

**E2SSB 5957** - H COMM AMD

By Committee on Agriculture & Natural Resources

ADOPTED AS AMENDED 03/05/2004

1 Strike everything after the enacting clause and insert the  
2 following:

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

4 (a) The proper collection and review of credible water quality data  
5 is necessary to ensure compliance with the requirements of the federal  
6 clean water act (33 U.S.C. Sec. 1251 et seq.);

7 (b) The state needs to assemble and evaluate all existing and  
8 readily available water quality-related data and information from  
9 sources other than the state water quality agency, such as federal  
10 agencies, tribes, universities, and volunteer monitoring groups, if the  
11 data meets the state's requirements for data quality; and

12 (c) Developing and implementing water quality protection measures  
13 based on credible water quality data ensures that the financial  
14 resources of state and local governments and regulated entities are  
15 prioritized to address our state's most important water quality issues.

16 (2) The legislature intends to ensure that credible water quality  
17 data is used as the basis for the assessment of the status of a water  
18 body relative to the surface water quality standards.

19 (3) It is the intent of the legislature that a water body in which  
20 pollutant loadings from naturally occurring conditions are the sole  
21 cause of a violation of applicable surface water quality standards not  
22 be listed as impaired.

23 NEW SECTION. **Sec. 2.** The definitions in this section apply to  
24 sections 3 and 4 of this act unless the context clearly requires  
25 otherwise.

26 (1) "Credible data" means data meeting the requirements of section  
27 4 of this act.

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

1 (3) "Impaired water" means a water body or segment for which  
2 credible data exists that: (a) Satisfies the requirements of sections  
3 3 and 4 of this act; and (b) demonstrates the water body should be  
4 identified pursuant to 33 U.S.C. Sec. 1313(d).

5 (4) "Naturally occurring condition" means any condition affecting  
6 water quality that is not caused by human influence.

7 (5) "Section 303(d)" has the same meaning as in the federal clean  
8 water act (33 U.S.C. Sec. 1313(d)).

9 (6) "Total maximum daily load" has the same meaning as in the  
10 federal clean water act (33 U.S.C. Sec. 1313(d)).

11 NEW SECTION. **Sec. 3.** (1) The department shall use credible  
12 information and literature for developing and reviewing a surface water  
13 quality standard or technical model used to establish a total maximum  
14 daily load for any surface water of the state.

15 (2) The department shall use credible data for the following  
16 actions after the effective date of this section:

17 (a) Determining whether any water of the state is to be placed on  
18 or removed from any section 303(d) list;

19 (b) Establishing a total maximum daily load for any surface water  
20 of the state; or

21 (c) Determining whether any surface water of the state is  
22 supporting its designated use or other classification.

23 (3) The department shall respond to questions regarding the data,  
24 literature, and other information it uses under this section. The  
25 department shall reply to requests within five business days  
26 acknowledging that the department has received the request and provide  
27 a reasonable estimate of the time the department will require to  
28 respond to the request.

29 NEW SECTION. **Sec. 4.** (1) In collecting and analyzing water  
30 quality data for any purpose identified in section 3(2) of this act,  
31 data is considered credible data if:

32 (a) Appropriate quality assurance and quality control procedures  
33 were followed and documented in collecting and analyzing water quality  
34 samples;

1 (b) The samples or measurements are representative of water quality  
2 conditions at the time the data was collected;

3 (c) The data consists of an adequate number of samples based on the  
4 objectives of the sampling, the nature of the water in question, and  
5 the parameters being analyzed; and

6 (d) Sampling and laboratory analysis conform to methods and  
7 protocols generally acceptable in the scientific community as  
8 appropriate for use in assessing the condition of the water.

9 (2) Data interpretation, statistical, and modeling methods shall be  
10 those methods generally acceptable in the scientific community as  
11 appropriate for use in assessing the condition of the water.

12 (3) The department shall develop policy:

13 (a) Explaining how it uses scientific research and literature for  
14 developing and reviewing any water quality standard or technical model  
15 used to establish a total maximum daily load for any water of the  
16 state;

17 (b) Describing the specific criteria that determine data  
18 credibility; and

19 (c) Defining the appropriate training and experience in order to  
20 collect credible data.

21 NEW SECTION. **Sec. 5.** Any person who knowingly falsifies data is  
22 guilty of a gross misdemeanor.

23 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act are each  
24 added to chapter 90.48 RCW.

25 NEW SECTION. **Sec. 7.** By December 31, 2005, the department of  
26 ecology shall report to the appropriate committees of the senate and  
27 the house of representatives concerning the status of activities  
28 undertaken to comply with the provisions of this act, and shall report  
29 by December 31, 2006 any rule-making or policy development required to  
30 implement this act, including changes in listings resulting from the  
31 use of credible data."

**ADOPTED AS AMENDED 03/05/2004**

1           On page 1, line 1 of the title, after "data;" strike the remainder  
2 of the title and insert "adding new sections to chapter 90.48 RCW;  
3 creating a new section; and prescribing penalties."

EFFECT: Requires the use of credible scientific information and literature for developing and reviewing a surface water quality standard or technical model used to establish a total maximum daily load (TMDL) for any surface water. Removes credible data requirement for developing and reviewing a water quality standard and for determining degradation. Eliminates authority to require credible data for other purposes. Removes requirement to evaluate prior actions with respect to credible data requirements. Requires the Department of Ecology (DOE) to respond to requests regarding data and information used. Revises criteria for determining that data is credible data and requires the DOE to develop policy regarding the use of scientific literature and data credibility criteria. Removes requirement for the DOE to adopt rules regarding qualified data collectors and requires the DOE to develop policy regarding the appropriate training and experience for data collectors. Eliminates requirement for the DOE to consider the data in light of the nature of the water body. Revises provisions regarding misrepresentation of data to apply to any person who falsifies data. Changes deadline for 2005 and 2006 reports from January 31st to December 31st. Revises legislative intent to: (1) Focus use of credible data on assessment of the status of a water body relative to the surface water quality standards; (2) add provisions regarding the need to evaluate data from sources other than the DOE; and (3) remove provisions regarding the lack of data collection standards. Changes some definitions and includes technical revisions.

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