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SENATE BILL 6257

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State of Washington

64th Legislature

2016 Regular Session

By Senator Takko; by request of Department of Ecology

Read first time 01/13/16. Referred to Committee on Energy,  
Environment & Telecommunications.

1 AN ACT Relating to updating specified environmental statutes of  
2 the department of ecology to improve efficiency and provide for  
3 increased flexibility for local governments; amending RCW 43.21B.305,  
4 43.21B.110, 43.21B.110, 70.95.240, 70.95.300, 70.95M.080, 70.105.095,  
5 70.107.010, 70.107.030, 70.107.060, 70.240.050, 86.16.081, 90.56.060,  
6 and 90.58.190; reenacting and amending RCW 43.21B.300 and 90.58.090;  
7 reenacting RCW 43.21B.005; creating a new section; repealing RCW  
8 43.21A.610, 43.21A.612, 43.21A.614, 43.21A.616, 43.21A.618,  
9 43.21A.620, 43.21A.622, 43.21A.624, 43.21A.626, 43.21A.628,  
10 43.21A.630, 43.21A.632, 43.21A.634, 43.21A.636, 43.21A.638,  
11 43.21A.640, 43.21A.642, 70.95.205, 70.95.700, 70.107.040, 70.107.050,  
12 and 90.56.335; repealing 2010 1st sp.s. c 7 s 39 and 2010 c 84 s 4;  
13 providing an effective date; and providing an expiration date.

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

15 **Sec. 1.** RCW 43.21B.005 and 2010 c 210 s 4 are each reenacted to  
16 read as follows:

17 (1) There is created an environmental and land use hearings  
18 office of the state of Washington. The environmental and land use  
19 hearings office consists of the pollution control hearings board  
20 created in RCW 43.21B.010, the shorelines hearings board created in  
21 RCW 90.58.170, and the growth management hearings board created in

1 RCW 36.70A.250. The governor shall designate one of the members of  
2 the pollution control hearings board or growth management hearings  
3 board to be the director of the environmental and land use hearings  
4 office during the term of the governor. Membership, powers,  
5 functions, and duties of the pollution control hearings board, the  
6 shorelines hearings board, and the growth management hearings board  
7 shall be as provided by law.

8 (2) The director of the environmental and land use hearings  
9 office may appoint one or more administrative appeals judges in cases  
10 before the environmental boards and, with the consent of the chair of  
11 the growth management hearings board, one or more hearing examiners  
12 in cases before the land use board comprising the office. The  
13 administrative appeals judges shall possess the powers and duties  
14 conferred by the administrative procedure act, chapter 34.05 RCW,  
15 have a demonstrated knowledge of environmental law, and shall be  
16 admitted to the practice of law in the state of Washington. The  
17 hearing examiners possess the powers and duties provided for in RCW  
18 36.70A.270.

19 (3) Administrative appeals judges are not subject to chapter  
20 41.06 RCW. The administrative appeals judges appointed under  
21 subsection (2) of this section are subject to discipline and  
22 termination, for cause, by the director of the environmental and land  
23 use hearings office. Upon written request by the person so  
24 disciplined or terminated, the director of the environmental and land  
25 use hearings office shall state the reasons for such action in  
26 writing. The person affected has a right of review by the superior  
27 court of Thurston county on petition for reinstatement or other  
28 remedy filed within thirty days of receipt of such written reasons.

29 (4) The director of the environmental and land use hearings  
30 office may appoint, discharge, and fix the compensation of such  
31 administrative or clerical staff as may be necessary.

32 (5) The director of the environmental and land use hearings  
33 office may also contract for required services.

34 **Sec. 2.** RCW 43.21B.300 and 2010 c 210 s 12 are each reenacted  
35 and amended to read as follows:

36 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,  
37 70.95.315, 70.95M.080, 70.95N.260, 70.105.080, ~~((70.107.050,))~~  
38 70.105.095(2), 70.240.050, 70.275.100, 70.275.110, 86.16.081,  
39 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, ~~((and))~~

1 90.56.330, and 90.64.102 and chapter 90.76 RCW shall be imposed by a  
2 notice in writing, either by certified mail with return receipt  
3 requested or by personal service, to the person incurring the penalty  
4 from the department or the local air authority, describing the  
5 violation with reasonable particularity. For penalties issued by  
6 local air authorities, within thirty days after the notice is  
7 received, the person incurring the penalty may apply in writing to  
8 the authority for the remission or mitigation of the penalty. Upon  
9 receipt of the application, the authority may remit or mitigate the  
10 penalty upon whatever terms the authority in its discretion deems  
11 proper. The authority may ascertain the facts regarding all such  
12 applications in such reasonable manner and under such rules as it may  
13 deem proper and shall remit or mitigate the penalty only upon a  
14 demonstration of extraordinary circumstances such as the presence of  
15 information or factors not considered in setting the original  
16 penalty.

17 (2) Any penalty imposed under this section may be appealed to the  
18 pollution control hearings board in accordance with this chapter if  
19 the appeal is filed with the hearings board and served on the  
20 department or authority thirty days after the date of receipt by the  
21 person penalized of the notice imposing the penalty or thirty days  
22 after the date of receipt of the notice of disposition by a local air  
23 authority of the application for relief from penalty.

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

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

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

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

31 (4) If the amount of any penalty is not paid to the department  
32 within thirty days after it becomes due and payable, the attorney  
33 general, upon request of the department, shall bring an action in the  
34 name of the state of Washington in the superior court of Thurston  
35 county, or of any county in which the violator does business, to  
36 recover the penalty. If the amount of the penalty is not paid to the  
37 authority within thirty days after it becomes due and payable, the  
38 authority may bring an action to recover the penalty in the superior  
39 court of the county of the authority's main office or of any county  
40 in which the violator does business. In these actions, the procedures

1 and rules of evidence shall be the same as in an ordinary civil  
2 action.

3 (5) All penalties recovered shall be paid into the state treasury  
4 and credited to the general fund except those penalties imposed  
5 pursuant to RCW 18.104.155, which shall be credited to the  
6 reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431,  
7 the disposition of which shall be governed by that provision, RCW  
8 70.95M.080, which shall be deposited in the state toxics control  
9 account created in RCW 70.105D.070, RCW 70.95N.260, which shall be  
10 deposited into the electronic products recycling account created in  
11 RCW 70.95N.130, RCW 70.105.080, which shall be credited to the  
12 hazardous waste control and elimination account created by RCW  
13 70.105.180, RCW 70.240.050, which shall be credited to the state  
14 toxics control account created in RCW 70.105D.070, RCW 90.56.330,  
15 which shall be credited to the coastal protection fund created by RCW  
16 90.48.390, and RCW 90.76.080, which shall be credited to the  
17 underground storage tank account created by RCW 90.76.100.

