
HOUSE BILL 2438

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Takko, Tharinger, Fitzgibbon, and Ryu; by request of Department of Ecology

Read first time 01/17/14. Referred to Committee on Environment.

1 AN ACT Relating to making technical corrections to various
2 environmental statutes of the department of ecology and the pollution
3 control hearings board; amending RCW 70.93.090, 70.94.037, 70.95.290,
4 70.95C.220, 70.95I.080, 70.105.160, 70.105.180, 70.105.210, 70.105.220,
5 88.46.030, and 90.56.310; reenacting and amending RCW 43.21B.300 and
6 70.95E.010; and repealing RCW 70.94.505, 70.95C.250, 88.46.062,
7 88.46.063, 88.46.921, and 88.46.926.

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

9 **Sec. 1.** RCW 43.21B.300 and 2010 c 210 s 12 and 2010 c 84 s 4 are
10 each reenacted and amended to read as follows:

11 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
12 70.95.315, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.46.270,
13 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 90.76 RCW
14 shall be imposed by a notice in writing, either by certified mail with
15 return receipt requested or by personal service, to the person
16 incurring the penalty from the department or the local air authority,
17 describing the violation with reasonable particularity. For penalties
18 issued by local air authorities, within thirty days after the notice is
19 received, the person incurring the penalty may apply in writing to the

1 authority for the remission or mitigation of the penalty. Upon receipt
2 of the application, the authority may remit or mitigate the penalty
3 upon whatever terms the authority in its discretion deems proper. The
4 authority may ascertain the facts regarding all such applications in
5 such reasonable manner and under such rules as it may deem proper and
6 shall remit or mitigate the penalty only upon a demonstration of
7 extraordinary circumstances such as the presence of information or
8 factors not considered in setting the original penalty.

9 (2) Any penalty imposed under this section may be appealed to the
10 pollution control hearings board in accordance with this chapter if the
11 appeal is filed with the hearings board and served on the department or
12 authority thirty days after the date of receipt by the person penalized
13 of the notice imposing the penalty or thirty days after the date of
14 receipt of the notice of disposition by a local air authority of the
15 application for relief from penalty.

16 (3) A penalty shall become due and payable on the later of:

17 (a) Thirty days after receipt of the notice imposing the penalty;

18 (b) Thirty days after receipt of the notice of disposition by a
19 local air authority on application for relief from penalty, if such an
20 application is made; or

21 (c) Thirty days after receipt of the notice of decision of the
22 hearings board if the penalty is appealed.

23 (4) If the amount of any penalty is not paid to the department
24 within thirty days after it becomes due and payable, the attorney
25 general, upon request of the department, shall bring an action in the
26 name of the state of Washington in the superior court of Thurston
27 county, or of any county in which the violator does business, to
28 recover the penalty. If the amount of the penalty is not paid to the
29 authority within thirty days after it becomes due and payable, the
30 authority may bring an action to recover the penalty in the superior
31 court of the county of the authority's main office or of any county in
32 which the violator does business. In these actions, the procedures and
33 rules of evidence shall be the same as in an ordinary civil action.

34 (5) All penalties recovered shall be paid into the state treasury
35 and credited to the general fund except those penalties imposed
36 pursuant to RCW 18.104.155, which shall be credited to the reclamation
37 account as provided in RCW 18.104.155(7), RCW 70.94.431, the
38 disposition of which shall be governed by that provision, RCW

1 70.105.080, which shall be credited to the (~~hazardous waste control~~
2 ~~and elimination~~) state toxics control account created by RCW
3 (~~70.105.180~~) 70.105D.070, RCW 90.56.330, which shall be credited to
4 the coastal protection fund created by RCW 90.48.390, and RCW
5 90.76.080, which shall be credited to the underground storage tank
6 account created by RCW 90.76.100.

