
HOUSE BILL 3056

State of Washington

56th Legislature

2000 Regular Session

By Representatives Linville and G. Chandler

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1 AN ACT Relating to water pollution control; amending RCW 90.48.010,
2 90.48.020, 90.82.060, and 90.82.090; adding new sections to chapter
3 90.48 RCW; and adding a new section to chapter 90.82 RCW.

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

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

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

1 the United States, of which certain portions thereof are within the
2 jurisdictional limits of this state, proclaims a public policy of
3 working cooperatively with the federal government in a joint effort to
4 extinguish the sources of water quality degradation, while at the same
5 time preserving and vigorously exercising state powers to insure that
6 present and future standards of water quality within the state shall be
7 determined by the citizenry, through and by the efforts of state
8 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 as defined in RCW 90.54.020. It is also the
17 preference of the state of Washington that water quality standards be
18 attained through control measures intended to prevent discharge of
19 pollutants, rather than through a system of allocation of loads and
20 wasteloads.

21 (3) The burden of changing existing practices and obtaining
22 pollutant discharge reductions as needed to attain water quality
23 standards should be shared among the various contributors to water
24 quality impairment in proportion to their contribution and in
25 consideration of other equitable factors and natural background
26 conditions. For water quality limited segments in waters that are
27 shared with, or are upstream or downstream of waters subject to the
28 jurisdiction of another state or Canada, the legislature intends that
29 the department coordinate the development of water clean-up plans with
30 the United States environmental protection agency and with water
31 quality regulatory agencies in other jurisdictions to ensure equity for
32 dischargers in Washington.

33 (4) The legislature finds that a watershed approach to water
34 quality improvement allows the consideration of multiple factors and of
35 their interactions. Therefore, this approach often provides a more
36 effective means of controlling pollution and protecting water quality.
37 It also provides a means for bringing together those persons who may be
38 required to implement measures to improve water quality, as well as
39 others who may be interested in water quality.

1 (5) Water quality monitoring is becoming increasingly important as
2 the state makes commitments to attain water quality standards, recover
3 aquatic species, and evaluate the effectiveness of actions taken to
4 attain those goals. As a result, the legislature believes it is
5 important to enhance the quality of existing water quality monitoring
6 programs.

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

9 (~~Whenever the word~~) Unless the context clearly requires
10 otherwise, the definitions in this section apply throughout this
11 chapter.

12 (1) "Characteristic uses" means the uses for which a water body has
13 been classified by the department under state law and the federal clean
14 water act.

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

19 (~~Wherever the words~~) (3) "Waters of the state" ((shall be used in
20 this chapter, they shall be construed to)) includes lakes, rivers,
21 ponds, streams, inland waters, underground waters, salt waters, and all
22 other surface waters and watercourses within the jurisdiction of the
23 state of Washington.

24 (~~Whenever the word~~) (4) "Pollution" ((is used in this chapter, it
25 shall be construed to)) means such contamination, or other alteration
26 of the physical, chemical, or biological properties, of any waters of
27 the state, including change in temperature, taste, color, turbidity, or
28 odor of the waters, or such discharge of any liquid, gaseous, solid,
29 radioactive, or other substance into any waters of the state as will or
30 is likely to create a nuisance or render such waters harmful,
31 detrimental, or injurious to the public health, safety, or welfare, or
32 to domestic, commercial, industrial, agricultural, recreational, or
33 other legitimate beneficial uses, or to livestock, wild animals, birds,
34 fish, or other aquatic life.

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

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

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

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

6 (9) "Listing cycle" means the period, as determined by the federal
7 environmental protection agency, between publication of a list of water
8 quality limited segments by the department and the publication of the
9 next list of such segments by the department.

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

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

14 (12) "Load allocation" means that portion of a receiving water's
15 loading capacity that is attributed either to one of its existing or
16 future nonpoint sources of pollution, or to natural background sources.
17 Load allocations are best estimates of the loading, which may range
18 from reasonably accurate estimates to gross allotments, depending on
19 the availability of data and appropriate techniques for predicting
20 loading. Wherever possible, natural background conditions and nonpoint
21 sources shall be distinguished. Wherever possible, loads shall be
22 allocated to categories of like sources, rather than to aggregates of
23 different categories of sources.