18 **Sec. 3.** RCW 43.21B.305 and 2013 c 291 s 44 are each amended to  
19 read as follows:

20 ~~((1))~~ In an appeal that involves a penalty of fifteen thousand  
21 dollars or less, or that involves a derelict or abandoned vessel  
22 under RCW 79.100.120, or an appeal of a corrective action order  
23 issued pursuant to RCW 70.94.211, the appeal may be heard by one  
24 member of the board or by an administrative appeals judge employed by  
25 the board, whose decision shall be the final decision of the board.  
26 The board shall define by rule alternative procedures to expedite  
27 appeals involving penalties of fifteen thousand dollars or less  
28 ~~((2))~~, involving a derelict or abandoned vessel, or involving an  
29 appeal of a corrective action order issued pursuant to RCW 70.94.211.  
30 These alternatives may include: Mediation, upon agreement of all  
31 parties; submission of testimony by affidavit; or other forms that  
32 may lead to less formal and faster resolution of appeals.

33 ~~((2) For appeals that involve a derelict or abandoned vessel~~  
34 ~~under RCW 79.100.120 only, an administrative law judge employed by~~  
35 ~~the board may be substituted for a board member under this section.))~~

36 **Sec. 4.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to  
37 read as follows:

1 (1) The hearings board shall only have jurisdiction to hear and  
2 decide appeals from the following decisions of the department, the  
3 director, local conservation districts, the air pollution control  
4 boards or authorities as established pursuant to chapter 70.94 RCW,  
5 local health departments, the department of natural resources, the  
6 department of fish and wildlife, the parks and recreation commission,  
7 and authorized public entities described in chapter 79.100 RCW:

8 (a) Civil penalties imposed pursuant to chapter 70.95M RCW and  
9 RCW 18.104.155, 70.94.431, 70.95.315, 70.95N.260, 70.105.080,  
10 ((70.107.050,)) 70.105.095(2), 70.240.050, 70.275.100, 70.275.110,  
11 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270,  
12 90.48.144, 90.56.310, 90.56.330, ((and)) 90.64.102, and 90.76.080.

13 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
14 18.104.130, 43.27A.190, 70.94.211, 70.94.332, 70.94.640, 70.94.715,  
15 70.95.315, 70.95C.230, 70.105.095, 86.16.020, 88.46.070, 90.03.665,  
16 90.14.130, 90.46.250, 90.48.120, ((and)) 90.48.240, 90.56.330, and  
17 90.64.040.

18 (c) A final decision by the department or director made under  
19 chapter 183, Laws of 2009.

20 (d) Except as provided in RCW 90.03.210(2), the issuance,  
21 modification, or termination of any permit, certificate, or license  
22 by the department or any air authority in the exercise of its  
23 jurisdiction, including the issuance or termination of a waste  
24 disposal permit, the denial of an application for a waste disposal  
25 permit, the modification of the conditions or the terms of a waste  
26 disposal permit, ((or)) a decision to approve or deny a solid waste  
27 management plan under RCW 70.95.094, approval or denial of an  
28 application for a ((solid waste permit exemption)) beneficial use  
29 determination under RCW 70.95.300, an application for a change under  
30 RCW 90.03.383, or a permit to distribute reclaimed water under RCW  
31 90.46.220.

32 (e) Decisions of local health departments regarding the ((grant))  
33 granting or denial of solid waste permits pursuant to chapter 70.95  
34 RCW, including appeals by the department as provided in RCW  
35 70.95.185.

36 (f) Decisions of local health departments regarding the issuance  
37 and enforcement of permits to use or dispose of biosolids under RCW  
38 70.95J.080.

39 (g) Decisions of the department regarding waste-derived  
40 fertilizer or micronutrient fertilizer under RCW 15.54.820((, and

1 ~~decisions of the department regarding waste derived soil amendments~~  
2 ~~under RCW 70.95.205)).~~

3 (h) Decisions of local conservation districts related to the  
4 denial of approval or denial of certification of a dairy nutrient  
5 management plan; conditions contained in a plan; application of any  
6 dairy nutrient management practices, standards, methods, and  
7 technologies to a particular dairy farm; and failure to adhere to the  
8 plan review and approval timelines in RCW 90.64.026 as provided in  
9 RCW 90.64.028.

10 (i) Any other decision by the department or an air authority  
11 which pursuant to law must be decided as an adjudicative proceeding  
12 under chapter 34.05 RCW.

13 (j) Decisions of the department of natural resources, the  
14 department of fish and wildlife, and the department that are  
15 reviewable under chapter 76.09 RCW, and the department of natural  
16 resources' appeals of county, city, or town objections under RCW  
17 76.09.050(7).

18 (k) Forest health hazard orders issued by the commissioner of  
19 public lands under RCW 76.06.180.

20 (l) Decisions of the department of fish and wildlife to issue,  
21 deny, condition, or modify a hydraulic project approval permit under  
22 chapter 77.55 RCW.

23 (m) Decisions of the department of natural resources that are  
24 reviewable under RCW 78.44.270.

25 (n) Decisions of an authorized public entity under RCW 79.100.010  
26 to take temporary possession or custody of a vessel or to contest the  
27 amount of reimbursement owed that are reviewable by the hearings  
28 board under RCW 79.100.120.

29 (2) The following hearings shall not be conducted by the hearings  
30 board:

31 (a) Hearings required by law to be conducted by the shorelines  
32 hearings board pursuant to chapter 90.58 RCW.

33 (b) Hearings conducted by the department pursuant to RCW  
34 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
35 90.44.180.

36 (c) Appeals of decisions by the department under RCW 90.03.110  
37 and 90.44.220.

38 (d) Hearings conducted by the department to adopt, modify, or  
39 repeal rules.

1 (3) Review of rules and regulations adopted by the hearings board  
2 shall be subject to review in accordance with the provisions of the  
3 administrative procedure act, chapter 34.05 RCW.

4 **Sec. 5.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to  
5 read as follows:

6 (1) The hearings board shall only have jurisdiction to hear and  
7 decide appeals from the following decisions of the department, the  
8 director, local conservation districts, the air pollution control  
9 boards or authorities as established pursuant to chapter 70.94 RCW,  
10 local health departments, the department of natural resources, the  
11 department of fish and wildlife, the parks and recreation commission,  
12 and authorized public entities described in chapter 79.100 RCW:

13 (a) Civil penalties imposed pursuant to chapter 70.95M RCW and  
14 RCW 18.104.155, 70.94.431, 70.95.315, 70.95N.260, 70.105.080,  
15 ((70.107.050,)) 70.105.095(2), 70.240.050, 70.275.100, 70.275.110,  
16 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270,  
17 90.48.144, 90.56.310, 90.56.330, ((and)) 90.64.102, and 90.76.080.

18 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
19 18.104.130, 43.27A.190, 70.94.211, 70.94.332, 70.95.315, 70.95C.230,  
20 70.105.095, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250,  
21 90.48.120, ((and)) 90.48.240, 90.56.330, and 90.64.040.

