

---

**Agriculture & Natural Resources  
Committee**

---

**HB 3129**

**Brief Description:** Prohibiting the total maximum daily load process for the Colville river, Kettle river, and Moses Lake until certain requirements are met.

**Sponsors:** Representatives Holmquist, McMorris and Hinkle.

**Brief Summary of Bill**

- Prohibits the Department of Ecology from proceeding with TMDL processes for the Colville River, Kettle River, and Moses Lake until it: (1) provides requested information to the applicable advisory committees; and (2) allows time for the advisory committees to analyze the requested information and reflect current water quality conditions in their reports.

**Hearing Date:** 2/6/04

**Staff:** Caroleen Dineen (786-7156).

**Background:**

The federal Clean Water Act (CWA) sets a national goal to restore and maintain the chemical, physical, and biological integrity of the nation's waters and eliminate pollutant discharges into navigable waters. The CWA sets effluent limitations for discharges of pollutants to navigable waters. "Pollutant" is defined to include a variety of materials that may be discharged into water through human activities, construction or industrial processes, or other methods.

Washington law requires all pollution dischargers to use all known, available, and reasonable methods of waste water treatment before discharge to prevent pollution. The Washington Department of Ecology (DOE) is delegated federal CWA authority by the United States Environmental Protection Agency (EPA). The DOE also is the agency authorized by state law to implement state water quality programs.

The CWA also requires states to adopt standards to protect fish and other aquatic life as well as humans using water for recreation, drinking water, and fish. These water quality standards are rules states adopt to specify the desired water quality to be achieved or maintained and protecting existing water quality from degradation. Water quality standards consist of designated uses, criteria necessary to protect designated uses, and the Antidegradation Policy which establishes

procedures to follow when considering regulating an activity that might affect a particular water body.

Section 303(d) of the federal CWA requires states to prepare a list of water bodies that do not meet state water quality standards. States are required to develop water cleanup plans (known as "total maximum daily loads" or "TMDLs") to address the pollutants identified for and restore water quality to all water bodies on the "303(d) list." A TMDL includes a technical assessment of the water body, an analysis of the amount that pollution needs to be reduced to meet water quality standards, an implementation plan to control pollution from various sources, and a monitoring plan to assess effectiveness.

As a result of a legal challenge, the DOE entered into a settlement agreement in 1998 that included a schedule for developing TMDLs for approximately 650 polluted water bodies in the state. The schedule in the settlement agreement includes interim five-year targets for completing these TMDLs.

Moses Lake has been listed as an impaired water body on the state's 303(d) list for failure to meet state water quality standards for phosphorus levels. The DOE established an advisory committee for the Moses Lake TMDL in September 2002. The advisory group includes, among others, representatives of interested local governments, food processors, agricultural interests, environmental organizations, the local health district, citizens, and relevant federal agencies.

The Colville River also has been listed as an impaired water body on the state's 303(d) list. The Colville River is listed because nine of its segments do not meet water quality standards for fecal coliform bacteria. Other reasons for listing the Colville River include temperatures, pH levels, and levels of chlorine, ammonia, and dissolved oxygen that do not meet state water quality standards.

### **Summary of Bill:**

The DOE may not proceed with the TMDL process for the Colville River, Kettle River, and Moses Lake until two conditions have been satisfied. First, the DOE must make all reasonable efforts to provide information requested by the Colville River, Kettle River, and Moses Lake advisory committees. Second, the DOE must allow these advisory committees sufficient time to distribute and analyze the requested information so that the committees' reports can accurately reflect the current condition of the rivers, lake, water, and adjacent uplands.

For purposes of this requirement, proceeding with the TMDL process means:

- declaring the Colville River, Kettle River, and Moses Lake to be impaired water bodies according to Section 303(d) of the federal Clean Water Act;
- completing a public process related to establishing one or more TMDLs for any of these water bodies;
- including these water bodies on any lists of impaired water bodies to be submitted to the EPA; and
- proceeding with the development, completion, or distribution of a summary implementation strategy for the Colville River, Kettle River, and Moses Lake or receiving waters.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.