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**SUBSTITUTE HOUSE BILL 2246**

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**State of Washington                      66th Legislature                      2020 Regular Session**

**By** House Environment & Energy (originally sponsored by  
Representatives Fitzgibbon and Lekanoff)

READ FIRST TIME 01/23/20.

1            AN ACT Relating to the reorganization of laws related to  
2 environmental health without making any substantive, policy changes;  
3 amending RCW 15.54.325, 15.54.820, 19.405.020, 35.21.120, 35.21.135,  
4 35.21.154, 35.21.156, 35.21.157, 35.21.409, 35.21.755, 35.22.625,  
5 35.23.351, 35.92.020, 35.94.050, 35A.21.152, 35A.21.153, 35A.21.324,  
6 36.32.120, 36.32.304, 36.34.192, 36.58.040, 36.58.045, 36.58.050,  
7 36.58A.010, 36.70A.130, 36.70A.200, 36.93.090, 36.94.010, 43.21A.020,  
8 43.21A.175,        43.21A.702,        43.21A.711,        43.21B.130,        43.21B.260,  
9 43.21B.300,        43.21C.036,        43.21C.0381,        43.21C.210,        43.21F.090,  
10 43.27A.190,        43.37.050,        43.37.080,        43.37.110,        43.37.140,        43.37.170,  
11 43.37.220, 43.41.270, 43.131.394, 43.146.900, 43.200.070, 43.200.080,  
12 43.200.170,        43.200.180,        43.200.220,        43.200.230,        43.200.233,  
13 43.200.235, 43.200.905, 43.200.907, 64.70.020, 64.70.040, 70.05.070,  
14 70.75A.040, 70.75A.060, 70.76.020, 70.76.030, 70.76.040, 70.76.050,  
15 70.76.090, 70.76.100, 70.93.095, 70.93.200, 70.93.220, 70.93.250,  
16 70.94.015, 70.94.030, 70.94.040, 70.94.041, 70.94.053, 70.94.069,  
17 70.94.100, 70.94.130, 70.94.142, 70.94.143, 70.94.151, 70.94.153,  
18 70.94.154, 70.94.161, 70.94.162, 70.94.163, 70.94.165, 70.94.181,  
19 70.94.211, 70.94.231, 70.94.262, 70.94.302, 70.94.331, 70.94.332,  
20 70.94.335, 70.94.385, 70.94.390, 70.94.400, 70.94.410, 70.94.422,  
21 70.94.430, 70.94.431, 70.94.435, 70.94.450, 70.94.453, 70.94.460,  
22 70.94.463, 70.94.467, 70.94.473, 70.94.475, 70.94.477, 70.94.480,  
23 70.94.483, 70.94.524, 70.94.527, 70.94.528, 70.94.531, 70.94.534,