22 (c) Except as provided in RCW 90.03.210(2), the issuance,  
23 modification, or termination of any permit, certificate, or license  
24 by the department or any air authority in the exercise of its  
25 jurisdiction, including the issuance or termination of a waste  
26 disposal permit, the denial of an application for a waste disposal  
27 permit, the modification of the conditions or the terms of a waste  
28 disposal permit, ((or)) a decision to approve or deny a solid waste  
29 management plan under RCW 70.95.094, an application for a ((solid  
30 waste permit exemption)) beneficial use determination under RCW  
31 70.95.300, an application for a change under RCW 90.03.383, or a  
32 permit to distribute reclaimed water under RCW 90.46.220.

33 (d) Decisions of local health departments regarding the ((grant))  
34 granting or denial of solid waste permits pursuant to chapter 70.95  
35 RCW, including appeals by the department as provided in RCW  
36 70.95.185.

37 (e) Decisions of local health departments regarding the issuance  
38 and enforcement of permits to use or dispose of biosolids under RCW  
39 70.95J.080.

1 (f) Decisions of the department regarding waste-derived  
2 fertilizer or micronutrient fertilizer under RCW 15.54.820(~~(, and~~  
3 ~~decisions of the department regarding waste-derived soil amendments~~  
4 ~~under RCW 70.95.205)~~).

5 (g) Decisions of local conservation districts related to the  
6 denial of approval or denial of certification of a dairy nutrient  
7 management plan; conditions contained in a plan; application of any  
8 dairy nutrient management practices, standards, methods, and  
9 technologies to a particular dairy farm; and failure to adhere to the  
10 plan review and approval timelines in RCW 90.64.026 as provided in  
11 RCW 90.64.028.

12 (h) Any other decision by the department or an air authority  
13 which pursuant to law must be decided as an adjudicative proceeding  
14 under chapter 34.05 RCW.

15 (i) Decisions of the department of natural resources, the  
16 department of fish and wildlife, and the department that are  
17 reviewable under chapter 76.09 RCW, and the department of natural  
18 resources' appeals of county, city, or town objections under RCW  
19 76.09.050(7).

20 (j) Forest health hazard orders issued by the commissioner of  
21 public lands under RCW 76.06.180.

22 (k) Decisions of the department of fish and wildlife to issue,  
23 deny, condition, or modify a hydraulic project approval permit under  
24 chapter 77.55 RCW.

25 (l) Decisions of the department of natural resources that are  
26 reviewable under RCW 78.44.270.

27 (m) Decisions of an authorized public entity under RCW 79.100.010  
28 to take temporary possession or custody of a vessel or to contest the  
29 amount of reimbursement owed that are reviewable by the hearings  
30 board under RCW 79.100.120.

31 (2) The following hearings shall not be conducted by the hearings  
32 board:

33 (a) Hearings required by law to be conducted by the shorelines  
34 hearings board pursuant to chapter 90.58 RCW.

35 (b) Hearings conducted by the department pursuant to RCW  
36 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
37 90.44.180.

38 (c) Appeals of decisions by the department under RCW 90.03.110  
39 and 90.44.220.



1 (d) Hearings conducted by the department to adopt, modify, or  
2 repeal rules.

3 (3) Review of rules and regulations adopted by the hearings board  
4 shall be subject to review in accordance with the provisions of the  
5 administrative procedure act, chapter 34.05 RCW.

6 **Sec. 6.** RCW 70.95.240 and 2011 c 279 s 1 are each amended to  
7 read as follows:

8 (1) Except as otherwise provided in this section or at a solid  
9 waste disposal site for which there is a valid permit, after the  
10 adoption of regulations or ordinances by any county, city, or  
11 jurisdictional board of health providing for the issuance of permits  
12 as provided in RCW 70.95.160, it is unlawful for any person to dump  
13 or deposit or permit the dumping or depositing of any solid waste  
14 onto or under the surface of the ground or into the waters of this  
15 state.

16 (2) This section does not:

17 (a) Prohibit a person from dumping or depositing solid waste  
18 resulting from his or her own activities onto or under the surface of  
19 ground owned or leased by him or her when such action does not  
20 violate statutes or ordinances, or create a nuisance;

21 (b) Apply to a person using a (~~waste-derived soil amendment~~)  
22 solid waste that has been approved by the department under RCW  
23 (~~70.95.205~~) 70.95.300; or

24 (c) Apply to the application of commercial fertilizer that has  
25 been registered with the department of agriculture as provided in RCW  
26 15.54.325, and that is applied in accordance with the standards  
27 established in RCW 15.54.800(3).

28 (3)(a) It is a class 3 civil infraction as defined in RCW  
29 7.80.120 for a person to litter in an amount less than or equal to  
30 one cubic foot.

31 (b)(i) It is a misdemeanor for a person to litter in an amount  
32 greater than one cubic foot but less than one cubic yard.

33 (ii) A person found to have littered in an amount greater than  
34 one cubic foot, but less than one cubic yard, shall also pay a litter  
35 cleanup restitution payment. This payment must be the greater of  
36 twice the actual cost of removing and properly disposing of the  
37 litter, or fifty dollars per cubic foot of litter.

38 (iii) The court shall distribute one-half of the restitution  
39 payment to the landowner where the littering occurred and one-half of

1 the restitution payment to the jurisdictional health department  
2 investigating the incident. If the landowner provided written  
3 permission authorizing the littering on his or her property or  
4 assisted a person with littering on the landowner's property, the  
5 landowner is not entitled to any restitution ordered by the court and  
6 the full litter cleanup restitution payment must be provided to the  
7 jurisdictional health department investigating the incident.

8 (iv) A jurisdictional health department receiving all or a  
9 portion of a litter cleanup restitution payment must use the payment  
10 as follows:

11 (A) One-half of the payment may be used by the jurisdictional  
12 health department in the fulfillment of its responsibilities under  
13 this chapter; and

14 (B) One-half of the payment must be used to assist property  
15 owners located within the jurisdiction of the health department with  
16 the removal and proper disposal of litter in instances when the  
17 person responsible for the illegal dumping of the solid waste cannot  
18 be determined.

19 (v) The court may, in addition to the litter cleanup restitution  
20 payment, order the person to remove and properly dispose of the  
21 litter from the property, with prior permission of the legal owner  
22 or, in the case of public property, of the agency managing the  
23 property. The court may suspend or modify the litter cleanup  
24 restitution payment for a first-time offender under this section if  
25 the person removes and properly disposes of the litter.

26 (c)(i) It is a gross misdemeanor for a person to litter in an  
27 amount of one cubic yard or more.

28 (ii) A person found to have littered in an amount greater than  
29 one cubic yard shall also pay a litter cleanup restitution payment.  
30 This payment must be the greater of twice the actual cost of removing  
31 and properly disposing of the litter, or one hundred dollars per  
32 cubic foot of litter.

33 (iii) The court shall distribute one-half of the restitution  
34 payment to the landowner where the littering occurred and one-half of  
35 the restitution payment to the jurisdictional health department  
36 investigating the incident. If the landowner provided written  
37 permission authorizing the littering on his or her property or  
38 assisted a person with littering on the landowner's property, the  
39 landowner is not entitled to any restitution ordered by the court and

1 the full litter cleanup restitution payment must be provided to the  
2 jurisdictional health department investigating the incident.