7 **Sec. 2.** RCW 70.93.090 and 1998 c 257 s 4 are each amended to read
8 as follows:

9 The department shall (~~design and the director shall~~) adopt by
10 rule (~~or regulation one or more types of litter receptacles which are~~
11 ~~reasonably uniform as to size, shape, capacity and color, for wide and~~
12 ~~extensive distribution throughout the public places of this state.~~
13 ~~Each such litter receptacle shall bear an anti-litter symbol as~~
14 ~~designed and adopted by the department. In addition,~~) locations for
15 the placement of litter receptacles. All litter receptacles shall be
16 designed to attract attention and to encourage the depositing of
17 litter.

18 Litter receptacles (~~of the uniform design~~) shall be placed along
19 the public highways of this state and at all parks, campgrounds,
20 trailer parks, drive-in restaurants, gasoline service stations, tavern
21 parking lots, shopping centers, grocery store parking lots, parking
22 lots of major industrial firms, marinas, boat launching areas, boat
23 moorage and fueling stations, public and private piers, beaches and
24 bathing areas, and such other public places within this state as
25 specified by rule or regulation of the director adopted pursuant to
26 chapter 34.05 RCW. The number of such receptacles required to be
27 placed as specified (~~herein~~) in this section shall be determined by
28 a formula related to the need for such receptacles.

29 It shall be the responsibility of any person owning or operating
30 any establishment or public place in which litter receptacles (~~of the~~
31 ~~uniform design~~) are required by this section to procure and place such
32 receptacles at their own expense on the premises in accord with rules
33 and regulations adopted by the department.

34 Any person, other than a political subdivision, government agency,
35 or municipality, who fails to place such litter receptacles on the
36 premises in the numbers required by rule or regulation of the

1 department, violating the provisions of this section or rules or
2 regulations adopted thereunder shall be subject to a fine of ten
3 dollars for each day of violation.

4 **Sec. 3.** RCW 70.94.037 and 1991 c 199 s 219 are each amended to
5 read as follows:

6 In areas subject to a state implementation plan, no state agency,
7 metropolitan planning organization, or local government shall approve
8 or fund a transportation plan, program, or project within or that
9 affects a nonattainment area unless a determination has been made that
10 the plan, program, or project conforms with the state implementation
11 plan for air quality as required by the federal clean air act.
12 Conformity determination shall be made by the state or local government
13 or metropolitan planning organization administering or developing the
14 plan, program, or project. (~~No later than eighteen months after May~~
15 ~~15, 1991,~~) The director of the department (~~of ecology~~) and the
16 secretary of transportation, in consultation with other state,
17 regional, and local agencies as appropriate, shall adopt by rule
18 criteria and guidance for demonstrating and assuring conformity of
19 plans, programs, and projects that are wholly or partially federally
20 funded. A project with a scope that is limited to preservation or
21 maintenance, or both, shall be exempted from a conformity determination
22 requirement.

23 **Sec. 4.** RCW 70.95.290 and 1988 c 184 s 3 are each amended to read
24 as follows:

25 (1) The evaluation of the solid waste stream required in RCW
26 70.95.280 shall include the following elements:

27 (a) The department shall determine which management method for each
28 category of solid waste will have the least environmental impact; and

29 (b) The department shall evaluate the costs of various management
30 options for each category of solid waste, including a review of market
31 availability, and shall take into consideration the economic impact on
32 affected parties;

33 (c) Based on the results of (a) and (b) of this subsection, the
34 department shall determine the best management for each category of
35 solid waste. Different management methods for the same categories of
36 waste may be developed for different parts of the state.