1 70.94.541, 70.94.544, 70.94.551, 70.94.640, 70.94.6512, 70.94.6514,  
2 70.94.6516, 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524,  
3 70.94.6528, 70.94.6530, 70.94.6532, 70.94.6534, 70.94.6538,  
4 70.94.6540, 70.94.6542, 70.94.6546, 70.94.6548, 70.94.6552,  
5 70.94.6554, 70.94.6556, 70.94.715, 70.94.725, 70.94.730, 70.94.785,  
6 70.94.805, 70.94.850, 70.94.892, 70.94.960, 70.94.990, 70.95.030,  
7 70.95.065, 70.95.092, 70.95.095, 70.95.100, 70.95.110, 70.95.130,  
8 70.95.150, 70.95.160, 70.95.167, 70.95.170, 70.95.185, 70.95.190,  
9 70.95.205, 70.95.207, 70.95.218, 70.95.240, 70.95.250, 70.95.270,  
10 70.95.280, 70.95.285, 70.95.290, 70.95.295, 70.95.315, 70.95.330,  
11 70.95.400, 70.95.420, 70.95.430, 70.95.510, 70.95.530, 70.95.532,  
12 70.95.535, 70.95.550, 70.95.555, 70.95.560, 70.95.610, 70.95.630,  
13 70.95.650, 70.95.660, 70.95.670, 70.95.715, 70.95.807, 70.95.815,  
14 70.95A.070, 70.95A.100, 70.95B.060, 70.95B.090, 70.95B.095,  
15 70.95B.120, 70.95B.151, 70.95C.010, 70.95C.020, 70.95C.030,  
16 70.95C.040, 70.95C.070, 70.95C.210, 70.95C.220, 70.95C.230,  
17 70.95D.010, 70.95E.010, 70.95E.020, 70.95E.030, 70.95E.040,  
18 70.95E.050, 70.95E.080, 70.95E.090, 70.95F.020, 70.95F.030,  
19 70.95G.030, 70.95G.040, 70.95G.060, 70.95I.010, 70.95I.020,  
20 70.95I.030, 70.95I.040, 70.95I.060, 70.95I.070, 70.95J.010,  
21 70.95J.090, 70.95K.010, 70.95K.011, 70.95L.010, 70.95L.040,  
22 70.95M.080, 70.95M.110, 70.95N.040, 70.95N.060, 70.95N.070,  
23 70.95N.080, 70.95N.130, 70.95N.170, 70.95N.180, 70.95N.190,  
24 70.95N.200, 70.95N.230, 70.95N.260, 70.95N.280, 70.95N.300,  
25 70.95N.310, 70.98.020, 70.98.085, 70.98.095, 70.98.098, 70.98.122,  
26 70.98.220, 70.98.910, 70.99.050, 70.102.020, 70.103.030, 70.103.040,  
27 70.103.050, 70.103.060, 70.103.070, 70.105.005, 70.105.010,  
28 70.105.020, 70.105.035, 70.105.050, 70.105.090, 70.105.105,  
29 70.105.110, 70.105.111, 70.105.112, 70.105.116, 70.105.135,  
30 70.105.140, 70.105.145, 70.105.160, 70.105.165, 70.105.170,  
31 70.105.180, 70.105.200, 70.105.210, 70.105.220, 70.105.221,  
32 70.105.225, 70.105.235, 70.105.240, 70.105.250, 70.105.270,  
33 70.105.280, 70.105.310, 70.105D.040, 70.105D.050, 70.105D.055,  
34 70.105D.060, 70.105D.080, 70.105D.090, 70.105D.110, 70.105D.130,  
35 70.105D.140, 70.105D.160, 70.105D.180, 70.105D.190, 70.105D.200,  
36 70.105D.210, 70.106.030, 70.106.070, 70.106.100, 70.106.110,  
37 70.107.070, 70.116.050, 70.116.060, 70.116.070, 70.118.060,  
38 70.118.070, 70.118.080, 70.118.130, 70.118A.020, 70.118A.040,  
39 70.118A.050, 70.118A.070, 70.118A.080, 70.118A.090, 70.118B.005,  
40 70.118B.020, 70.118B.030, 70.119.030, 70.119.050, 70.119.060,

1 70.119.070, 70.119.090, 70.119.100, 70.119.120, 70.119.130,  
2 70.119.150, 70.119.170, 70.119A.030, 70.119A.050, 70.119A.060,  
3 70.119A.110, 70.119A.120, 70.119A.190, 70.120.010, 70.120.070,  
4 70.120.080, 70.120.120, 70.120.130, 70.120.190, 70.120A.010,  
5 70.120A.020, 70.121.020, 70.121.050, 70.121.060, 70.121.070,  
6 70.121.080, 70.121.110, 70.138.010, 70.138.020, 70.138.030,  
7 70.142.050, 70.146.030, 70.146.060, 70.146.070, 70.146.100,  
8 70.146.110, 70.148.020, 70.148.025, 70.148.070, 70.149.030,  
9 70.149.040, 70.149.070, 70.149.120, 70.150.030, 70.150.070,  
10 70.164.020, 70.164.030, 70.220.020, 70.220.030, 70.220.050,  
11 70.235.005, 70.235.020, 70.235.030, 70.235.040, 70.235.050,  
12 70.235.060, 70.235.070, 70.235.080, 70.240.025, 70.240.035,  
13 70.240.040, 70.240.050, 70.260.010, 70.270.030, 70.270.040,  
14 70.270.050, 70.275.030, 70.275.040, 70.275.050, 70.275.160,  
15 70.280.040, 70.280.050, 70.285.020, 70.285.040, 70.285.050,  
16 70.285.090, 70.300.040, 70.310.030, 70.310.040, 70.310.050,  
17 70.315.010, 70.315.020, 70.315.050, 70.325.020, 70.325.040,  
18 70.325.050, 70.340.020, 70.340.030, 70.340.040, 70.340.050,  
19 70.340.060, 70.340.080, 70.340.090, 70.340.100, 70.340.120,  
20 70.340.130, 70.340.900, 70.360.060, 70.360.070, 70.360.090,  
21 70.360.100, 70.360.110, 70.365.020, 70.365.030, 70.365.040,  
22 70.365.050, 70.365.070, 70.365.080, 70.375.020, 70.375.040,  
23 70.375.050, 70.375.060, 70.375.080, 70.375.090, 70.380.020,  
24 77.55.061, 81.77.010, 81.77.030, 81.77.040, 82.04.660, 82.04.755,  
25 82.04.765, 82.08.0287, 82.08.810, 82.08.811, 82.08.036, 82.08.998,  
26 82.12.0282, 82.12.038, 82.12.810, 82.12.811, 82.12.998, 82.19.040,  
27 82.21.030, 82.23A.020, 82.23A.902, 82.34.030, 82.34.100, 82.44.015,  
28 88.46.010, 90.03.383, 90.03.386, 90.03.570, 90.03.590, 90.46.005,  
29 90.46.010, 90.46.120, 90.48.039, 90.48.110, 90.48.162, 90.48.285,  
30 90.48.530, 90.48.531, 90.52.030, 90.58.355, 90.71.270, 90.71.340,  
31 90.71.370, 90.76.040, 90.76.050, 90.76.070, 90.76.090, 90.76.100,  
32 90.76.110, and 90.76.902; reenacting and amending RCW 15.54.270,  
33 43.21B.110, 43.21B.110, 43.200.015, 70.93.180, 70.94.152, 70.95.090,  
34 70.95N.020, 70.95N.140, 70.105D.020, 70.105D.030, 70.119A.020,  
35 70.240.010, 70.275.020, 70.365.010, 88.40.011, and 90.56.010; adding  
36 a new title to the Revised Code of Washington to be codified as Title  
37 70A RCW; creating new sections; recodifying RCW 43.21M.010,  
38 43.21M.020, 43.21M.030, 43.21M.040, 43.21M.900, 43.37.010, 43.37.030,  
39 43.37.040, 43.37.050, 43.37.060, 43.37.080, 43.37.090, 43.37.100,  
40 43.37.110, 43.37.120, 43.37.130, 43.37.140, 43.37.150, 43.37.160,