24 (13) "Wasteload allocation" means that portion of a receiving
25 water's loading capacity that is allocated to one of its existing or
26 future point sources of pollution. Wasteload allocations constitute a
27 type of water quality-based effluent limitation.

28 (14) "Total maximum daily loads" means the sum of the individual
29 wasteload allocations for point sources and load allocations for
30 nonpoint sources and natural background conditions. Such loads shall
31 be established at a level necessary to implement the applicable water
32 quality standards with seasonal variations and a margin of safety, and
33 may contain a reserve for growth.

34 (15) "Wastewater discharge permit" means an individual, model, or
35 general permit issued by the department that specifies pollutant
36 limits, wastewater treatment, monitoring, and reporting requirements
37 related to the discharge of wastewater, and that is intended to satisfy
38 the requirements of the clean water act and of this chapter.

1 (16) "Water clean-up plan" means a WRIA-scale plan that is intended
2 to lead to the attainment of water quality standards within a WRIA.

3 (17) "Water quality limited segment" means any surface water
4 segment, as defined by the department, where it is known that water
5 quality does not meet applicable water quality standards, or is not
6 expected to meet applicable water quality standards by the next listing
7 cycle, even after the application of technology-based effluent
8 limitations required by the federal clean water act.

9 (18) "WRIA" means a water resource inventory area established in
10 chapter 173-500 WAC as it existed on January 1, 1997.

11 (19) "Effluent trading" means a method to attain or maintain water
12 quality standards by allowing sources of pollution that can achieve
13 greater pollutant reduction than is otherwise required to sell or trade
14 the credits for their excess reduction to another source.

15 (20) "Adaptive management" means the processes and principles
16 designed to modify rules adopted under the forest practices act, and
17 their application based on cooperative research, monitoring, and
18 evaluation, and set out in Appendix L to the forestry module memorandum
19 of agreement, also known as the Forests and Fish Report (1999).

20 NEW SECTION. Sec. 3. A new section is added to chapter 90.48 RCW
21 to read as follows:

22 (1) The list of water quality limited segments that is required to
23 be submitted to the federal environmental protection agency under the
24 clean water act shall be based upon data that are accurate and
25 reflective of current conditions and that comply with high standards of
26 quality assurance and quality control as prescribed by the department
27 under this section. A water segment may be listed as water quality
28 limited under section 4 of this act only when:

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

32 (b) The department independently samples the water body segment in
33 compliance with its data quality objectives and other requirements of
34 an approved quality assurance program plan to verify the suspected
35 water quality exceedance.

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

1 quality objectives and the data quality assurance and quality control
2 guidelines prescribed by the department under this section. To the
3 extent possible and appropriate, the water quality monitoring network
4 shall include other state agencies, tribes, counties, cities, federal
5 agencies, water-sewer districts, and special purpose districts, as well
6 as private entities that wish to provide such data. The network shall
7 provide data for both ambient water quality monitoring and development
8 of the list of water quality limited segments. In coordinating this
9 network, the department shall ensure state-wide consistency, provide
10 calibration of local monitoring efforts, provide data verification and
11 validation, and assess long-term water quality trends.

12 (3) The department shall coordinate the collection of water quality
13 data among state agencies to ensure that monitoring for the purposes of
14 this section is comprehensive without being duplicative, and that state
15 monitoring resources are directed toward filling the most critical
16 information gaps.

17 (4) The department shall develop a system of water quality
18 standards, data quality objectives, data interpretation guidelines, and
19 data quality assurance and quality control guidelines by December 1,
20 2002. The water quality standards shall be adopted by rule under RCW
21 90.48.035 and the administrative procedure act, chapter 34.05 RCW.
22 After issuance, the data quality objectives, data interpretation
23 guidelines, and data quality assurance and quality control guidelines
24 shall be updated periodically to reflect new methods and
25 instrumentation.

