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SENATE BILL 5062

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State of Washington

64th Legislature

2015 Regular Session

By Senators Honeyford, Schoesler, and Warnick

Prefiled 01/09/15. Read first time 01/12/15. Referred to Committee on Agriculture, Water & Rural Economic Development.

1 AN ACT Relating to water quality enforcement procedure; and  
2 amending RCW 90.48.120.

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

4 **Sec. 1.** RCW 90.48.120 and 1992 c 73 s 25 are each amended to  
5 read as follows:

6 (1) Whenever, in the opinion of the department, any person shall  
7 violate or creates a substantial potential to violate the provisions  
8 of this chapter or chapter 90.56 RCW, or fails to control the  
9 polluting content of waste discharged or to be discharged into any  
10 waters of the state, the department shall notify such person of its  
11 determination by registered mail. Such determination shall not  
12 constitute an order or directive under RCW 43.21B.310. Within  
13 ((thirty)) sixty days from the receipt of notice of such  
14 determination, such person shall file with the department a full  
15 report stating what steps have been and are being taken to control  
16 such waste or pollution or to otherwise ((~~comply with~~)) address the  
17 determination of the department. Whereupon the department ((~~shall~~))  
18 may issue such order or directive as it deems appropriate under the  
19 circumstances, and shall notify such person thereof by registered  
20 mail.

1 (2) Whenever the department deems immediate action is necessary  
2 to accomplish the purposes of this chapter or chapter 90.56 RCW, it  
3 may issue such order or directive, as appropriate under the  
4 circumstances, without first issuing a (~~notice or~~) determination  
5 pursuant to subsection (1) of this section. An order or directive  
6 issued pursuant to this subsection shall be served by registered mail  
7 or personally upon any person to whom it is directed.

8 (3) The department may not issue any order or directive under  
9 this section unless the department demonstrates through site-specific  
10 testing or observation that the person receiving such an order or  
11 directive is in fact causing pollution of the particular waters of  
12 the state identified in the order or directive.

13 (4) By December 1, 2016, the department shall adopt by rule,  
14 pursuant to the provisions of chapter 34.05 RCW, formal criteria that  
15 the department must apply when determining whether any person engaged  
16 in an agricultural use of land is violating or creating a substantial  
17 potential to violate the provisions of this chapter or chapter 90.56  
18 RCW, or is failing to control the polluting content of waste  
19 discharged or to be discharged into any waters of the state. The  
20 department must provide written documentation of its site-specific  
21 application of such criteria, where applicable, to any person  
22 receiving a determination, order, or directive under this section.  
23 Failure to provide such documentation renders any such determination,  
24 order, or directive null and void.

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