3 (iv) A jurisdictional health department receiving all or a  
4 portion of a litter cleanup restitution payment must use the payment  
5 as follows:

6 (A) One-half of the payment may be used by the jurisdictional  
7 health department in the fulfillment of its responsibilities under  
8 this chapter; and

9 (B) One-half of the payment must be used to assist property  
10 owners located within the jurisdiction of the health department with  
11 the removal and proper disposal of litter in instances when the  
12 person responsible for the illegal dumping of the solid waste cannot  
13 be determined.

14 (v) The court may, in addition to the litter cleanup restitution  
15 payment, order the person to remove and properly dispose of the  
16 litter from the property, with prior permission of the legal owner  
17 or, in the case of public property, of the agency managing the  
18 property. The court may suspend or modify the litter cleanup  
19 restitution payment for a first-time offender under this section if  
20 the person removes and properly disposes of the litter.

21 (4) If a junk vehicle is abandoned in violation of this chapter,  
22 RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and  
23 the penalties that may be imposed against the person who abandoned  
24 the vehicle.

25 (5) When enforcing this section, the enforcing authority must  
26 take reasonable action to determine and identify the person  
27 responsible for illegally dumping solid waste before requiring the  
28 owner or lessee of the property where illegal dumping of solid waste  
29 has occurred to remove and properly dispose of the litter on the  
30 site.

31 **Sec. 7.** RCW 70.95.300 and 1998 c 156 s 2 are each amended to  
32 read as follows:

33 (1) The department may by rule (~~((exempt))~~) establish  
34 administrative procedures governing the process for the department to  
35 propose and approve exempting a solid waste from the permitting  
36 requirements of this chapter for one or more beneficial uses. In  
37 (~~((adopting such rules))~~) exempting such uses, the department shall  
38 specify both the solid waste that is exempted from the permitting  
39 requirements and the beneficial use or uses for which the solid waste

1 is so exempted. The department shall consider: (a) Whether the  
2 (~~material~~) solid waste will be beneficially used or reused; and (b)  
3 whether the beneficial use or reuse of the (~~material~~) solid waste  
4 will present threats to human health or the environment.

5 (2) When the department proposes to exempt from the permitting  
6 requirements of this chapter one or more beneficial uses of a solid  
7 waste, the department shall forward a copy of the complete proposal  
8 to all jurisdictional health departments for review and comment.  
9 Within forty-five days, the jurisdictional health departments shall  
10 forward to the department their comments and any other information  
11 they deem relevant to the department's decision whether or not to  
12 adopt the proposal. If the proposal is adopted by the department, use  
13 of the solid waste is exempt from the permitting requirements of this  
14 chapter when used anywhere in the state in the manner approved by the  
15 department. If the composition, use, or reuse of the solid waste  
16 changes, or the management, storage, or end use constitutes a threat  
17 to human health or the environment, the exemption may be terminated  
18 and use of the solid waste remains subject to the permitting  
19 requirements of this chapter.

20 (3) The department may also exempt a solid waste from the  
21 permitting requirements of this chapter for one or more beneficial  
22 uses by approving an application for such an exemption. The  
23 department shall establish by rule procedures under which a person  
24 may apply to the department for such an exemption. The rules shall  
25 establish criteria for providing such an exemption, which shall  
26 include, but not be limited to: (a) The (~~material~~) solid waste will  
27 be beneficially used or reused; (~~and~~) (b) the beneficial use or  
28 reuse of the material will not present threats to human health or the  
29 environment; and (c) for solid waste to be applied to the land as a  
30 soil amendment, analytical data showing that the solid waste meets  
31 standards established under RCW 15.54.800(3). Rules adopted under  
32 this subsection shall identify the information that an application  
33 shall contain. Persons seeking such an exemption shall apply to the  
34 department under the procedures established by the rules adopted  
35 under this subsection.

36 (~~(3)~~) (4) After receipt of an application filed under rules  
37 adopted under (~~subsection (2) of~~) this section, the department  
38 shall review the application to determine whether it is complete, and  
39 forward a copy of the completed application to all jurisdictional  
40 health departments for review and comment. Within forty-five days,

1 the jurisdictional health departments shall forward to the department  
2 their comments and any other information they deem relevant to the  
3 department's decision to approve or disapprove the application. Every  
4 complete application shall be approved or disapproved by the  
5 department within ninety days of receipt. If the application is  
6 approved by the department, the solid waste is exempt from the  
7 permitting requirements of this chapter when used anywhere in the  
8 state in the manner approved by the department. If the composition,  
9 use, or reuse of the solid waste (~~(is not consistent with the terms~~  
10 ~~and conditions of the department's approval of the application,)~~)  
11 changes, or the management, storage, or end use constitutes a threat  
12 to human health or the environment, the exemption may be terminated  
13 and the use of the solid waste remains subject to the permitting  
14 requirements of this chapter.

15 ~~((4))~~ (5) The department shall establish procedures by rule for  
16 providing to the public and the solid waste industry notice of and an  
17 opportunity to comment on each application or proposal for an  
18 exemption under (~~(subsection (2) of)~~) this section.

19 ~~((5) Any jurisdictional health department or applicant)~~ (6) Any  
20 aggrieved party may appeal the decision of the department to approve  
21 or disapprove an application or adopt a proposal under (~~(subsection~~  
22 ~~(3) of)~~) this section. The appeal shall be made to the pollution  
23 control hearings board by filing with the hearings board a notice of  
24 appeal within thirty days of the decision of the department. The  
25 hearings board's review of the decision shall be made in accordance  
26 with chapter 43.21B RCW and any subsequent appeal of a decision of  
27 the board shall be made in accordance with RCW 43.21B.180.

28 ~~((6))~~ (7) This section shall not be deemed to invalidate the  
29 exemptions or determinations of nonapplicability in the department's  
30 solid waste rules as they exist on June 11, 1998, which exemptions  
31 and determinations are recognized and confirmed subject to the  
32 department's continuing authority to modify or revoke those  
33 exemptions or determinations by rule.

34 (8) Nothing in this section applies to biosolids or sewage sludge  
35 as defined under this chapter and chapter 70.95J RCW or the rules  
36 adopted under this chapter and chapter 70.95J RCW.

37 **Sec. 8.** RCW 70.95M.080 and 2003 c 260 s 9 are each amended to  
38 read as follows:

1 A violation of this chapter is punishable by a civil penalty not  
2 to exceed one thousand dollars for each violation in the case of a  
3 first violation. Repeat violators are liable for a civil penalty not  
4 to exceed five thousand dollars for each repeat violation. Penalties  
5 collected under this section must be deposited in the state toxics  
6 control account created in RCW 70.105D.070. The penalties provided in  
7 this section must be imposed pursuant to RCW 43.21B.300 and may be  
8 appealed to the pollution control hearings board.

