

34 (a) Development of qualitative and quantitative objectives
35 regarding the precision, bias, representativeness, completeness, and
36 comparability required for water quality monitoring data to serve
37 program purposes;

1 (b) Development of quality assurance and quality control guidelines
2 for the collection, analysis, and interpretation of water quality data
3 for freshwater;

4 (c) Development of data interpretation guidelines regarding the
5 quantity and representativeness of data required to determine whether
6 water quality standards are being met, and whether a water quality
7 condition is caused by natural background factors or by anthropogenic
8 factors; and

9 (d) Comparison of the proposed use-based water quality standards
10 with the current classification system in terms of the protection
11 provided to characteristic uses, as well as the regulatory and economic
12 impacts on point and nonpoint sources.

13 (4) The committee identified in subsection (3) of this section
14 shall provide its recommendations to the legislature, the department,
15 and the United States environmental protection agency by December 31,
16 2000.

17 (5) The department shall adopt data quality objectives and quality
18 assurance and quality control guidelines based upon the recommendations
19 made by the committee identified in subsection (3) of this section and
20 the comments provided by the entities identified in subsection (4) of
21 this section. These objectives and guidelines shall be updated
22 periodically to reflect new methods and instrumentation.

23 (6) After July 1, 2001, the department shall require that any water
24 quality data submitted to the state for purposes of ambient monitoring
25 or compiling a list of water quality limited segments comply with the
26 department's data quality objectives and quality assurance and quality
27 control guidelines.

28 (7) For water quality samples that can only be obtained by entering
29 and crossing over private property, the department or its designee must
30 receive permission from the owner of the property to be entered before
31 collecting the sample. Property owners or others who wish to verify
32 the analysis of a water quality sample may request to split a sample
33 with the department and may provide that sample to an accredited
34 laboratory for analysis.

35 NEW SECTION. **Sec. 4.** LISTING OF WATER QUALITY LIMITED SEGMENTS.

36 (1) After July 1, 2001, the department shall prepare a list of water
37 quality limited segments, as required under section 303(d) of the clean
38 water act, that is based upon data that are collected and analyzed in

1 compliance with the department's data quality objectives and quality
2 assurance and quality control guidelines. The list shall include all
3 water segments that do not meet water quality standards. Water
4 segments shall remain on the list until they meet water quality
5 standards and shall be removed from the list as soon as they are found
6 to meet water quality standards. The list shall be submitted to the
7 environmental protection agency as required by the environmental
8 protection agency.

9 (2) To ensure an opportunity for public participation in the
10 process of listing water quality limited segments, the department
11 shall:

12 (a) Provide notice in the Washington State Register that it is
13 beginning a new cycle for listing of water quality limited segments;

14 (b) Develop a proposed list of water quality limited segments, and
15 compare the proposed list to the previous list approved by the
16 environmental protection agency to identify water quality trends;

17 (c) Submit the proposed list to the environmental protection
18 agency, affected tribal governments, and the general public for review;

19 (d) Develop responses to the comments received;

20 (e) Prepare the final list and adopt the final list by order; and

21 (f) Submit the final list to the environmental protection agency
22 for approval.

23 (3) Listing of water quality limited segments as required under
24 this chapter is not subject to the state environmental policy act,
25 chapter 43.21C RCW.

26 **Sec. 5.** RCW 43.21C.0383 and 1996 c 322 s 1 are each amended to
27 read as follows:

28 (1) The issuance, reissuance, or modification of a waste discharge
29 permit that contains conditions no less stringent than federal effluent
30 limitations and state rules is not subject to the requirements of RCW
31 43.21C.030(2)(c). This exemption applies to existing discharges only
32 and does not apply to new source discharges.

33 (2) The adoption by the department of a list of water quality
34 limited segments as provided in chapter 90.48 RCW, and the adoption by
35 the department of total maximum daily loads as provided in chapter
36 90.48 RCW are not subject to the requirements of RCW 43.21C.030(2)(c).

1 NEW SECTION. **Sec. 6.** EFFECT OF LISTING. (1) A wastewater
2 discharge permit may not be issued to a new source or to a new
3 discharger if the discharge would cause or contribute to an existing
4 violation of water quality standards in water segments identified as
5 water quality limited. Nothing in this act shall prevent any existing
6 point source discharge, or any activity that may lead to a nonpoint
7 source discharge conducted in compliance with all applicable federal,
8 state, or local laws, regulations, and requirements affecting water
9 quality, solely because a total maximum daily load has not been
10 completed.

