
**Agriculture & Natural Resources
Committee**

HB 2472

Brief Description: Concerning water quality determinations made by the department of ecology.

Sponsors: Representatives Kretz, Blake, Short, Fagan, Buys and Warnick.

Brief Summary of Bill

- Requires the Department of Ecology to base all determinations of a violations, or substantial potential to be violations, of water quality standards on a preponderance of actual, site-based and source-specific environmental testing.

Hearing Date: 2/5/14

Staff: Jason Callahan (786-7117).

Background:

Water Pollution Control Violations.

The Department of Ecology (Department) is charged with controlling and preventing the pollution of waters of the state. The Department is also the designated water pollution control agency for the purposes of the federal Clean Water Act. The Department has the authority to adopt rules and regulations related to its water pollution control authority and may, with the assistance of the Attorney General, bring appropriate legal actions to fulfill its responsibilities.

It is unlawful to discharge or to permit the discharge of organic or inorganic matters that cause or tend to cause pollution in waters of the state. However, the disposal or discharge of solid or liquid waste material into the waters of the state may be allowed by permits issued under the National Pollutant Discharge Elimination System (NPDES) permit program. The NPDES

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permits are issued for various commercial and industrial activities, including concentrated animal feeding operations, boatyards, and construction activities.

Provisions governing water pollution controls specify civil penalties for persons who violate the terms or conditions of a NPDES permit, conduct a commercial or industrial operation or other point-source discharge operation without a required permit, or improperly discharge polluting matters in waters.

If, in the opinion of the Department, a person violates or creates a substantial potential to violate water quality standards, then the Department must notify the person of the determination by registered mail. The recipient of a letter has 30 days to report to the Department the steps that are being taken to control the pollution or otherwise comply with the determination of the Department. The Department may order immediate action to be taken by a letter recipient if immediate action is necessary.

Civil penalties for violating water pollution controls include fines of up to \$10,000 per day per violation. Imposed penalties may be appealed to the Pollution Control Hearings Board within 30 days after receipt of the penalty notice by the applicable person.

Technical Assistance Programs.

Regulatory agencies, a term defined to mean agencies that have the authority to issue civil monetary penalties, are required to develop programs to encourage voluntary compliance by providing technical assistance that is consistent with statutory requirements. The programs must include, but are not limited to, technical assistance visits, printed information, and information and assistance by telephone.

Subject to certain limitations, persons who have received a technical assistance visit must be given a reasonable period of time to correct violations identified during a visit before a civil penalty may be imposed for those violations. The Department may move directly to the penalty phase if the violator is a business with more than 50 employees, the violation is creating a danger, death, or bodily harm, a previously issued noticed of correction hasn't been addressed, or the violator is a repeat offender.

Summary of Bill:

The Department must base all determinations of a violation, or substantial potential to be a violation, of water quality standards on a preponderance of actual, site-based and source-specific environmental testing.

Appropriation: None.

Fiscal Note: Not requested.

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