1 43.37.170, 43.37.180, 43.37.190, 43.37.200, 43.37.210, 43.37.215,  
2 43.37.220, 43.37.910, 43.145.010, 43.145.020, 43.145.030, 43.146.010,  
3 43.146.900, 43.200.010, 43.200.015, 43.200.020, 43.200.030,  
4 43.200.070, 43.200.080, 43.200.170, 43.200.180, 43.200.190,  
5 43.200.200, 43.200.220, 43.200.230, 43.200.233, 43.200.235,  
6 43.200.900, 43.200.901, 43.200.905, 43.200.907, 43.205.010,  
7 43.205.020, 70.75A.005, 70.75A.010, 70.75A.020, 70.75A.030,  
8 70.75A.040, 70.75A.050, 70.75A.060, 70.76.005, 70.76.010, 70.76.020,  
9 70.76.030, 70.76.040, 70.76.050, 70.76.060, 70.76.070, 70.76.080,  
10 70.76.090, 70.76.100, 70.76.110, 70.93.010, 70.93.020, 70.93.030,  
11 70.93.040, 70.93.050, 70.93.060, 70.93.070, 70.93.080, 70.93.090,  
12 70.93.093, 70.93.095, 70.93.097, 70.93.110, 70.93.180, 70.93.200,  
13 70.93.210, 70.93.220, 70.93.230, 70.93.250, 70.93.910, 70.94.011,  
14 70.94.015, 70.94.017, 70.94.030, 70.94.033, 70.94.035, 70.94.037,  
15 70.94.040, 70.94.041, 70.94.053, 70.94.055, 70.94.057, 70.94.068,  
16 70.94.069, 70.94.070, 70.94.081, 70.94.085, 70.94.091, 70.94.092,  
17 70.94.093, 70.94.094, 70.94.095, 70.94.096, 70.94.097, 70.94.100,  
18 70.94.110, 70.94.120, 70.94.130, 70.94.141, 70.94.142, 70.94.143,  
19 70.94.151, 70.94.152, 70.94.153, 70.94.154, 70.94.155, 70.94.157,  
20 70.94.161, 70.94.162, 70.94.163, 70.94.165, 70.94.170, 70.94.181,  
21 70.94.200, 70.94.205, 70.94.211, 70.94.221, 70.94.230, 70.94.231,  
22 70.94.240, 70.94.260, 70.94.262, 70.94.302, 70.94.331, 70.94.332,  
23 70.94.335, 70.94.350, 70.94.370, 70.94.380, 70.94.385, 70.94.390,  
24 70.94.395, 70.94.400, 70.94.405, 70.94.410, 70.94.420, 70.94.422,  
25 70.94.425, 70.94.430, 70.94.431, 70.94.435, 70.94.440, 70.94.450,  
26 70.94.453, 70.94.455, 70.94.457, 70.94.460, 70.94.463, 70.94.467,  
27 70.94.470, 70.94.473, 70.94.475, 70.94.477, 70.94.480, 70.94.483,  
28 70.94.488, 70.94.510, 70.94.521, 70.94.524, 70.94.527, 70.94.528,  
29 70.94.531, 70.94.534, 70.94.537, 70.94.541, 70.94.544, 70.94.547,  
30 70.94.551, 70.94.555, 70.94.600, 70.94.610, 70.94.620, 70.94.640,  
31 70.94.645, 70.94.6511, 70.94.6512, 70.94.6514, 70.94.6516,  
32 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, 70.94.6526,  
33 70.94.6528, 70.94.6530, 70.94.6532, 70.94.6534, 70.94.6536,  
34 70.94.6538, 70.94.6540, 70.94.6542, 70.94.6544, 70.94.6546,  
35 70.94.6548, 70.94.6550, 70.94.6552, 70.94.6554, 70.94.6556,  
36 70.94.710, 70.94.715, 70.94.720, 70.94.725, 70.94.730, 70.94.785,  
37 70.94.800, 70.94.805, 70.94.820, 70.94.850, 70.94.860, 70.94.875,  
38 70.94.880, 70.94.892, 70.94.901, 70.94.902, 70.94.904, 70.94.911,  
39 70.94.960, 70.94.970, 70.94.980, 70.94.990, 70.94.991, 70.94.992,  
40 70.95.010, 70.95.020, 70.95.030, 70.95.055, 70.95.060, 70.95.065,