1 (2) The department shall give priority to evaluating categories of
2 solid waste that, in relation to other categories of solid waste,
3 comprise a large volume of the solid waste stream or present a high
4 potential of harm to human health. ~~((At a minimum the following~~
5 ~~categories of waste shall be evaluated:~~

6 ~~(a) By January 1, 1989, yard waste and other biodegradable~~
7 ~~materials, paper products, disposable diapers, and batteries; and~~

8 ~~(b) By January 1, 1990, metals, glass, plastics, styrofoam or rigid~~
9 ~~lightweight cellular polystyrene, and tires.))~~

10 **Sec. 5.** RCW 70.95C.220 and 2005 c 274 s 338 are each amended to
11 read as follows:

12 (1) The department may review a plan, executive summary, or an
13 annual progress report to determine whether the plan, executive
14 summary, or annual progress report is adequate pursuant to the rules
15 developed under this section and with the provisions of RCW 70.95C.200.
16 In determining the adequacy of any plan, executive summary, or annual
17 progress report, the department shall base its determination solely on
18 whether the plan, executive summary, or annual progress report is
19 complete and prepared in accordance with the provisions of RCW
20 70.95C.200.

21 (2) Plans developed under RCW 70.95C.200 shall be retained at the
22 facility of the hazardous substance user or hazardous waste generator
23 preparing a plan. The plan is not a public record under the public
24 records act, chapter 42.56 RCW. A user or generator required to
25 prepare a plan shall permit the director or a representative of the
26 director to review the plan to determine its adequacy. No visit made
27 by the director or a representative of the director to a facility for
28 the purposes of this subsection may be regarded as an inspection or
29 investigation, and no notices or citations may be issued, nor any civil
30 penalty assessed, upon such a visit.

31 (3) If a hazardous substance user or hazardous waste generator
32 fails to complete an adequate plan, executive summary, or annual
33 progress report, the department shall notify the user or generator of
34 the inadequacy, identifying specific deficiencies. For the purposes of
35 this section, a deficiency may include failure to develop a plan,
36 failure to submit an executive summary pursuant to the schedule
37 provided in RCW 70.95C.200(5), and failure to submit an annual progress

1 report pursuant to the rules developed under RCW 70.95C.200(6). The
2 department shall specify a reasonable time frame, of not less than
3 ninety days, within which the user or generator shall complete a
4 modified plan, executive summary, or annual progress report addressing
5 the specified deficiencies.

6 (4) If the department determines that a modified plan, executive
7 summary, or annual progress report is inadequate, the department may,
8 within its discretion, either require further modification or enter an
9 order pursuant to subsection (5)(a) of this section.

10 (5)(a) If, after having received a list of specified deficiencies
11 from the department, a hazardous substance user or hazardous waste
12 generator required to prepare a plan fails to complete modification of
13 a plan, executive summary, or annual progress report within the time
14 period specified by the department, the department may enter an order
15 pursuant to chapter 34.05 RCW finding the user or generator not in
16 compliance with the requirements of RCW 70.95C.200. When the order is
17 final, the department shall (~~notify the department of revenue to~~)
18 charge a penalty fee. The penalty fee shall be the greater of one
19 thousand dollars or three times the amount of the user's or generator's
20 previous year's fee, in addition to the current year's fee. If no fee
21 was assessed the previous year, the penalty shall be the greater of one
22 thousand dollars or three times the amount of the current year's fee.
23 The penalty assessed under this subsection shall be collected each year
24 after the year for which the penalty was assessed until an adequate
25 plan or executive summary is completed.

26 (b) If a hazardous substance user or hazardous waste generator
27 required to prepare a plan fails to complete an adequate plan,
28 executive summary, or annual progress report after the department has
29 levied against the user or generator the penalty provided in (a) of
30 this subsection, the user or generator shall be required to pay a
31 surcharge to the department whenever the user or generator disposes of
32 a hazardous waste at any hazardous waste incinerator or hazardous waste
33 landfill facility located in Washington state, until a plan, executive
34 summary, or annual progress report is completed and determined to be
35 adequate by the department. The surcharge shall be equal to three
36 times the fee charged for disposal. The department shall furnish the
37 incinerator and landfill facilities in this state with a list of

1 environmental protection agency/state identification numbers of the
2 hazardous waste generators that are not in compliance with the
3 requirements of RCW 70.95C.200.

