

HOUSE RESEARCH

Bill Summary

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Overview

Provides that certain rules recently adopted by the Pollution Control Agency are not effective and may not be enforced. Requires new rulemaking, and specifies criteria that must be met in the new rules.

Section

1 **Water quality assessment process; rulemaking.** (a) Requires the Pollution Control Agency to adopt water quality assessment rules by January 1, 2004, using an expedited process, for determination of impaired waters as required by federal law, and the corresponding development of total maximum daily load plans. Requires the rules to amend or supersede the rules referred to in section 2 of this bill. Provides that the rules under this section must meet requirements of paragraphs (b) to (i) of this bill.

(b) Requires the rules to define specified terms.

(c) Requires the rules to identify factors the PCA will consider in determining if water is "impaired", and to identify the process the PCA will use to develop and implement corresponding total maximum daily load plans. Requires the factors to be limited to those which may be related to "pollutants" as defined in federal law.

(d) Requires the PCA to consider all factors contained in the rule in a "weight of evidence" approach to determine existence of an impaired water condition.

(e) Requires the rules to provide that a person affected by inclusion of a body of water on a

Section

list of impaired waters may petition the agency for a water quality use assessment before a total maximum daily load is adopted for that body of water.

(f) Requires the rules to provide that if information demonstrates that a designated use for a water body does not exist or is not attainable, or is not reasonably expected to exist or be attainable, due to natural condition of the water body, the PCA must initiate an administrative process to eliminate this unattainable use.

(g) Requires the rules to provide in determining impairment due to nutrients, that they only apply to waters with (1) demonstrated aquatic life or swimming use and (2) the same or similar physical characteristics to water bodies used to establish target nutrient levels or nutrient objectives.

(h) Requires the rules to provide that in considering certain causes of impairment, the PCA may impose reduction requirements only when specified conditions exist.

(i) Requires the rules to provide that where natural or nonnutrient-related conditions preclude or limit aquatic or recreational use of a water body, the PCA must not apply the rule or a guidance document to those waters, and must demonstrate that water quality is the cause of reduction in aquatic life before applying a biological index to list the water as impaired.

2 **Effect on existing rules.** Provides that specified rules adopted with modifications published in the State Register on January 27, 2003 are not effective and may not be enforced until rules as provided in this section are adopted.

3 **Effective date.** Effective the day following final enactment.