1	70.95.075,	70.95.080,	70.95.090,	70.95.092,	70.95.094,	70.95.095,
2	70.95.096,	70.95.100,	70.95.110,	70.95.130,	70.95.140,	70.95.150,
3	70.95.160,	70.95.163,	70.95.165,	70.95.167,	70.95.170,	70.95.180,
4	70.95.185,	70.95.190,	70.95.200,	70.95.205,	70.95.207,	70.95.210,
5	70.95.212,	70.95.215,	70.95.217,	70.95.218,	70.95.220,	70.95.230,
6	70.95.235,	70.95.240,	70.95.250,	70.95.255,	70.95.260,	70.95.263,
7	70.95.265,	70.95.267,	70.95.268,	70.95.270,	70.95.280,	70.95.285,
8	70.95.290,	70.95.295,	70.95.300,	70.95.305,	70.95.306,	70.95.310,
9	70.95.315,	70.95.320,	70.95.330,	70.95.400,	70.95.410,	70.95.420,
10	70.95.430,	70.95.440,	70.95.500,	70.95.510,	70.95.515,	70.95.521,
11	70.95.530,	70.95.532,	70.95.535,	70.95.540,	70.95.550,	70.95.555,
12	70.95.560,	70.95.565,	70.95.570,	70.95.600,	70.95.610,	70.95.620,
13	70.95.630,	70.95.640,	70.95.650,	70.95.660,	70.95.670,	70.95.700,
14	70.95.710,	70.95.715,	70.95.720,	70.95.725,	70.95.805,	70.95.807,
15	70.95.810,	70.95.815,	70.95.900,	70.95.903,	70.95.904,	70.95A.010,
16	70.95A.020,	70.95A.030,	70.95A.035,	70.95A.040,	70.95A.045,	
17	70.95A.050,	70.95A.060,	70.95A.070,	70.95A.080,	70.95A.090,	
18	70.95A.100,	70.95A.910,	70.95A.912,	70.95A.930,	70.95B.010,	
19	70.95B.020,	70.95B.030,	70.95B.040,	70.95B.050,	70.95B.060,	
20	70.95B.071,	70.95B.080,	70.95B.090,	70.95B.095,	70.95B.100,	
21	70.95B.110,	70.95B.115,	70.95B.120,	70.95B.130,	70.95B.140,	
22	70.95B.151,	70.95B.900,	70.95C.010,	70.95C.020,	70.95C.030,	
23	70.95C.040,	70.95C.050,	70.95C.060,	70.95C.070,	70.95C.080,	
24	70.95C.110,	70.95C.120,	70.95C.200,	70.95C.210,	70.95C.220,	
25	70.95C.230,	70.95C.240,	70.95C.250,	70.95D.010,	70.95D.020,	
26	70.95D.030,	70.95D.040,	70.95D.051,	70.95D.060,	70.95D.070,	
27	70.95D.080,	70.95D.090,	70.95D.100,	70.95D.110,	70.95E.010,	
28	70.95E.020,	70.95E.030,	70.95E.040,	70.95E.050,	70.95E.080,	
29	70.95E.090,	70.95E.100,	70.95F.010,	70.95F.020,	70.95F.030,	
30	70.95G.005,	70.95G.010,	70.95G.020,	70.95G.030,	70.95G.040,	
31	70.95G.050,	70.95G.060,	70.95G.070,	70.95I.005,	70.95I.010,	
32	70.95I.020,	70.95I.030,	70.95I.040,	70.95I.050,	70.95I.060,	
33	70.95I.070,	70.95I.080,	70.95I.901,	70.95J.005,	70.95J.007,	
34	70.95J.010,	70.95J.020,	70.95J.025,	70.95J.030,	70.95J.040,	
35	70.95J.050,	70.95J.060,	70.95J.070,	70.95J.080,	70.95J.090,	
36	70.95K.005,	70.95K.010,	70.95K.011,	70.95K.020,	70.95K.030,	
37	70.95K.040,	70.95K.900,	70.95K.920,	70.95L.005,	70.95L.010,	
38	70.95L.020,	70.95L.030,	70.95L.040,	70.95M.010,	70.95M.020,	
39	70.95M.030,	70.95M.040,	70.95M.050,	70.95M.060,	70.95M.070,	
40	70.95M.080,	70.95M.090,	70.95M.100,	70.95M.110,	70.95M.115,	