9 **Sec. 9.** RCW 70.105.095 and 2012 c 117 s 417 are each amended to  
10 read as follows:

11 (1) Whenever on the basis on any information the department  
12 determines that a person has violated or is about to violate any  
13 provision of this chapter, the department may issue an order  
14 requiring compliance either immediately or within a specified period  
15 of time. The order shall be delivered by registered mail or  
16 personally to the person against whom the order is directed.

17 (2) Any person who fails to take corrective action as specified  
18 in a compliance order shall be liable for a civil penalty of not more  
19 than ten thousand dollars for each day of continued noncompliance. In  
20 addition, the department may suspend or revoke any permits and/or  
21 certificates issued under the provisions of this chapter to a person  
22 who fails to comply with an order directed against him or her.

23 (3) Any order or penalty may be appealed pursuant to RCW  
24 43.21B.310.

25 **Sec. 10.** RCW 70.107.010 and 1974 ex.s. c 183 s 1 are each  
26 amended to read as follows:

27 The legislature finds that inadequately controlled noise  
28 adversely affects the health, safety and welfare of the people, the  
29 value of property, and the quality of the environment. (~~Antinoise~~  
30 ~~measures of the past have not adequately protected against the~~  
31 ~~invasion of these interests by noise. There is a need, therefore, for~~  
32 ~~an expansion of efforts statewide directed toward the abatement and~~  
33 ~~control of noise, considering the social and economic impact upon the~~  
34 ~~community and the state.)) The purpose of this chapter is to provide  
35 authority for ((~~such an expansion of efforts, supplementing existing~~  
36 ~~programs in the field~~)) local governments to adopt and enforce  
37 regulations on noise.~~

1       **Sec. 11.** RCW 70.107.030 and 2011 c 171 s 107 are each amended to  
2 read as follows:

3       The department ~~((is empowered as follows:~~

4       ~~(1) The department, after consultation with state agencies~~  
5 ~~expressing an interest therein, shall adopt, by rule, maximum noise~~  
6 ~~levels permissible)) shall adopt rules setting model standards for~~  
7 ~~noise control regulation by local governments in identified~~  
8 ~~environments in order to protect against adverse ((affects)) effects~~  
9 ~~of noise on the health, safety, and welfare of the people, the value~~  
10 ~~of property, and the quality of environment((: PROVIDED, That in so~~  
11 ~~doing)). The department shall take ((also)) into account the economic~~  
12 ~~and practical benefits to be derived from the use of various products~~  
13 ~~in each such environment, whether the source of the noise or the use~~  
14 ~~of such products in each environment is permanent or temporary in~~  
15 ~~nature, and the state of technology relative to the control of noise~~  
16 ~~generated by all such sources of the noise or the products.~~

17       ~~((2) At any time after the adoption of maximum noise levels~~  
18 ~~under subsection (1) of this section the department shall, in~~  
19 ~~consultation with state agencies and local governments expressing an~~  
20 ~~interest therein, adopt rules, consistent with the Federal Noise~~  
21 ~~Control Act of 1972 (86 Stat. 1234; 42 U.S.C. Sec. 4901-4918 and 49~~  
22 ~~U.S.C. Sec. 1431), for noise abatement and control in the state~~  
23 ~~designed to achieve compliance with the noise level adopted in~~  
24 ~~subsection (1) of this section, including reasonable implementation~~  
25 ~~schedules where appropriate, to insure that the maximum noise levels~~  
26 ~~are not exceeded and that application of the best practicable noise~~  
27 ~~control technology and practice is provided. These rules may include,~~  
28 ~~but shall not be limited to:~~

29       ~~(a) Performance standards setting allowable noise limits for the~~  
30 ~~operation of products which produce noise;~~

31       ~~(b) Use standards regulating, as to time and place, the operation~~  
32 ~~of individual products which produce noise above specified levels~~  
33 ~~considering frequency spectrum and duration: PROVIDED, The rules~~  
34 ~~shall provide for temporarily exceeding those standards for stated~~  
35 ~~purposes; and~~

36       ~~(c) Public information requirements dealing with disclosure of~~  
37 ~~levels and characteristics of noise produced by products.~~

38       ~~(3) The department may, as desirable in the performance of its~~  
39 ~~duties under this chapter, conduct surveys, studies and public~~  
40 ~~education programs, and enter into contracts.~~

1       ~~(4) The department is authorized to apply for and accept moneys~~  
2 ~~from the federal government and other sources to assist in the~~  
3 ~~implementation of this chapter.~~

4       ~~(5) The legislature recognizes that the operation of motor~~  
5 ~~vehicles on public highways as defined in RCW 46.09.310 contributes~~  
6 ~~significantly to environmental noise levels and directs the~~  
7 ~~department, in exercising the rule-making authority under the~~  
8 ~~provisions of this section, to give first priority to the adoption of~~  
9 ~~motor vehicle noise performance standards.~~

10       ~~(6) Noise levels and rules adopted by the department pursuant to~~  
11 ~~this chapter shall not be effective prior to March 31, 1975.)~~

12       **Sec. 12.** RCW 70.107.060 and 1987 c 103 s 1 are each amended to  
13 read as follows:

14       (1) Nothing in this chapter shall be construed to deny, abridge  
15 or alter alternative rights of action or remedies in equity or under  
16 common law or statutory law, criminal or civil.

17       (2) Nothing in this chapter shall deny, abridge or alter any  
18 powers, duties, and functions relating to noise abatement and control  
19 now or hereafter vested in any state agency, nor shall this chapter  
20 be construed as granting jurisdiction over the industrial safety and  
21 health of employees in workplaces of the state, as now or hereafter  
22 vested in the department of labor and industries.

23       (3) ~~((Standards and other control measures adopted by the~~  
24 ~~department under this chapter shall be exclusive except as~~  
25 ~~hereinafter provided.))~~ A local government may impose limits or  
26 control sources differing from those adopted ~~((or controlled))~~ by the  
27 department ~~((upon a finding that such requirements are necessitated~~  
28 ~~by special conditions. Noise limiting requirements of local~~  
29 ~~government which differ from those adopted or controlled by the~~  
30 ~~department shall be invalid unless first approved by the department.~~  
31 ~~If the department of ecology fails to approve or disapprove standards~~  
32 ~~submitted by local governmental jurisdictions within ninety days of~~  
33 ~~submittal, such standards shall be deemed approved. If disapproved,~~  
34 ~~the local government may appeal the decision to the pollution control~~  
35 ~~hearings board which shall decide the appeal on the basis of the~~  
36 ~~provisions of this chapter, and the applicable regulations, together~~  
37 ~~with such briefs, testimony, and oral argument as the hearings board~~  
38 ~~in its discretion may require. The department determination of~~  
39 ~~whether to grant approval shall depend on the reasonableness and~~



1 ~~practicability of compliance. Particular attention shall be given to~~  
2 ~~stationary sources located near jurisdictional boundaries, and~~  
3 ~~temporary noise producing operations which may operate across one or~~  
4 ~~more jurisdictional boundaries)) pursuant to RCW 70.107.030.~~

5 (4) In carrying out the rule-making authority provided in this  
6 chapter, the department shall follow the procedures of the  
7 administrative procedure act, chapter 34.05 RCW, and shall take care  
8 that no rules adopted purport to exercise any powers preempted by the  
9 United States under federal law.