11 (2) Nothing in this act shall prevent any new or expanded activity
12 that may lead to a nonpoint source discharge, provided that any such
13 activity is conducted in compliance with all applicable federal, state,
14 or local laws, regulations, and requirements that protect water
15 quality.

16 NEW SECTION. **Sec. 7.** TOTAL MAXIMUM DAILY LOADS. (1) On water
17 quality limited segments where nonpoint sources are the likely cause of
18 exceedances, other pollution control measures shall apply. The
19 department shall develop total maximum daily loads for nonpoint sources
20 only after a review of applicable monitoring data shows that these
21 measures have not been effective in reducing pollutants in the amount
22 necessary for the segment to show measurable improvements in water
23 quality five years after the segment is listed, or five years after the
24 effective date of this section, whichever is later.

25 (2) On water quality limited segments affected by both point and
26 nonpoint sources, the department shall develop total maximum daily
27 loads that allocate loads to each of the point sources and aggregate
28 loads to nonpoint sources.

29 (3) On water quality limited segments where point sources are the
30 likely cause of exceedances, the department shall develop total maximum
31 daily loads, unless all of the point sources can agree on load
32 reductions that would lead to the attainment of water quality standards
33 more quickly than total maximum daily loads.

34 (4) Priority for total maximum daily load development shall be
35 based on the following factors:

36 (a) Risk to public health, aquatic life, and other water-dependent
37 wildlife, including species listed or proposed for listing as

1 threatened or endangered under the federal endangered species act (16
2 U.S.C. Sec. 1531 et seq.); and

3 (b) Vulnerability of the water quality limited segment to
4 degradation.

5 (5) Total maximum daily loads shall include the following elements:

6 (a) Determining the pollutant of concern and quantifying the target
7 or desired end-points of the total maximum daily load process;

8 (b) Quantifying the pollutant load that must be reduced to meet the
9 target;

10 (c) Identifying the responsible sources, or categories of sources
11 of the pollutant that causes the exceedance, and quantifying the degree
12 to which each source or source category contributes to the exceedance;

13 (d) Setting the load allocation among identified sources, including
14 gross aggregate nonpoint sources, along with a quantified margin of
15 safety, and any allocation for future growth;

16 (e) Specifying and quantifying control actions and implementation
17 tools, methods, and authorities that will be used to achieve the
18 allocations, in addition to schedules and milestones for implementing
19 the identified actions;

20 (f) Determining the degree of use attainment, remaining variance
21 from the target, compliance with implementation plans, and the accuracy
22 of sources and source contributions identified in the total maximum
23 daily load; and

24 (g) Describing how the total maximum daily load will be modified or
25 revised to ensure water quality standards are met in response to
26 follow-up monitoring and evaluation results.

27 (6) Department actions to initiate total maximum daily loads shall
28 be taken in the town or city nearest to the location of the water
29 quality limited segment in order to facilitate participation by
30 affected parties. Those persons who would be affected by an allocation
31 of loads must be given an opportunity to be involved in the total
32 maximum daily load development process from the outset.

33 (7) Allocations should be developed through consensus. If
34 consensus is not achievable, a mediator may be retained at the group's
35 expense to negotiate an allocation. If an agreement is still not
36 forthcoming within an agreed-upon time frame, the department shall
37 allocate loads.

38 (8) To encourage public participation in the process of developing
39 total maximum daily loads, the department shall provide an opportunity

1 for public comment on any total maximum daily load that meets all of
2 the requirements of this section before its adoption by the department.

3 (9) A total maximum daily load that meets all of the requirements
4 of this section shall be adopted by the department as an order under
5 the administrative procedure act, chapter 34.05 RCW. The order that
6 adopts the allocation of pollutant loads must be published in the
7 Washington State Register. The order does not provide a separately
8 enforceable cause of action and may be implemented only through
9 wastewater discharge permits or through regulatory programs that
10 address nonpoint sources. The order may be appealed under RCW
11 43.21B.110 for the sole purpose of redetermining an element or elements
12 of the total maximum daily load.

13 (10) The department shall consider requests from wastewater
14 discharge permit holders to engage in effluent trading as defined in
15 the draft framework for watershed-based trading as developed by the
16 environmental protection agency when:

17 (a) Proposed trades would result in meeting water quality standards
18 throughout a watershed; and

19 (b) Proposed trades are developed within a total maximum daily load
20 or equivalent analytical framework. The department must develop
21 guidelines for evaluation and approval of effluent trades.