26 (5) After July 1, 2003, the department shall require that any water
27 quality data submitted to the state for purposes of ambient monitoring
28 or compiling a list of water quality limited segments comply with the
29 department's data quality objectives and data quality assurance and
30 quality control guidelines.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.48 RCW
32 to read as follows:

33 (1) After July 1, 2003, the department shall prepare a revised list
34 of water quality limited segments, as required under section 303(d) of
35 the clean water act, that is based upon data that are collected and
36 analyzed in compliance with the department's data quality objectives
37 and data quality assurance and quality control guidelines. The list
38 shall include four parts as follows:

1 (a) Water bodies impaired or threatened by one or more pollutants
2 or unknown cause as defined by 40 C.F.R. Sec. 130.2(d);
3 (b) Water bodies impaired or threatened by pollution as defined by
4 40 C.F.R. Sec. 130.2(c) but not impaired by one or more pollutants;
5 (c) Water bodies for which the federal environmental protection
6 agency has approved or established a total maximum daily load and water
7 quality standards have not yet been attained; and
8 (d) Water bodies that are impaired, for which implementation of
9 best practicable control technology for point sources and secondary
10 treatment for publicly owned treatment works or controls enforceable by
11 state, territorial, authorized tribal, or federal law or regulation are
12 expected to result in attainment of water quality standards by the next
13 listing cycle. If a water body on this part of the list does not
14 attain water quality standards by the time the list is due to the
15 environmental protection agency, it must be included in part 1 of the
16 list. The list shall be submitted to the federal environmental
17 protection agency at a frequency determined by the agency.

18 (2) Deletions from the list shall be based on monitoring data of
19 the same quality and rigor as data used for additions to the list.
20 Additions to, and deletions from, the list of water quality limited
21 segments shall be recorded when the list is updated in the next listing
22 cycle.

23 (3) To ensure an opportunity for public participation in the
24 process of listing water quality limited segments, the department
25 shall:

26 (a) Provide notice in the Washington State Register that it is
27 beginning a new cycle for listing of water quality limited segments;
28 (b) Develop a proposed list of water quality limited segments, and
29 compare the proposed list to the previous list approved by the
30 environmental protection agency to identify water quality trends;
31 (c) Submit the proposed list to the environmental protection agency
32 and the general public for review;
33 (d) Develop responses to the comments received, and provide those
34 responses to those persons who have requested them;
35 (e) Develop a final list of water quality limited segments and
36 publish a notice of the availability of the final list in the
37 Washington State Register; and
38 (f) Submit the final list to the environmental protection agency
39 for approval.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.48 RCW
2 to read as follows:

3 (1) No permit may be issued to a new source or to a new discharger,
4 as these terms are defined in section 306 of the federal clean water
5 act and in 40 C.F.R. Secs. 122.2 and 122.29 as of the effective date of
6 this section, if the discharge would cause or contribute to a violation
7 of water quality standards, unless a water clean-up plan as provided in
8 section 8 of this act has been adopted by the department.

9 (2) This chapter does not prevent any existing point source
10 discharge, or any activity that may lead to a nonpoint source discharge
11 conducted in compliance with all applicable federal, state, or local
12 laws, rules, regulations, and requirements affecting water quality,
13 solely because a total maximum daily load has not been completed.

14 (3) This chapter does not prevent any new or expanded activity that
15 may lead to a nonpoint source discharge conducted in compliance with
16 all applicable federal, state, or local laws, rules, regulations, and
17 requirements that protect water quality, solely because a total maximum
18 daily load has not been completed.

19 **Sec. 6.** RCW 90.82.060 and 1998 c 247 s 2 are each amended to read
20 as follows:

21 (1) Planning conducted under this chapter must provide for a
22 process to allow the local citizens within a WRIA or multi-WRIA area to
23 join together in an effort to: (a) Assess the status of the water
24 resources of their WRIA or multi-WRIA area; and (b) determine how best
25 to manage the water resources of the WRIA or multi-WRIA area to balance
26 the competing resource demands for that area within the parameters
27 under RCW 90.82.120.