1	70.95M.120,	70.95M.130,	70.95M.140,	70.95N.010,	70.95N.020,
2	70.95N.030,	70.95N.040,	70.95N.050,	70.95N.060,	70.95N.070,
3	70.95N.080,	70.95N.090,	70.95N.100,	70.95N.110,	70.95N.120,
4	70.95N.130,	70.95N.140,	70.95N.150,	70.95N.160,	70.95N.170,
5	70.95N.180,	70.95N.190,	70.95N.200,	70.95N.210,	70.95N.220,
6	70.95N.230,	70.95N.240,	70.95N.250,	70.95N.260,	70.95N.280,
7	70.95N.290,	70.95N.300,	70.95N.310,	70.95N.320,	70.95N.330,
8	70.95N.340,	70.95N.350,	70.95N.900,	70.95N.902,	70.98.010,
9	70.98.030,	70.98.050,	70.98.080,	70.98.085,	70.98.090,
10	70.98.098,	70.98.100,	70.98.110,	70.98.120,	70.98.122,
11	70.98.130,	70.98.140,	70.98.150,	70.98.160,	70.98.170,
12	70.98.190,	70.98.200,	70.98.220,	70.98.910,	70.98.920,
13	70.99.020,	70.99.030,	70.99.040,	70.99.050,	70.99.060,
14	70.99.910,	70.102.010,	70.102.020,	70.103.010,	70.103.020,
15	70.103.030,	70.103.040,	70.103.050,	70.103.060,	70.103.070,
16	70.103.080,	70.103.090,	70.105.005,	70.105.007,	70.105.010,
17	70.105.020,	70.105.025,	70.105.030,	70.105.035,	70.105.040,
18	70.105.050,	70.105.070,	70.105.080,	70.105.085,	70.105.090,
19	70.105.095,	70.105.097,	70.105.100,	70.105.105,	70.105.109,
20	70.105.110,	70.105.111,	70.105.112,	70.105.116,	70.105.120,
21	70.105.130,	70.105.135,	70.105.140,	70.105.145,	70.105.150,
22	70.105.160,	70.105.165,	70.105.170,	70.105.180,	70.105.200,
23	70.105.210,	70.105.215,	70.105.217,	70.105.220,	70.105.221,
24	70.105.225,	70.105.230,	70.105.235,	70.105.240,	70.105.245,
25	70.105.250,	70.105.255,	70.105.260,	70.105.270,	70.105.280,
26	70.105.300,	70.105.310,	70.105.900,	70.105D.010,	70.105D.020,
27	70.105D.030,	70.105D.040,	70.105D.050,	70.105D.055,	70.105D.060,
28	70.105D.080,	70.105D.090,	70.105D.100,	70.105D.110,	70.105D.120,
29	70.105D.130,	70.105D.140,	70.105D.150,	70.105D.160,	70.105D.180,
30	70.105D.190,	70.105D.200,	70.105D.210,	70.105D.900,	70.105D.905,
31	70.105D.910,	70.105D.915,	70.105D.920,	70.106.010,	70.106.020,
32	70.106.030,	70.106.040,	70.106.050,	70.106.060,	70.106.070,
33	70.106.080,	70.106.090,	70.106.100,	70.106.110,	70.106.120,
34	70.106.140,	70.106.150,	70.106.905,	70.106.910,	70.107.010,
35	70.107.020,	70.107.030,	70.107.040,	70.107.050,	70.107.060,
36	70.107.070,	70.107.080,	70.107.900,	70.107.910,	70.116.010,
37	70.116.020,	70.116.030,	70.116.040,	70.116.050,	70.116.060,
38	70.116.070,	70.116.080,	70.116.090,	70.116.100,	70.116.110,
39	70.116.120,	70.116.134,	70.116.140,	70.118.010,	70.118.020,
40	70.118.030,	70.118.040,	70.118.050,	70.118.060,	70.118.070,