10 **Sec. 13.** RCW 70.240.050 and 2008 c 288 s 7 are each amended to  
11 read as follows:

12 (1) A manufacturer of products that are restricted under this  
13 chapter must notify persons that sell the manufacturer's products in  
14 this state about the provisions of this chapter no less than ninety  
15 days prior to the effective date of the restrictions.

16 (2) A manufacturer that produces, sells, or distributes a product  
17 prohibited from manufacture, sale, or distribution in this state  
18 under this chapter shall recall the product and reimburse the  
19 retailer or any other purchaser for the product.

20 (3) A manufacturer of children's products in violation of this  
21 chapter is subject to a civil penalty not to exceed five thousand  
22 dollars for each violation in the case of a first offense.  
23 Manufacturers who are repeat violators are subject to a civil penalty  
24 not to exceed ten thousand dollars for each repeat offense. Penalties  
25 collected under this section must be deposited in the state toxics  
26 control account created in RCW 70.105D.070. The penalties provided in  
27 this section must be imposed pursuant to RCW 43.21B.300 and may be  
28 appealed to the pollution control hearings board.

29 (4) Retailers who unknowingly sell products that are restricted  
30 from sale under this chapter are not liable under this chapter.

31 **Sec. 14.** RCW 86.16.081 and 1995 c 403 s 634 are each amended to  
32 read as follows:

33 (1) Except as provided in RCW 43.05.060 through 43.05.080 and  
34 43.05.150, the attorney general or the attorney for the local  
35 government shall bring such injunctive, declaratory, or other actions  
36 as are necessary to ensure compliance with this chapter.

37 (2) Any person who fails to comply with this chapter shall also  
38 be subject to a civil penalty not to exceed one thousand dollars for

1 each violation. Each violation or each day of noncompliance shall  
2 constitute a separate violation.

3 (3) The penalty provided for in this section (~~shall~~) must be  
4 imposed by a notice in writing(~~(, either by certified mail with~~  
5 ~~return receipt requested or by personal service, to the person~~  
6 ~~incurring the same from the department or local government,~~  
7 ~~describing the violation with reasonable particularity and ordering))~~  
8 and must be imposed consistent with the procedures of RCW 43.21B.300.  
9 The notice in writing must also order the act or acts constituting  
10 the violation or violations to cease and desist or, in appropriate  
11 cases, (~~requiring~~) must require necessary corrective action to be  
12 taken within a specific and reasonable time.

13 (4) Any penalty imposed pursuant to this section by the  
14 department shall be subject to review by the pollution control  
15 hearings board under chapter 43.21B RCW. Any penalty imposed pursuant  
16 to this section by local government shall be subject to review by the  
17 local government legislative authority. Any penalty jointly imposed  
18 by the department and local government shall be appealed to the  
19 pollution control hearings board under chapter 43.21B RCW.

20 **Sec. 15.** RCW 90.56.060 and 2010 1st sp.s. c 7 s 73 are each  
21 amended to read as follows:

22 (1) The department shall prepare and annually update a statewide  
23 master oil and hazardous substance spill prevention and contingency  
24 plan. In preparing the plan, the department shall consult with an  
25 advisory committee representing diverse interests concerned with oil  
26 and hazardous substance spills, including the United States coast  
27 guard, the federal environmental protection agency, state agencies,  
28 local governments, port districts, private facilities, environmental  
29 organizations, oil companies, shipping companies, containment and  
30 cleanup contractors, tow companies, and hazardous substance  
31 manufacturers.

32 (2) The state master plan prepared under this section shall at a  
33 minimum:

34 (a) Take into consideration the elements of oil spill prevention  
35 and contingency plans approved or submitted for approval pursuant to  
36 this chapter and chapter 88.46 RCW and oil and hazardous substance  
37 spill contingency plans prepared pursuant to other state or federal  
38 law or prepared by federal agencies and regional entities;

1 (b) State the respective responsibilities as established by  
2 relevant statutes and rules of each of the following in the  
3 prevention of and the assessment, containment, and cleanup of a worst  
4 case spill of oil or hazardous substances into the environment of the  
5 state: (i) State agencies; (ii) local governments; (iii) appropriate  
6 federal agencies; (iv) facility operators; (v) property owners whose  
7 land or other property may be affected by the oil or hazardous  
8 substance spill; and (vi) other parties identified by the department  
9 as having an interest in or the resources to assist in the  
10 containment and cleanup of an oil or hazardous substance spill;

11 (c) State the respective responsibilities of the parties  
12 identified in (b) of this subsection in an emergency response;

13 (d) Identify actions necessary to reduce the likelihood of spills  
14 of oil and hazardous substances;

15 (e) Identify and obtain mapping of environmentally sensitive  
16 areas at particular risk to oil and hazardous substance spills;

17 (f) Establish an incident command system for responding to oil  
18 and hazardous substances spills; and

19 (g) Establish a process for immediately notifying affected tribes  
20 of any oil spill.

21 (3) In preparing and updating the state master plan, the  
22 department shall:

23 (a) Consult with federal, provincial, municipal, and community  
24 officials, other state agencies, the state of Oregon, and with  
25 representatives of affected regional organizations;

26 (b) Submit the draft plan to the public for review and comment;  
27 and

28 ~~((Submit to the appropriate standing committees of the  
29 legislature for review, not later than November 1st of each year, the  
30 plan and any annual revision of the plan; and~~

31 ~~(d))~~ Require or schedule unannounced oil spill drills as  
32 required by RCW 90.56.260 to test the sufficiency of oil spill  
33 contingency plans approved under RCW 90.56.210.

34 ~~((4) The department shall evaluate the functions of advisory  
35 committees created by the department regarding oil spill prevention,  
36 preparedness, and response programs, and shall revise or eliminate  
37 those functions which are no longer necessary.))~~

38 **Sec. 16.** RCW 90.58.090 and 2011 c 353 s 14 and 2011 c 277 s 2  
39 are each reenacted and amended to read as follows:

1 (1) A master program, segment of a master program, or an  
2 amendment to a master program shall become effective when approved by  
3 the department as provided in subsection (7) of this section. Within  
4 the time period provided in RCW 90.58.080, each local government  
5 shall have submitted a master program, either totally or by segments,  
6 for all shorelines of the state within its jurisdiction to the  
7 department for review and approval.

8 The department shall strive to achieve final action on a  
9 submitted master program within one hundred eighty days of receipt  
10 and shall post an annual assessment related to this performance  
11 benchmark on the agency web site.

