

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5957

Chapter 228, Laws of 2004

58th Legislature
2004 Regular Session

WATER QUALITY DATA

EFFECTIVE DATE: 6/10/04

Passed by the Senate March 9, 2004
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 5, 2004
YEAS 91 NAYS 3

FRANK CHOPP

Speaker of the House of Representatives

Approved March 31, 2004.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
**ENGROSSED SECOND SUBSTITUTE SENATE
BILL 5957** as passed by the Senate
and the House of Representatives
on the dates hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

March 31, 2004 - 10:41 a.m.

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5957

AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington **58th Legislature** **2004 Regular Session**

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Rasmussen, Morton, Swecker, Doumit, Sheahan, Oke and Brandland)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to the collection and use of water quality data;
2 adding new sections to chapter 90.48 RCW; creating a new section; and
3 prescribing penalties.

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

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

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

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

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

18 (2) The legislature intends to ensure that credible water quality

1 data is used as the basis for the assessment of the status of a water
2 body relative to the surface water quality standards.

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

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

10 (1) "Credible data" means data meeting the requirements of section
11 4 of this act.

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

13 (3) "Impaired water" means a water body or segment for which
14 credible data exists that: (a) Satisfies the requirements of sections
15 3 and 4 of this act; and (b) demonstrates the water body should be
16 identified pursuant to 33 U.S.C. Sec. 1313(d).

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

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

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

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

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

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

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

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

35 (3) The department shall respond to questions regarding the data,
36 literature, and other information it uses under this section. The

1 department shall reply to requests within five business days
2 acknowledging that the department has received the request and provide
3 a reasonable estimate of the time the department will require to
4 respond to the request.

5 (4) The department, the United States environmental protection
6 agency, and the Indian tribes in Washington state have developed a
7 voluntary agreement relating to the cooperative management of the clean
8 water act section 303(d) program. The department shall consider water
9 quality data that has been collected by Indian tribes under a quality
10 assurance project plan that has been approved by the United States
11 environmental protection agency if that data meets the objectives of
12 the plan.

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

16 (a) Appropriate quality assurance and quality control procedures
17 were followed and documented in collecting and analyzing water quality
18 samples;

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

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

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

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

30 (3) The department shall develop policy:

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

35 (b) Describing the specific criteria that determine data
36 credibility; and

1 (c) Recommending the appropriate training and experience for
2 collection of credible data.

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

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

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

Passed by the Senate March 9, 2004.

Passed by the House March 5, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.