22 (11) Planning units conducting water quality planning under chapter
23 90.82 RCW may implement other pollution control measures, or lead the
24 development of total maximum daily loads, or request the department to
25 develop total maximum daily loads, for single pollutants that are
26 widespread throughout the planning area such as exceedances of
27 temperature, sediments, turbidity, or dissolved oxygen standards.

28 **Sec. 8.** RCW 43.21B.110 and 1998 c 262 s 18, 1998 c 156 s 8, and
29 1998 c 36 s 22 are each reenacted and amended to read as follows:

30 (1) The hearings board shall only have jurisdiction to hear and
31 decide appeals from the following decisions of the department, the
32 director, local conservation districts, and the air pollution control
33 boards or authorities as established pursuant to chapter 70.94 RCW, or
34 local health departments:

35 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
36 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and
37 90.56.330.

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
3 90.14.130, 90.48.120, ((and)) 90.56.330, and section 7 of this act.

4 (c) The issuance, modification, or termination of any permit,
5 certificate, or license by the department or any air authority in the
6 exercise of its jurisdiction, including the issuance or termination of
7 a waste disposal permit, the denial of an application for a waste
8 disposal permit, the modification of the conditions or the terms of a
9 waste disposal permit, or a decision to approve or deny an application
10 for a solid waste permit exemption under RCW 70.95.300.

11 (d) Decisions of local health departments regarding the grant or
12 denial of solid waste permits pursuant to chapter 70.95 RCW.

13 (e) Decisions of local health departments regarding the issuance
14 and enforcement of permits to use or dispose of biosolids under RCW
15 70.95J.080.

16 (f) Decisions of the department regarding waste-derived fertilizer
17 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
18 department regarding waste-derived soil amendments under RCW 70.95.205.

19 (g) Decisions of local conservation districts related to the denial
20 of approval or denial of certification of a dairy nutrient management
21 plan; conditions contained in a plan; application of any dairy nutrient
22 management practices, standards, methods, and technologies to a
23 particular dairy farm; and failure to adhere to the plan review and
24 approval timelines in RCW 90.64.026.

25 (h) Any other decision by the department or an air authority which
26 pursuant to law must be decided as an adjudicative proceeding under
27 chapter 34.05 RCW.

28 (2) The following hearings shall not be conducted by the hearings
29 board:

30 (a) Hearings required by law to be conducted by the shorelines
31 hearings board pursuant to chapter 90.58 RCW.

32 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
33 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

34 (c) Proceedings by the department relating to general adjudications
35 of water rights pursuant to chapter 90.03 or 90.44 RCW.

36 (d) Hearings conducted by the department to adopt, modify, or
37 repeal rules.

1 (3) Review of rules and regulations adopted by the hearings board
2 shall be subject to review in accordance with the provisions of the
3 Administrative Procedure Act, chapter 34.05 RCW.

4 NEW SECTION. **Sec. 9.** LIMITATIONS ON ENFORCEMENT. (1) The
5 department shall not enforce exceedances of water quality standards
6 identified as limiting for salmonids, other aquatic life, and other
7 water-dependent wildlife that are listed as threatened or endangered
8 under the federal endangered species act, or that are candidates for
9 listing, against persons who are subject to the following binding
10 agreements:

11 (a) The use of field office technical guides as required by the
12 natural resources conservation service;

13 (b) Mitigation requirements as the result of a jeopardy opinion by
14 federal agencies under section 7 of the federal endangered species act;
15 or

16 (c) A habitat conservation plan under section 10 of the federal
17 endangered species act that has been approved by federal agencies as
18 satisfying the requirements of the act for salmonids, other aquatic
19 life, or other water-dependent wildlife that are listed as threatened
20 or endangered, or are candidates for listing.

21 (2) The immunity provided under subsection (1) of this section
22 shall be provided only as long as measurable progress toward attainment
23 of water quality standards can be demonstrated at five-year intervals
24 after adoption of the mechanisms identified under subsection (1) of
25 this section for up to fifteen years. If net progress cannot be
26 demonstrated in each five-year period for up to fifteen years, the
27 immunity shall lapse.

28 (3) For purposes of compliance with this section, water quality
29 criteria for aquatic species shall be limited to the conventional
30 parameters of dissolved oxygen, total dissolved gases, turbidity, pH,
31 and temperature, as well as the numeric and narrative criteria for
32 material that is toxic and deleterious to aquatic species.