12 (2) Upon receipt of a proposed master program or amendment, the  
13 department shall:

14 (a) Provide notice to and opportunity for written comment by all  
15 interested parties of record as a part of the local government review  
16 process for the proposal and to all persons, groups, and agencies  
17 that have requested in writing notice of proposed master programs or  
18 amendments generally or for a specific area, subject matter, or  
19 issue. The comment period shall be at least thirty days, unless the  
20 department determines that the level of complexity or controversy  
21 involved supports a shorter period;

22 (b) In the department's discretion, conduct a public hearing  
23 during the thirty-day comment period in the jurisdiction proposing  
24 the master program or amendment;

25 (c) Within fifteen days after the close of public comment,  
26 request the local government to review the issues identified by the  
27 public, interested parties, groups, and agencies and provide a  
28 written response as to how the proposal addresses the identified  
29 issues;

30 (d) Within thirty days after receipt of the local government  
31 response pursuant to (c) of this subsection, make written findings  
32 and conclusions regarding the consistency of the proposal with the  
33 policy of RCW 90.58.020 and the applicable guidelines, provide a  
34 response to the issues identified in (c) of this subsection, and  
35 either approve the proposal as submitted, recommend specific changes  
36 necessary to make the proposal approvable, or deny approval of the  
37 proposal in those instances where no alteration of the proposal  
38 appears likely to be consistent with the policy of RCW 90.58.020 and  
39 the applicable guidelines. The written findings and conclusions shall  
40 be provided to the local government, and made available to all

1 interested persons, parties, groups, and agencies of record on the  
2 proposal;

3 (e) If the department recommends changes to the proposed master  
4 program or amendment, within thirty days after the department mails  
5 the written findings and conclusions to the local government, the  
6 local government may:

7 (i) Agree to the proposed changes by written notice to the  
8 department; or

9 (ii) Submit an alternative proposal. If, in the opinion of the  
10 department, the alternative is consistent with the purpose and intent  
11 of the changes originally submitted by the department and with this  
12 chapter it shall approve the changes and provide notice to all  
13 recipients of the written findings and conclusions. If the department  
14 determines the proposal is not consistent with the purpose and intent  
15 of the changes proposed by the department, the department may  
16 resubmit the proposal for public and agency review pursuant to this  
17 section or reject the proposal.

18 (3) The department shall approve the segment of a master program  
19 relating to shorelines unless it determines that the submitted  
20 segments are not consistent with the policy of RCW 90.58.020 and the  
21 applicable guidelines.

22 (4) The department shall approve the segment of a master program  
23 relating to critical areas as defined by RCW 36.70A.030(5) provided  
24 the master program segment is consistent with RCW 90.58.020 (~~and~~),  
25 applicable shoreline guidelines, and (~~if the segment provides a~~  
26 ~~level of protection of critical areas at least equal to that provided~~  
27 ~~by the local government's critical areas ordinances adopted and~~  
28 ~~thereafter amended pursuant to RCW 36.70A.060(2)) RCW 36.70A.480.~~

29 (5) The department shall approve those segments of the master  
30 program relating to shorelines of statewide significance only after  
31 determining the program provides the optimum implementation of the  
32 policy of this chapter to satisfy the statewide interest. If the  
33 department does not approve a segment of a local government master  
34 program relating to a shoreline of statewide significance, the  
35 department may develop and by rule adopt an alternative to the local  
36 government's proposal.

37 (6) In the event a local government has not complied with the  
38 requirements of RCW 90.58.070 it may thereafter upon written notice  
39 to the department elect to adopt a master program for the shorelines  
40 within its jurisdiction, in which event it shall comply with the

1 provisions established by this chapter for the adoption of a master  
2 program for such shorelines.

3 Upon approval of such master program by the department it shall  
4 supersede such master program as may have been adopted by the  
5 department for such shorelines.

6 (7) A master program or amendment to a master program takes  
7 effect when and in such form as approved or adopted by the  
8 department. The effective date is fourteen days from the date of the  
9 department's written notice of final action to the local government  
10 stating the department has approved or rejected the proposal. For  
11 master programs adopted by rule, the effective date is governed by  
12 RCW 34.05.380. The department's written notice to the local  
13 government must conspicuously and plainly state that it is the  
14 department's final decision and that there will be no further  
15 modifications to the proposal.

16 (a) Shoreline master programs that were adopted by the department  
17 prior to July 22, 1995, in accordance with the provisions of this  
18 section then in effect, shall be deemed approved by the department in  
19 accordance with the provisions of this section that became effective  
20 on that date.

21 (b) The department shall maintain a record of each master  
22 program, the action taken on any proposal for adoption or amendment  
23 of the master program, and any appeal of the department's action. The  
24 department's approved document of record constitutes the official  
25 master program.

26 (8) Promptly after approval or disapproval of a local  
27 government's shoreline master program or amendment, the department  
28 shall publish a notice consistent with RCW 36.70A.290 that the  
29 shoreline master program or amendment has been approved or  
30 disapproved. This notice must be filed for all shoreline master  
31 programs or amendments. If the notice is for a local government that  
32 does not plan under RCW 36.70A.040, the department must, on the day  
33 the notice is published, notify the legislative authority of the  
34 applicable local government by telephone or electronic means,  
35 followed by written communication as necessary, to ensure that the  
36 local government has received the full written decision of the  
37 approval or disapproval.

38 **Sec. 17.** RCW 90.58.190 and 2012 c 172 s 1 are each amended to  
39 read as follows:

1 (1) The appeal of the department's decision to adopt a master  
2 program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(5) is  
3 governed by RCW 34.05.510 through 34.05.598.

4 (2)(a) The department's final decision to approve or reject a  
5 proposed master program or master program amendment by a local  
6 government planning under RCW 36.70A.040 shall be appealed to the  
7 growth management hearings board by filing a petition as provided in  
8 RCW 36.70A.290.

9 (b) If the appeal to the growth management hearings board  
10 concerns shorelines, the growth management hearings board shall  
11 review the proposed master program or amendment solely for compliance  
12 with the requirements of this chapter, the policy of RCW 90.58.020  
13 and the applicable guidelines, the internal consistency provisions of  
14 RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter  
15 43.21C RCW as it relates to the adoption of master programs and  
16 amendments under chapter 90.58 RCW.

17 (c) If the appeal to the growth management hearings board  
18 concerns a shoreline of statewide significance, the board shall  
19 uphold the decision by the department unless the board, by clear and  
20 convincing evidence, determines that the decision of the department  
21 is noncompliant with the policy of RCW 90.58.020 or the applicable  
22 guidelines, or chapter 43.21C RCW as it relates to the adoption of  
23 master programs and amendments under this chapter.

24 (d) The appellant has the burden of proof in all appeals to the  
25 growth management hearings board under this subsection.

26 (e) Any party aggrieved by a final decision of the growth  
27 management hearings board under this subsection may appeal the  
28 decision to superior court as provided in RCW 36.70A.300.

29 (3)(a) The department's final decision to approve or reject a  
30 proposed master program or master program amendment by a local  
31 government not planning under RCW 36.70A.040 shall be appealed to the  
32 shorelines hearings board by filing a petition within thirty days of  
33 the date that the department publishes notice of its final decision  
34 under RCW 90.58.090(8).