4 **Sec. 6.** RCW 70.95E.010 and 1995 c 207 s 1 are each reenacted and
5 amended to read as follows:

6 ~~((As used in this chapter, the following terms have the meanings~~
7 ~~indicated))~~ The definitions in this section apply throughout this
8 chapter unless the context clearly requires otherwise.

9 (1) "Dangerous waste" ~~((shall have the same definition as set~~
10 ~~forth))~~ has the same meaning as "dangerous wastes" as defined in RCW
11 70.105.010~~((+5))~~ and ~~((shall))~~ includes those wastes designated as
12 dangerous by rules adopted pursuant to chapter 70.105 RCW.

13 (2) "Department" means the department of ecology.

14 (3) "EPA/state identification number" means the number assigned by
15 the EPA (environmental protection agency) or by the department ~~((of~~
16 ~~ecology))~~ to each generator and/or transporter and treatment, storage,
17 and/or disposal facility.

18 (4) "Extremely hazardous waste" ~~((shall have the same definition as~~
19 ~~set forth))~~ has the same meaning as the term is defined in RCW
20 70.105.010~~((+6))~~ and shall specifically include those wastes
21 designated as extremely hazardous by rules adopted pursuant to chapter
22 70.105 RCW.

23 (5) "Fee" means the annual fees imposed under this chapter.

24 (6) "Generate" means any act or process which produces hazardous
25 waste or first causes a hazardous waste to become subject to
26 regulation.

27 (7) "Hazardous waste" means and includes all dangerous and
28 extremely hazardous wastes but for the purposes of this chapter
29 excludes all radioactive wastes or substances composed of both
30 radioactive and hazardous components.

31 (8) "Hazardous waste generator" means all persons whose primary
32 business activities are identified by the department to generate any
33 quantity of hazardous waste in the calendar year for which the fee is
34 imposed.

35 (9) "Person" means an individual, trust, firm, joint stock company,
36 partnership, association, state, public or private or municipal

1 corporation, commission, political subdivision of a state, interstate
2 body, the federal government including any agency or officer thereof,
3 and any Indian tribe or authorized tribal organization.

4 (10) "Price deflator" means the figures reported by the United
5 States department of commerce bureau of economic analysis((7)) on the
6 table for "Implicit Price Deflator for Gross ((National)) Domestic
7 Product." ~~((for "Government Purchases of Goods and Services,"))~~ If one
8 is available, the department must use a price deflator for "State and
9 Local Government." If a "State and Local Government" figure is not
10 included on the table, the department must use a price deflator figure
11 applicable to general government.

12 (11) "Recycled for beneficial use" means the use of hazardous
13 waste, either before or after reclamation, as a substitute for a
14 commercial product or raw material, but does not include: (a) Use
15 constituting disposal; (b) incineration; or (c) use as a fuel.

16 (12) "Waste generation site" means any geographical area that has
17 been assigned an EPA/state identification number.

18 **Sec. 7.** RCW 70.95I.080 and 1986 c 37 s 1 are each amended to read
19 as follows:

20 ~~((By January 1, 1987, the state fire protection board, in~~
21 ~~cooperation with)) The department ((of ecology,)) shall ((develop))
22 maintain, as necessary, a statewide standard for the placement of
23 above-ground tanks to collect used oil from private individuals for
24 recycling purposes.~~

25 **Sec. 8.** RCW 70.105.160 and 2010 1st sp.s. c 7 s 89 are each
26 amended to read as follows:

27 The department shall conduct a study to determine the best
28 management practices for categories of waste for the priority waste
29 management methods established in RCW 70.105.150, with due
30 consideration in the course of the study to sound environmental
31 management and available technology. As an element of the study, the
32 department shall review methods that will help achieve the priority of
33 RCW 70.105.150(1)(a), waste reduction. Before issuing any proposed
34 rules, the department shall conduct public hearings regarding the best
35 management practices for the various waste categories studied by the
36 department. After conducting the study, the department shall prepare

1 new rules or modify existing rules as appropriate to promote
2 implementation of the priorities established in RCW 70.105.150 for
3 management practices which assure use of sound environmental management
4 techniques and available technology. The preliminary study shall be
5 completed by July 1, 1986, and the rules shall be adopted by July 1,
6 1987.