28 (2) Watershed planning under this chapter may be initiated for a
29 WRIA only with the concurrence of: (a) All counties within the WRIA;
30 (b) the largest city or town within the WRIA unless the WRIA does not
31 contain a city or town; and (c) the water supply utility obtaining the
32 largest quantity of water from the WRIA. To apply for a grant for
33 organizing the planning unit as provided for under RCW 90.82.040(2)(a),
34 these entities shall designate the entity that will serve as the lead
35 agency for the planning effort and indicate how the planning unit will
36 be staffed.

37 (3) Watershed planning under this chapter may be initiated for a
38 multi-WRIA area only with the concurrence of: (a) All counties within

1 the multi-WRIA area; (b) the largest city or town in each WRIA unless
2 the WRIA does not contain a city or town; and (c) the water supply
3 utility obtaining the largest quantity of water in each WRIA.

4 (4) If entities in subsection (2) or (3) of this section decide
5 jointly and unanimously to proceed, they shall invite all tribes with
6 reservation lands within the management area.

7 (5) The entities in subsection (2) or (3) of this section,
8 including the tribes if they affirmatively accept the invitation,
9 constitute the initiating governments for the purposes of this section.

10 (6) The organizing grant shall be used to organize the planning
11 unit and to determine the scope of the planning to be conducted. In
12 determining the scope of the planning activities, consideration shall
13 be given to all existing plans and related planning activities. The
14 scope of planning must include water quantity elements as provided in
15 RCW 90.82.070, and may include water quality planning elements as
16 contained in RCW 90.82.090(~~(7)~~) and section 8 of this act, and habitat
17 elements as contained in RCW 90.82.100(~~(7)~~) and instream flow elements
18 as contained in RCW 90.82.080. The initiating governments shall work
19 with state government, other local governments within the management
20 area, and affected tribal governments, in developing a planning
21 process. The initiating governments may hold public meetings as deemed
22 necessary to develop a proposed scope of work and a proposed
23 composition of the planning unit. In developing a proposed composition
24 of the planning unit, the initiating governments shall provide for
25 representation of a wide range of water resource interests.

26 (7) Each state agency with regulatory or other interests in the
27 WRIA or multi-WRIA area to be planned shall assist the local citizens
28 in the planning effort to the greatest extent practicable, recognizing
29 any fiscal limitations. In providing such technical assistance and to
30 facilitate representation on the planning unit, state agencies may
31 organize and agree upon their representation on the planning unit.
32 Except in implementing section 8 of this act, such technical assistance
33 must only be at the request of and to the extent desired by the
34 planning unit conducting such planning. The number of state agency
35 representatives on the planning unit shall be determined by the
36 initiating governments in consultation with the governor's office. The
37 department shall provide the level of assistance and support necessary
38 to ensure the development of water clean-up plans as provided in
39 section 8 of this act.

1 (8) As used in this section, "lead agency" means the entity that
2 coordinates staff support of its own or of other local governments and
3 receives grants for developing a watershed plan.

4 **Sec. 7.** RCW 90.82.090 and 1998 c 247 s 5 are each amended to read
5 as follows:

6 If the initiating governments choose to include a water quality
7 component, the watershed plan shall include the following elements:

8 (1) An examination based on existing studies conducted by federal,
9 state, and local agencies of the degree to which legally established
10 water quality standards are being met in the management area;

11 (2) An examination based on existing studies conducted by federal,
12 state, and local agencies of the causes of water quality violations in
13 the management area, including an examination of information regarding
14 pollutants, point and nonpoint sources of pollution, and pollution-
15 carrying capacities of water bodies in the management area. The
16 analysis shall take into account seasonal stream flow or level
17 variations, natural events, and pollution from natural sources that
18 occurs independent of human activities;

19 (3) An examination of the legally established characteristic uses
20 of each of the nonmarine bodies of water in the management area;

