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## Environment Committee

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### HB 2478

**Brief Description:** Providing technical assistance to achieve voluntary compliance with water pollution control statutes.

**Sponsors:** Representatives Schmick, Fagan, Kretz, Hayes and Freeman.

#### Brief Summary of Bill

- Requires the Department of Ecology to make a determination that a water quality problem exists and that a violation has occurred due to the presence of livestock before it may bring a notice of violation or assess a penalty on any lands where livestock graze or seek feed.
- Requires the offering of written technical assistance before issuing a notice of violation.

**Hearing Date:** 1/29/14

**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 [RCW 90.48.080]. 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.

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*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.*

The NPDES 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.

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 [Chapter 43.05 RCW]. 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 make a determination that a water quality problem exists and that a violation has actually occurred due to the presence of livestock before it may bring a notice of violation or assess a penalty on any lands where livestock graze or seek feed. The Department must first attempt to achieve voluntary compliance when it determines that a water quality violation has occurred, or is about to occur, by offering written technical assistance identifying one or more means to comply with the framework of the law. The Department may only issue a notice of violation if education and technical assistance fails to remedy the problem.

**Appropriation:** None.

**Fiscal Note:** Requested on January 22, 2014.

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