33 NEW SECTION. **Sec. 10.** MARINE WATERS--TOTAL MAXIMUM DAILY LOADS.
34 Because of their location downstream of most human activities, marine
35 waters tend to be the final repository for many pollutants generated by
36 human activity. Marine waters are also often subject to complex and
37 multiple sources of pollutants, many of which are ongoing. Many

1 pollutants bind with sediments, and have created the need for cleanups
2 under the federal comprehensive environmental response, compensation,
3 and liability act of 1980 and the state model toxics control act,
4 chapter 70.105D RCW. While the cleanup of these sites will prevent
5 contamination of the water column from sediments, it may not prevent
6 contamination caused by other sources that may exist. As a result,
7 sediment cleanup alone may be insufficient to guarantee attainment of
8 water quality standards, unless the record of decision issued pursuant
9 to a cleanup under the federal comprehensive environmental response,
10 compensation, and liability act of 1980 or chapter 70.105D RCW also
11 includes a plan for controlling ongoing pollutant sources.

12 For water quality limited segments in marine waters where no
13 sediment cleanup is planned; or where a sediment cleanup has been
14 completed, but no source control plan has been adopted; a total maximum
15 daily load shall be developed and implemented. Such total maximum
16 daily loads should be prepared concurrently with a sediment cleanup
17 plan.

18 NEW SECTION. **Sec. 11.** STORM WATER ADVISORY COMMITTEE. (1) The
19 department of ecology shall convene a storm water advisory committee
20 for the purpose of updating the department's storm water management
21 plan and the Puget Sound storm water management manual. The advisory
22 committee shall be comprised of one or more representatives selected by
23 each of the following agencies and associations: The department of
24 ecology, the department of natural resources, the department of fish
25 and wildlife, the department of transportation, the Washington state
26 association of counties, the association of Washington cities, and the
27 two leading professional associations for wastewater system engineers
28 and managers.

29 (2) The advisory committee shall be appointed no later than
30 September 1, 1999, and shall complete its work by December 31, 2000.
31 The department of ecology shall provide a progress report to the
32 legislature on storm water management issues and the approach to these
33 issues taken by the advisory committee no later than December 31, 1999.

34 (3) This section expires December 31, 2000.

35 NEW SECTION. **Sec. 12.** SHORELINE MANAGEMENT ADVISORY COMMITTEE.
36 (1) The department of ecology shall convene a shoreline management
37 advisory committee for the purpose of developing recommendations for

1 updating the shoreline management act, chapter 90.58 RCW. The advisory
2 committee shall be comprised of one representative selected by each of
3 the following agencies and associations: The department of ecology,
4 the department of natural resources, the department of fish and
5 wildlife, the marine trade association, the Washington public ports
6 association, the association of Washington business, the shellfish
7 industry, the fishing industry, a county west of the crest of the
8 Cascade mountains, a county east of the crest of the Cascade mountains,
9 a city with over one hundred thousand population, a city with under one
10 hundred thousand population, and an environmental group. Appointments
11 to the shoreline management advisory committee shall reflect the
12 geographical balance of population within the state.

13 (2) The advisory committee shall be appointed no later than
14 September 1, 1999, and shall provide its recommendations for amendments
15 to the shoreline management act to the legislature by December 1, 2000.
16 The department of ecology shall provide a progress report to the
17 legislature on shoreline management issues and the approach to these
18 issues taken by the advisory committee no later than December 31, 1999.

19 (3) This section expires December 31, 2000.

20 NEW SECTION. **Sec. 13.** A new section is added to chapter 90.48 RCW
21 to read as follows:

22 If the federal government chooses, or is required, to assume
23 complete responsibility for the state total maximum daily load program
24 under the federal clean water act, sections 3 through 11 of this act
25 shall become null and void.

26 NEW SECTION. **Sec. 14.** CAPTIONS NOT LAW. Captions used in this
27 act are not any part of the law.

28 NEW SECTION. **Sec. 15.** Sections 3, 4, 6, 7, 9, and 10 of this act
29 are each added to chapter 90.48 RCW.

30 NEW SECTION. **Sec. 16.** If specific funding for the purposes of
31 this act, referencing this act by bill or chapter number, is not
32 provided by June 30, 1999, in the omnibus appropriations act, this act
33 is null and void.

--- END ---