21 (4) An examination of any total maximum daily load established for
22 nonmarine bodies of water in the management area, unless a total
23 maximum daily load process has begun in the management area as of the
24 date the watershed planning process is initiated under RCW 90.82.060;

25 (5) An examination of existing data related to the impact of fresh
26 water on marine water quality;

27 (6) A recommended approach for implementing the total maximum daily
28 load established for achieving compliance with water quality standards
29 for the nonmarine bodies of water in the management area, unless a
30 total maximum daily load process has begun in the management area as of
31 the date the watershed planning process is initiated under RCW
32 90.82.060; and

33 (7) Recommended means of monitoring by appropriate government
34 agencies whether actions taken to implement the approach to bring about
35 improvements in water quality are sufficient to achieve compliance with
36 water quality standards.

37 ~~((This chapter does not obligate the state to undertake analysis or
38 to develop strategies required under the federal clean water act (33~~

1 U.S.C. Sec. 1251 et seq.). This chapter does not authorize any
2 planning unit, lead agency, or local government to adopt water quality
3 standards or total maximum daily loads under the federal clean water
4 act.) If an initiating government wishes to address the requirements
5 for development of total maximum daily loads under the federal clean
6 water act, the plan developed pursuant to subsections (1) through (7)
7 of this section shall also include the elements of a water clean-up
8 plan identified in section 8 of this act.

9 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.82 RCW
10 to read as follows:

11 (1) After a list of water quality limited segments has been
12 submitted to the federal environmental protection agency as provided in
13 section 4 of this act, the department shall sort the list of water
14 quality limited segments by WRIA.

15 (2) The department shall work to achieve the attainment of water
16 quality standards by developing water clean-up plans in each of the
17 state's sixty-two WRIAs. In areas where initiating governments have
18 chosen to address water quality, the department shall work with
19 planning groups in developing water clean-up plans. Such plans shall
20 be based on existing water quality plans previously completed in a
21 WRIA, and shall fill whatever gaps are necessary to meet the
22 requirements of this section. Water clean-up plans shall include the
23 following elements:

24 (a) Identification of water quality limited segments and pollutants
25 found within the WRIA;

26 (b) Identification of sources of pollutants;

27 (c) Assessment of watershed processes that affect water quality;

28 (d) Development of water quality goals:

29 (i) For the recovery of salmon and any other aquatic species that
30 may be listed or candidates for listing under the federal endangered
31 species act, as approved by the federal fish and wildlife service and
32 the environmental protection agency; and

33 (ii) For existing and projected land uses identified in
34 comprehensive plans under the growth management act, chapter 36.70A
35 RCW;

36 (e) Deviation from the water quality standards needed to attain the
37 goals expressed in units of pollutant reduction;

1 (f) Development of measurable objectives for the control of
2 pollutants that prevent the attainment of the most limiting water
3 quality standards related to attainment of the water quality goals;

4 (g) Development of an implementation plan that includes:

5 (i) Demonstration that control measures as proposed under
6 subsection (3) of this section will result in the expeditious reduction
7 of the pollutants preventing attainment of water quality standards;

8 (ii) Revisions of wastewater discharge permits as necessary to
9 reduce effluent limits;

10 (iii) Any effluent trading voluntarily entered into that results in
11 meeting or exceeding water quality standards;

12 (iv) A schedule of implementation actions, including interim
13 milestones;

14 (v) A budget sufficient to fund implementation of the
15 implementation actions;

16 (vi) Identification of funding sources, including federal, state,
17 and other sources;

18 (vii) A monitoring plan; and

19 (viii) A process for revision of the water clean-up plan.

20 (3) Measures for the control of nonpoint sources of pollution shall
21 include, but not be limited to, those processes and recommendations
22 found in the department's water quality management plan to control
23 nonpoint source pollution (publication 99-26, as amended). If
24 implementation of measures in this plan would not achieve the reduction
25 of pollutants necessary to attain water quality standards, the
26 department shall develop recommendations, in conjunction with affected
27 interests, for additional actions that should be taken to achieve water
28 quality standards.

