
SUBSTITUTE SENATE BILL 5957

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Hargrove, Rasmussen, Morton, Swecker, Doumit, Sheahan, Oke and Brandland)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to the collection and use of water quality data;
2 adding new sections to chapter 90.48 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

5 (a) Proper collection and review of credible water quality data is
6 necessary to ensure compliance with the requirements of the federal
7 clean water act;

8 (b) Developing and implementing water quality protection measures
9 based only on credible water quality data ensures that the financial
10 resources of state and local governments and regulated entities are
11 prioritized to address our state's most important water quality issues;
12 and

13 (c) The state currently lacks standards relating to the collection
14 of water quality data even though the collection and analysis of that
15 data provides the basis for water quality protection efforts and can
16 have significant regulatory and financial impacts.

17 (2) It is the intent of the legislature to establish a system of
18 standards and procedures to ensure that only credible water quality
19 data is used as the basis for specific state water quality programs.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout sections 3 through 6 of this act unless the context clearly
3 requires otherwise.

4 (1) "Credible data" means data meeting the requirements of section
5 4 of this act.

6 (2) "Department" means the Washington state department of ecology.

7 (3) "Impaired water" means a water body or segment thereof for
8 which credible data exists that satisfies the requirements of sections
9 3 through 6 of this act that demonstrates that the water body should be
10 identified pursuant to 33 U.S.C. Sec. 1313(d).

11 (4) "Naturally occurring condition" means any condition affecting
12 water quality that is not caused by human influence on the environment
13 including, but not limited to, soils, geology, hydrology, climate,
14 wildlife influence on the environment, and water flow with specific
15 consideration given to seasonal and other natural variations.

16 (5) "Section 303(d)" means 33 U.S.C. Sec. 1313(d).

17 (6) "Section 305(b)" means 33 U.S.C. Sec. 1315(b).

18 (7) "Total maximum daily load" has the same meaning as in the
19 federal water pollution control act.

20 NEW SECTION. **Sec. 3.** (1) The department shall use only credible
21 data for the following actions after the effective date of this
22 section:

23 (a) Developing and reviewing any water quality standard;

24 (b) Determining whether any water of the state is to be placed on
25 or removed from any section 303(d) list;

26 (c) Establishing a total maximum daily load for any water of the
27 state;

28 (d) Determining whether any water of the state is supporting its
29 designated use or other classification; or

30 (e) Determining any degradation of a water of the state.

31 (2) The department may require use of credible data for any other
32 purpose not specifically included in subsection (1) of this section.

33 (3) For any action specifically included in subsection (1) of this
34 section that was completed before the effective date of this section,
35 the department shall adopt a process to evaluate whether credible data
36 was used, and, if not, to ensure compliance with the requirements of
37 this act, if requested by an affected party.

1 NEW SECTION. **Sec. 4.** (1) In collecting and analyzing water
2 quality data for any purpose identified in section 3 of this act, data
3 is considered credible data only if the department has determined all
4 of the following:

5 (a) Appropriate quality assurance and quality control procedures
6 were followed and documented in collecting and analyzing the data;

7 (b) The samples or analyses are representative of water quality
8 conditions at the time the data was collected;

9 (c) The data consists of an adequate number of samples based on the
10 nature of the water in question and the parameters being analyzed;

11 (d) The method of sampling and analysis, including analytical,
12 statistical, and modeling methods, is generally accepted and validated
13 in the scientific community as appropriate for use in assessing the
14 condition of the water; and

15 (e) The data was collected in a manner consistent with the
16 requirements of this section.

17 (2) The department shall adopt rules governing the collection of
18 water quality data under the requirements of this act.

19 NEW SECTION. **Sec. 5.** (1) In assessing whether a water body is
20 impaired, the department shall consider the data available in light of
21 the nature of the water in question, including whether the water body
22 is ephemeral. A water body in which pollutant loadings from naturally
23 occurring conditions alone are sufficient to cause a violation of
24 applicable surface water quality standards shall not be listed as
25 impaired.

26 (2) If the department has adopted a rule establishing a numerical
27 criterion for a particular pollutant, a narrative or biological
28 criterion must not be the basis for determining an impairment in
29 connection with that pollutant, unless the department identifies
30 specific factors as to why the numerical criterion is not adequate to
31 protect water quality. If determination of impairment is based on
32 narrative or biological criteria, the specific factors concerning
33 particular pollutants shall be identified prior to a total maximum
34 daily load being developed for those criteria for that surface water or
35 surface water segment.

36 (3) The department shall not list a water body as impaired if the
37 failure to meet state water quality standards is caused solely by

1 violations of national pollutant discharge elimination system program
2 permits issued by the department and the enforcement of the pollution
3 control measures in such permits is required.

4 NEW SECTION. **Sec. 6.** Any employee of the department who knowingly
5 misrepresents data shall be subject to the provisions of RCW 42.20.040
6 and 42.20.050.

7 NEW SECTION. **Sec. 7.** Sections 2 through 6 of this act are each
8 added to chapter 90.48 RCW.

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