7 The studies shall be updated at least once every five years. The
8 funding for these studies shall be from the (~~hazardous waste control~~
9 ~~and elimination~~) state toxics control account, subject to legislative
10 appropriation.

11 **Sec. 9.** RCW 70.105.180 and 1985 c 57 s 70 are each amended to read
12 as follows:

13 All fines and penalties collected under this chapter shall be
14 deposited in the (~~hazardous waste control and elimination~~) state
15 toxics control account(~~(, which is hereby created in the state~~
16 ~~treasury. Moneys in the account collected from fines and penalties~~
17 ~~shall be expended exclusively by the department of ecology for the~~
18 ~~purposes of chapter 70, Laws of 1983 1st ex. sess., subject to~~
19 ~~legislative appropriation. Other sources of funds deposited in this~~
20 ~~account may also be used for the purposes of chapter 70, Laws of 1983~~
21 ~~1st ex. sess. All earnings of investments of balances in the hazardous~~
22 ~~waste control and elimination account shall be credited to the general~~
23 ~~fund))~~).

24 **Sec. 10.** RCW 70.105.210 and 1989 1st ex.s. c 13 s 2 are each
25 amended to read as follows:

26 (~~By May 31, 1990,~~) The department shall (~~develop and adopt~~)
27 maintain criteria for the siting of hazardous waste management
28 facilities. These criteria will be part of the state hazardous waste
29 management plan as described in RCW 70.105.200. To the extent
30 practical, these criteria shall be designed to minimize the short-term
31 and long-term risks and costs that may result from hazardous waste
32 management facilities. These criteria may vary by type of facilities
33 and may consider natural site characteristics and engineered
34 protection. Criteria may be established for:

- 35 (1) Geology;
36 (2) Surface and groundwater hydrology;

- 1 (3) Soils;
- 2 (4) Flooding;
- 3 (5) Climatic factors;
- 4 (6) Unique or endangered flora and fauna;
- 5 (7) Transportation routes;
- 6 (8) Site access;
- 7 (9) Buffer zones;
- 8 (10) Availability of utilities and public services;
- 9 (11) Compatibility with existing uses of land;
- 10 (12) Shorelines and wetlands;
- 11 (13) Sole-source aquifers;
- 12 (14) Natural hazards; and
- 13 (15) Other factors as determined by the department.

14 **Sec. 11.** RCW 70.105.220 and 1992 c 17 s 1 are each amended to read
15 as follows:

16 (1) Each local government, or combination of contiguous local
17 governments, is directed to prepare a local hazardous waste plan which
18 shall be based on state guidelines and include the following elements:

19 (a) A plan or program to manage moderate-risk wastes that are
20 generated or otherwise present within the jurisdiction. This element
21 shall include an assessment of the quantities, types, generators, and
22 fate of moderate-risk wastes in the jurisdiction. The purpose of this
23 element is to develop a system of managing moderate-risk waste,
24 appropriate to each local area, to ensure protection of the environment
25 and public health;

26 (b) A plan or program to provide for ongoing public involvement and
27 public education in regard to the management of moderate-risk waste.
28 This element shall provide information regarding:

29 (i) The potential hazards to human health and the environment
30 resulting from improper use and disposal of the waste; and

31 (ii) Proper methods of handling, reducing, recycling, and disposing
32 of the waste;

33 (c) An inventory of all existing generators of hazardous waste and
34 facilities managing hazardous waste within the jurisdiction. This
35 inventory shall be based on data provided by the department;

36 (d) A description of the public involvement process used in
37 developing the plan;

1 (e) A description of the eligible zones designated in accordance
2 with RCW 70.105.225. However, the requirement to designate eligible
3 zones shall not be considered part of the local hazardous waste
4 planning requirements; and

5 (f) Other elements as deemed appropriate by local government.