1	70.118.080,	70.118.090,	70.118.110,	70.118.120,	70.118.130,
2	70.118A.010,	70.118A.020,	70.118A.030,	70.118A.040,	70.118A.050,
3	70.118A.060,	70.118A.070,	70.118A.080,	70.118A.090,	70.118A.100,
4	70.118B.005,	70.118B.010,	70.118B.020,	70.118B.030,	70.118B.040,
5	70.118B.050,	70.118B.060,	70.118B.070,	70.119.010,	70.119.020,
6	70.119.030,	70.119.040,	70.119.050,	70.119.060,	70.119.070,
7	70.119.081,	70.119.090,	70.119.100,	70.119.110,	70.119.120,
8	70.119.130,	70.119.140,	70.119.150,	70.119.160,	70.119.170,
9	70.119.180,	70.119.900,	70.119A.020,	70.119A.025,	70.119A.030,
10	70.119A.040,	70.119A.050,	70.119A.060,	70.119A.070,	70.119A.080,
11	70.119A.100,	70.119A.110,	70.119A.115,	70.119A.120,	70.119A.130,
12	70.119A.140,	70.119A.150,	70.119A.170,	70.119A.180,	70.119A.190,
13	70.119A.200,	70.119A.210,	70.119A.900,	70.120.010,	70.120.020,
14	70.120.070,	70.120.080,	70.120.100,	70.120.120,	70.120.130,
15	70.120.150,	70.120.160,	70.120.170,	70.120.190,	70.120.210,
16	70.120.230,	70.120.902,	70.120A.010,	70.120A.020,	70.120A.030,
17	70.120A.050,	70.121.010,	70.121.020,	70.121.030,	70.121.040,
18	70.121.050,	70.121.060,	70.121.070,	70.121.080,	70.121.090,
19	70.121.100,	70.121.110,	70.121.120,	70.121.130,	70.121.140,
20	70.121.150,	70.121.900,	70.121.905,	70.132.010,	70.132.020,
21	70.132.030,	70.132.040,	70.132.050,	70.132.900,	70.138.010,
22	70.138.020,	70.138.030,	70.138.040,	70.138.050,	70.138.060,
23	70.138.070,	70.138.900,	70.138.901,	70.140.010,	70.140.020,
24	70.140.030,	70.140.040,	70.140.050,	70.140.060,	70.140.070,
25	70.140.080,	70.142.010,	70.142.020,	70.142.030,	70.142.040,
26	70.142.050,	70.146.010,	70.146.020,	70.146.030,	70.146.040,
27	70.146.050,	70.146.060,	70.146.070,	70.146.075,	70.146.090,
28	70.146.100,	70.146.110,	70.146.120,	70.148.005,	70.148.010,
29	70.148.020,	70.148.025,	70.148.030,	70.148.035,	70.148.040,
30	70.148.050,	70.148.060,	70.148.070,	70.148.080,	70.148.090,
31	70.148.110,	70.148.900,	70.149.010,	70.149.020,	70.149.030,
32	70.149.040,	70.149.050,	70.149.060,	70.149.070,	70.149.080,
33	70.149.090,	70.149.100,	70.149.120,	70.149.800,	70.149.801,
34	70.149.900,	70.150.010,	70.150.020,	70.150.030,	70.150.040,
35	70.150.050,	70.150.060,	70.150.070,	70.150.080,	70.150.900,
36	70.164.010,	70.164.020,	70.164.030,	70.164.040,	70.164.050,
37	70.164.060,	70.164.070,	70.220.010,	70.220.020,	70.220.030,
38	70.220.040,	70.220.050,	70.235.005,	70.235.010,	70.235.020,
39	70.235.030,	70.235.040,	70.235.050,	70.235.060,	70.235.070,
40	70.235.080,	70.235.900,	70.240.010,	70.240.020,	70.240.025,