35 (b) In an appeal relating to shorelines, the shorelines hearings  
36 board shall review the proposed master program or master program  
37 amendment and, after full consideration of the presentations of the  
38 parties, shall determine the validity of the local government's  
39 master program or amendment in light of the policy of RCW 90.58.020

1 and the applicable guidelines, and chapter 43.21C RCW as it relates  
2 to the adoption of master programs and amendments under this chapter.

3 (c) In an appeal relating to shorelines of statewide  
4 significance, the shorelines hearings board shall uphold the decision  
5 by the department unless the board determines, by clear and  
6 convincing evidence that the decision of the department is  
7 noncompliant with the policy of RCW 90.58.020 or the applicable  
8 guidelines, or chapter 43.21C RCW as it relates to the adoption of  
9 master programs and amendments under this chapter.

10 (d) Review by the shorelines hearings board shall be considered  
11 an adjudicative proceeding under chapter 34.05 RCW, the  
12 administrative procedure act. The appellant shall have the burden of  
13 proof in all such reviews.

14 (e) Whenever possible, the review by the shorelines hearings  
15 board shall be heard within the county where the land subject to the  
16 proposed master program or master program amendment is primarily  
17 located. The department and any party aggrieved by a final decision  
18 of the hearings board may appeal the decision to superior court as  
19 provided in chapter 34.05 RCW.

20 ~~((4) A master program amendment shall become effective after the  
21 approval of the department or after the decision of the growth  
22 management hearings board or shorelines hearings board to uphold the  
23 master program or master program amendment, provided that either the  
24 growth management hearings board or the shorelines hearings board may  
25 remand the master program or master program amendment to the local  
26 government or the department for modification prior to the final  
27 adoption of the master program or master program amendment.))~~

28 NEW SECTION. **Sec. 18.** Section 4 of this act expires June 30,  
29 2019.

30 NEW SECTION. **Sec. 19.** Section 5 of this act takes effect June  
31 30, 2019.

32 NEW SECTION. **Sec. 20.** On the effective date of this section,  
33 the state treasurer shall transfer any money remaining in the vessel  
34 response account to the coastal protection fund created in RCW  
35 90.48.390.



1        NEW SECTION.    **Sec. 21.**    The following acts or parts of acts are  
2 each repealed:

3        (1)    RCW 43.21A.610 (Steam electric generating plant—Study—  
4 Construction) and 2009 c 549 s 5088, 1988 c 127 s 10, & 1965 c 8 s  
5 43.21.250;

6        (2)    RCW 43.21A.612 (Steam electric generating plant—Statement of  
7 intention—Construction by public utility, operating agency, or the  
8 department, procedure—Powers of director of community, trade, and  
9 economic development) and 1995 c 399 s 68, 1988 c 127 s 11, 1985 c  
10 466 s 49, & 1965 c 8 s 43.21.260;

11       (3)    RCW 43.21A.614 (Steam electric generating plant—Powers of  
12 director in constructing, operating and maintaining) and 1988 c 127 s  
13 12 & 1965 c 8 s 43.21.270;

14       (4)    RCW 43.21A.616 (Steam electric generating plant—Eminent  
15 domain) and 1988 c 127 s 13 & 1965 c 8 s 43.21.280;

16       (5)    RCW 43.21A.618 (Steam electric generating plant—State not  
17 financially obligated—Separation and expenditure of funds) and 1988 c  
18 127 s 14 & 1965 c 8 s 43.21.290;

19       (6)    RCW 43.21A.620 (Steam electric generating plant—Revenue bonds  
20 and warrants) and 2009 c 549 s 5089, 1988 c 127 s 15, & 1965 c 8 s  
21 43.21.300;

22       (7)    RCW 43.21A.622 (Steam electric generating plant—Special funds  
23 —Payment of bonds, interest) and 1988 c 127 s 16 & 1965 c 8 s  
24 43.21.310;

25       (8)    RCW 43.21A.624 (Steam electric generating plant—  
26 Considerations in issuance of bonds, limitations) and 1988 c 127 s 17  
27 & 1965 c 8 s 43.21.320;

28       (9)    RCW 43.21A.626 (Steam electric generating plant—Resolution  
29 authorizing issuance of bonds, contents, covenants) and 1988 c 127 s  
30 18 & 1965 c 8 s 43.21.330;

31       (10)   RCW 43.21A.628 (Steam electric generating plant—Sale of  
32 bonds) and 1988 c 127 s 19, 1970 ex.s. c 56 s 61, 1969 ex.s. c 232 s  
33 32, & 1965 c 8 s 43.21.340;

34       (11)   RCW 43.21A.630 (Steam electric generating plant—Examination,  
35 registration of bonds by state auditor—Defects, irregularities) and  
36 2009 c 549 s 5090 & 1965 c 8 s 43.21.350;

37       (12)   RCW 43.21A.632 (Steam electric generating plant—Rates or  
38 charges) and 1988 c 127 s 20 & 1965 c 8 s 43.21.360;

1           (13) RCW 43.21A.634 (Steam electric generating plant—Refunding  
2 revenue bonds) and 1988 c 127 s 21 & 1965 c 8 s 43.21.370;  
3           (14) RCW 43.21A.636 (Steam electric generating plant—Signatures  
4 on bonds) and 1965 c 8 s 43.21.380;  
5           (15) RCW 43.21A.638 (Steam electric generating plant—Provisions  
6 of law, resolution, a contract with bondholder—Enforcement) and 1988  
7 c 127 s 22 & 1965 c 8 s 43.21.390;  
8           (16) RCW 43.21A.640 (Steam electric generating plant—Bonds are  
9 legal security, investment, negotiable) and 1965 c 8 s 43.21.400;  
10          (17) RCW 43.21A.642 (Steam electric generating plant—Director not  
11 authorized to acquire other facilities or engage in retail  
12 distribution) and 1988 c 127 s 23 & 1965 c 8 s 43.21.410;  
13          (18) RCW 70.95.205 (Exemption from solid waste permit  
14 requirements—Waste-derived soil amendments—Application—Revocation  
15 of exemption—Appeal) and 1998 c 36 s 18;  
16          (19) RCW 70.95.700 (Solid waste incineration or energy recovery  
17 facility—Environmental impact statement requirements) and 1989 c 431  
18 s 55;  
19          (20) RCW 70.107.040 (Technical advisory committee) and 1975-'76  
20 2nd ex.s. c 34 s 164 & 1974 ex.s. c 183 s 4;  
21          (21) RCW 70.107.050 (Civil penalties) and 1987 c 103 s 2 & 1974  
22 ex.s. c 183 s 5;  
23          (22) RCW 90.56.335 (Vessel response account—Dedicated rescue tug)  
24 and 2003 c 264 s 3;  
25          (23) 2010 1st sp.s. c 7 s 39; and  
26          (24) 2010 c 84 s 4.

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