6 (2) To the maximum extent practicable, the local hazardous waste
7 plan shall be coordinated with other hazardous materials-related plans
8 and policies in the jurisdiction.

9 (3) Local governments shall coordinate with those persons involved
10 in providing privately owned hazardous and moderate-risk waste
11 facilities and services as follows: If a local government determines
12 that a moderate-risk waste will be or is adequately managed by one or
13 more privately owned facilities or services at a reasonable price, the
14 local government shall take actions to encourage the use of that
15 private facility or service. Actions taken by a local government under
16 this subsection may include, but are not limited to, restricting or
17 prohibiting the land disposal of a moderate-risk waste at any transfer
18 station or land disposal facility within its jurisdiction.

19 (4)(a) The department shall prepare and maintain guidelines for the
20 development of local hazardous waste plans. The guidelines shall be
21 prepared and maintained in consultation with local governments (~~and~~
22 ~~shall be completed by December 31, 1986~~). The guidelines shall
23 include a list of substances identified as hazardous household
24 substances.

25 (b) (~~In preparing the guidelines under (a) of this subsection, the~~
26 ~~department shall review and assess information on pilot projects that~~
27 ~~have been conducted for moderate risk waste management.~~) The
28 department shall encourage (~~additional~~) pilot projects for moderate
29 risk waste management as needed to provide information to improve and
30 update the guidelines.

31 (5) The department shall consult with retailers, trade
32 associations, public interest groups, and appropriate units of local
33 government to encourage the development of voluntary public education
34 programs on the proper handling of hazardous household substances.

35 (6) (~~Local hazardous waste plans shall be completed and submitted~~
36 ~~to the department no later than June 30, 1990.~~) Local governments may
37 from time to time amend the local plan.

1 (7) Each local government, or combination of contiguous local
2 governments, shall submit its local hazardous waste plan or amendments
3 thereto to the department. The department shall approve or disapprove
4 local hazardous waste plans or amendments (~~((by December 31, 1990, or))~~)
5 within ninety days of submission(~~(, whichever is later)~~). The
6 department shall approve a local hazardous waste plan if it determines
7 that the plan is consistent with this chapter and the guidelines under
8 subsection (4) of this section. If approval is denied, the department
9 shall submit its objections to the local government within ninety days
10 of submission. (~~((However, for plans submitted between January 1, 1990,~~
11 ~~and June 30, 1990, the department shall have one hundred eighty days to~~
12 ~~submit its objections.))~~) No local government is eligible for grants
13 under RCW 70.105.235 for implementing a local hazardous waste plan
14 unless the plan for that jurisdiction has been approved by the
15 department.

16 (8) Each local government, or combination of contiguous local
17 governments, shall implement the local hazardous waste plan for its
18 jurisdiction (~~((by December 31, 1991))~~).

19 (9) The department may waive the specific requirements of this
20 section for any local government if such local government demonstrates
21 to the satisfaction of the department that the objectives of the
22 planning requirements have been met.

23 **Sec. 12.** RCW 88.46.030 and 2000 c 69 s 3 are each amended to read
24 as follows:

25 (1) All tank vessels entering the navigable waters of the state
26 shall be subject to inspection to assure that they comply with all
27 applicable federal and state standards.