1 70.240.030, 70.240.035, 70.240.040, 70.240.050, 70.240.060,  
2 70.260.010, 70.260.020, 70.260.030, 70.270.010, 70.270.020,  
3 70.270.030, 70.270.040, 70.270.050, 70.270.060, 70.275.010,  
4 70.275.020, 70.275.030, 70.275.040, 70.275.050, 70.275.060,  
5 70.275.070, 70.275.080, 70.275.090, 70.275.100, 70.275.110,  
6 70.275.130, 70.275.140, 70.275.150, 70.275.160, 70.275.170,  
7 70.275.900, 70.275.901, 70.280.010, 70.280.020, 70.280.030,  
8 70.280.040, 70.280.050, 70.280.060, 70.285.010, 70.285.020,  
9 70.285.030, 70.285.040, 70.285.050, 70.285.060, 70.285.070,  
10 70.285.080, 70.285.090, 70.285.100, 70.295.010, 70.295.020,  
11 70.300.005, 70.300.010, 70.300.020, 70.300.030, 70.300.040,  
12 70.300.050, 70.300.060, 70.310.010, 70.310.020, 70.310.030,  
13 70.310.040, 70.310.050, 70.315.010, 70.315.020, 70.315.030,  
14 70.315.040, 70.315.050, 70.315.060, 70.315.900, 70.315.901,  
15 70.315.902, 70.325.010, 70.325.020, 70.325.030, 70.325.040,  
16 70.325.050, 70.340.010, 70.340.020, 70.340.030, 70.340.040,  
17 70.340.050, 70.340.060, 70.340.070, 70.340.080, 70.340.090,  
18 70.340.100, 70.340.110, 70.340.120, 70.340.130, 70.340.900,  
19 70.355.010, 70.360.010, 70.360.020, 70.360.030, 70.360.040,  
20 70.360.050, 70.360.060, 70.360.070, 70.360.080, 70.360.090,  
21 70.360.100, 70.360.110, 70.360.900, 70.365.010, 70.365.020,  
22 70.365.030, 70.365.040, 70.365.050, 70.365.060, 70.365.070,  
23 70.365.080, 70.365.900, 70.370.010, 70.370.020, 70.370.030,  
24 70.370.040, 70.375.010, 70.375.020, 70.375.030, 70.375.040,  
25 70.375.050, 70.375.060, 70.375.070, 70.375.080, 70.375.090,  
26 70.375.100, 70.375.110, 70.375.120, 70.375.130, 70.380.010,  
27 70.380.020, 70.380.030, 70.380.900, 90.76.005, 90.76.010, 90.76.020,  
28 90.76.040, 90.76.050, 90.76.060, 90.76.070, 90.76.080, 90.76.090,  
29 90.76.100, 90.76.110, 90.76.900, 90.76.901, and 90.76.902; repealing  
30 RCW 70.105E.010, 70.105E.020, 70.105E.030, 70.105E.040, 70.105E.050,  
31 70.105E.060, 70.105E.080, 70.105E.100, 70.105E.900, and 70.105E.901;  
32 providing effective dates; and providing an expiration date.

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

34 NEW SECTION. **Sec. 101.** This act is intended to make technical  
35 amendments to certain codified statutes that involve environmental  
36 and public health. Any statutory changes made by this act should be  
37 interpreted as technical in nature and not interpreted to have any  
38 substantive, policy implications.



1        NEW SECTION.    **Sec. 102.**    (1) A rule adopted under authority  
2 provided in a chapter that is recodified under this act remains valid  
3 and is not affected by the recodification in this act.

4        (2) State agencies, local air authorities, local boards of  
5 health, and other local governments that have adopted rules that rely  
6 upon or otherwise reference an authority provided in a chapter that  
7 is recodified by this act are encouraged to update affected rules to  
8 reflect new statutory references compelled by the recodification by  
9 July 1, 2025.

10       NEW SECTION.    **Sec. 103.**    A new title is added to the Revised Code  
11 of Washington to be codified as Title 70A RCW.

