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

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

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

(1) Whenever, in the opinion of the department, any person shall violate or creates a substantial potential to violate the provisions of this chapter or chapter 90.56 RCW, or fails to control the polluting content of waste discharged or to be discharged into any waters of the state, the department shall notify such person of its determination by registered mail. Such determination shall not constitute an order or directive under RCW 43.21B.310. Within thirty days from the receipt of notice of such determination, such person shall file with the department a full report stating what steps have been and are being taken to control such waste or pollution or to otherwise (comply with) address the determination of the department. Whereupon the department (shall) may issue such order or directive as it deems appropriate under the circumstances, and shall notify such person thereof by registered mail.
(2) Whenever the department deems immediate action is necessary to accomplish the purposes of this chapter or chapter 90.56 RCW, it may issue such order or directive, as appropriate under the circumstances, without first issuing a ((notice or)) determination pursuant to subsection (1) of this section. An order or directive issued pursuant to this subsection shall be served by registered mail or personally upon any person to whom it is directed.

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

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

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