28 (2) The department shall review the tank vessel inspection programs
29 conducted by the United States coast guard and other federal agencies
30 to determine if the programs as actually operated by those agencies
31 provide the best achievable protection to the waters of the state. If
32 the department determines that the tank vessel inspection programs
33 conducted by these agencies are not adequate to protect the state's
34 waters, it shall (~~adopt rules for a state tank vessel inspection~~
35 ~~program. The department shall adopt rules providing for a random~~
36 ~~review of individual tank vessel inspections conducted by federal~~
37 ~~agencies. The department may accept a tank vessel inspection report~~

1 ~~issued by another state if that state's tank vessel inspection program~~
2 ~~is determined by the department to be at least as protective of the~~
3 ~~public health and the environment as the program adopted by the~~
4 ~~department.~~

5 ~~(3) The state tank vessel inspection program shall ensure that all~~
6 ~~tank vessels entering state waters are inspected at least annually. To~~
7 ~~the maximum extent feasible, the state program shall consist of the~~
8 ~~monitoring of existing tank vessel inspection programs conducted by the~~
9 ~~federal government. The department shall))~~ consult with the coast
10 guard regarding the tank vessel inspection program. Any tank vessel
11 inspection conducted pursuant to this section shall be performed during
12 the vessel's scheduled stay in port.

13 ~~((+4))~~ (3) Any violation of coast guard or other federal
14 regulations uncovered during a state tank vessel inspection shall be
15 immediately reported to the appropriate agency.

16 **Sec. 13.** RCW 90.56.310 and 2000 c 69 s 34 are each amended to read
17 as follows:

18 (1) Except as provided in subsection (3) of this section, it shall
19 be unlawful:

20 (a) For the owner or operator to operate an onshore or offshore
21 facility without an approved contingency plan as required under RCW
22 90.56.210, a spill prevention plan required by RCW 90.56.200, or
23 financial responsibility in compliance with chapter 88.40 RCW and the
24 federal oil pollution act of 1990; or

25 (b) For the owner or operator of an onshore or offshore facility to
26 transfer cargo or passengers to or from a covered vessel that does not
27 have an approved contingency plan or an approved prevention plan
28 required under chapter 88.46 RCW or financial responsibility in
29 compliance with chapter 88.40 RCW and the federal oil pollution act of
30 1990.

31 (2) The department may assess a civil penalty under RCW 43.21B.300
32 of up to one hundred thousand dollars against any person who is in
33 violation of this section. Each day that a facility or person is in
34 violation of this section shall be considered a separate violation.

35 (3) It shall not be unlawful for a facility or other person to
36 operate or accept cargo or passengers from a covered vessel if:

1 (a) A contingency plan, a prevention plan, or financial
2 responsibility is not required for the facility; or

3 (b) A contingency and prevention plan has been submitted to the
4 department as required by this chapter and rules adopted by the
5 department and the department is reviewing the plan and has not denied
6 approval.

7 (4) Any person may rely on a copy of the statement issued by the
8 department pursuant to RCW 90.56.210(7) as evidence that the facility
9 has an approved contingency plan and the statement issued pursuant to
10 RCW 90.56.200(4) as evidence that the facility has an approved spill
11 prevention plan. Any person may rely on a copy of the statement issued
12 by the (~~office of marine safety, or its successor agency, the~~)
13 department, pursuant to RCW 88.46.060 as evidence that the vessel has
14 an approved contingency plan and the statement issued pursuant to RCW
15 88.46.040 as evidence that the vessel has an approved prevention plan.

16 NEW SECTION. **Sec. 14.** The following acts or parts of acts are
17 each repealed:

18 (1) RCW 70.94.505 (Woodsmoke emissions--Work group) and 2007 c 339
19 s 3;

20 (2) RCW 70.95C.250 (Multimedia permit pilot program--Air, water,
21 hazardous waste management) and 1998 c 245 s 134 & 1994 c 248 s 1;

22 (3) RCW 88.46.062 (Nonprofit corporation providing contingency
23 plan--Findings--Termination of maritime commission) and 1995 c 148 s 1;

24 (4) RCW 88.46.063 (Nonprofit corporation providing contingency
25 plan--Transfer of functions and assets from maritime commission) and
26 1995 c 148 s 2;

27 (5) RCW 88.46.921 (Office of marine safety abolished) and 1991 c
28 200 s 430; and

29 (6) RCW 88.46.926 (Apportionments of budgeted funds) and 1991 c 200
30 s 435.

--- END ---