29 (4) A water clean-up plan under this section shall include:

30 (a) The elements required under subsection (2) of this section;

31 (b) The elements required under RCW 90.82.090; and

32 (c) Any total maximum daily loads developed under section 9 of this
33 act. A plan that includes these elements shall be adopted by the
34 department. Projects and control measures identified in adopted plans
35 shall receive first priority for state funding for which they are
36 eligible.

37 NEW SECTION. **Sec. 9.** A new section is added to chapter 90.48 RCW
38 to read as follows:

1 (1) Total maximum daily loads shall be developed when the listing
2 of a water body as water quality limited is caused by one or more point
3 sources of pollutants, or a combination of one or more point sources
4 and one or more nonpoint sources of pollutants. When the listing of a
5 water body as water quality limited is caused exclusively by nonpoint
6 sources, an initiating government may choose to develop a water clean-
7 up plan under section 8 of this act. In developing total maximum daily
8 loads, load allocations for nonpoint sources shall be assigned to
9 categories of nonpoint sources, to tributaries, or to subbasins within
10 a WRIA.

11 (2) The development of total maximum daily loads for marine waters
12 shall apply only to the control of ongoing point and nonpoint sources
13 of pollutants, and not to contaminated sediments that are regulated
14 under the model toxics control act, chapter 70.105D RCW, and the
15 comprehensive environmental response, compensation, and liability act
16 of 1980 (42 U.S.C. Sec. 9601 et seq.).

17 (3) Department hearings and other public proceedings to initiate
18 total maximum daily loads shall be held in the town or city nearest to
19 the location of the water quality limited segment in order to
20 facilitate participation by affected persons. Those persons who would
21 be affected by an allocation of loads must be given an opportunity to
22 be involved in the total maximum daily load development process from
23 the outset.

24 (4) Wasteload allocations should be developed through consensus
25 among those discharging or releasing pollutants into the relevant
26 watershed. If consensus is not achievable, a mediator may be retained
27 at the dischargers' expense to negotiate an allocation. If an
28 agreement on allocations has not been developed within one hundred
29 eighty days from the start of negotiations on allocations, the
30 department shall allocate loads.

31 (5) To encourage public participation in the process of developing
32 total maximum daily loads, the department shall provide an opportunity
33 for public comment on any total maximum daily load that meets all of
34 the requirements of this section before its adoption by the department.

35 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.48 RCW
36 to read as follows:

37 (1) By July 1, 2002, the department shall investigate, develop, and
38 implement a procedure for effluent trading. The procedure shall enable

1 persons discharging or releasing pollutants to enter into contracts or
2 other enforceable agreements with each other, appropriately overseen
3 and administered by the department, to offset or trade quantifiable
4 amounts of pollutants so as to efficiently and effectively attain or
5 maintain water quality standards.

6 (2) Reductions in pollutant units from amounts or quantities
7 authorized under a total maximum daily load as implemented through a
8 federal clean water act discharge permit or a state wastewater
9 discharge permit, or through nonpoint sources, may be freely exchanged
10 with other persons within the same receiving watershed subject to the
11 procedures and rules of the department.

12 (3) In developing the mechanisms and procedures required by this
13 section, the department shall not:

14 (a) Compel or require any person to engage in effluent trading as
15 an alternative to other means or mechanisms to attain or maintain water
16 quality standards; or

17 (b) Set or determine the price or payment made, if any, in any
18 effluent trade.

19 (4) The department shall seek any approvals, waivers, or
20 authorizations from the environmental protection agency or other state
21 and federal agencies needed to implement or to facilitate effluent
22 trading to its fullest extent. However, such effluent trading shall
23 not affect or restrict the authority of the department to implement
24 categorical effluent limits or treatment requirements adopted by the
25 department or the federal environmental protection agency, nor shall
26 any effluent trade create any property rights of any sort.

27 (5) The department shall adopt rules as necessary implementing
28 effluent trading. Such rules shall allow pollutant trading and other
29 procedures to receive any necessary approvals with the minimum of
30 administrative processing consistent with federal and state laws,
31 rules, and regulations.

--- END ---