12       NEW SECTION.    **Sec. 104.**    Sections 1446 through 1450 of this act  
13 take effect July 1, 2020.

14       NEW SECTION.    **Sec. 105.**    Section 1034 of this act expires June  
15 30, 2021.

16       NEW SECTION.    **Sec. 106.**    Section 1035 of this act takes effect  
17 June 30, 2021.

18       **Sec. 1001.**    RCW 15.54.270 and 2011 c 73 s 1 are each reenacted  
19 and amended to read as follows:

20       The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22       (1) "Brand" means a term, design, or trademark used in connection  
23 with the distribution and sale of one or more grades of commercial  
24 fertilizers.

25       (2) "Bulk fertilizer" means commercial fertilizer distributed in  
26 a nonpackaged form such as, but not limited to, tote bags, tote  
27 tanks, bins, tanks, trailers, spreader trucks, and railcars.

28       (3) "Calcium carbonate equivalent" means the acid-neutralizing  
29 capacity of an agricultural liming material expressed as a weight  
30 percentage of calcium carbonate.

31       (4) "Commercial fertilizer" means a substance containing one or  
32 more recognized plant nutrients and that is used for its plant  
33 nutrient content or that is designated for use or claimed to have  
34 value in promoting plant growth, and shall include limes, gypsum, and  
35 manipulated animal and vegetable manures. It does not include

1 unmanipulated animal and vegetable manures, organic waste-derived  
2 material, and other products exempted by the department by rule.

3 (5) "Composting" means the controlled aerobic degradation of  
4 organic waste materials. Natural decay of organic waste under  
5 uncontrolled conditions is not composting.

6 (6) "Customer-formula fertilizer" means a mixture of commercial  
7 fertilizer or materials of which each batch is mixed according to the  
8 specifications of the final purchaser.

9 (7) "Department" means the department of agriculture of the state  
10 of Washington or its duly authorized representative.

11 (8) "Director" means the director of the department of  
12 agriculture.

13 (9) "Distribute" means to import, consign, manufacture, produce,  
14 compound, mix, or blend commercial fertilizer, or to offer for sale,  
15 sell, barter, exchange, or otherwise supply commercial fertilizer in  
16 this state.

17 (10) "Distributor" means a person who distributes.

18 (11) "Fertilizer material" means a commercial fertilizer that  
19 either:

20 (a) Contains important quantities of no more than one of the  
21 primary plant nutrients: Nitrogen, phosphate, and potash;

22 (b) Has eighty-five percent or more of its plant nutrient content  
23 present in the form of a single chemical compound; or

24 (c) Is derived from a plant or animal residue or by-product or  
25 natural material deposit that has been processed in such a way that  
26 its content of plant nutrients has not been materially changed except  
27 by purification and concentration.

28 (12) "Grade" means the percentage of total nitrogen, available  
29 phosphoric acid, and soluble potash stated in whole numbers in the  
30 same terms, order, and percentages as in the "guaranteed analysis,"  
31 unless otherwise allowed by a rule adopted by the department.  
32 Specialty fertilizers may be guaranteed in fractional units of less  
33 than one percent of total nitrogen, available phosphorus or  
34 phosphoric acid, and soluble potassium or potash. Fertilizer  
35 materials, bone meal, manures, and similar materials may be  
36 guaranteed in fractional units.

37 (13) "Guaranteed analysis."

38 (a) Until the director prescribes an alternative form of  
39 "guaranteed analysis" by rule the term "guaranteed analysis" shall

1 mean the minimum percentage of plant nutrients claimed in the  
2 following order and form:

- 3 Total nitrogen (N) ..... percent
- 4 Available phosphoric acid (P<sub>2</sub>O<sub>5</sub>) .... percent
- 5 Soluble potash (K<sub>2</sub>O) ..... percent

6 The percentage shall be stated in whole numbers unless otherwise  
7 allowed by the department by rule.

8 The "guaranteed analysis" may also include elemental guarantees  
9 for phosphorus (P) and potassium (K).

10 (b) For unacidulated mineral phosphatic material and basic slag,  
11 bone, tankage, and other organic phosphatic materials, the total  
12 phosphoric acid or degree of fineness may also be guaranteed.

13 (c) Guarantees for plant nutrients other than nitrogen,  
14 phosphorus, and potassium shall be as allowed or required by rule of  
15 the department. The guarantees for such other nutrients shall be  
16 expressed in the form of the element.

17 (d) The guaranteed analysis for limes shall include the  
18 percentage of calcium or magnesium expressed as their carbonate; the  
19 calcium carbonate equivalent as determined by methods prescribed by  
20 the association of official analytical chemists; and the minimum  
21 percentage of material that will pass respectively a one hundred  
22 mesh, sixty mesh, and ten mesh sieve. The mesh size declaration may  
23 also include the percentage of material that will pass additional  
24 mesh sizes.

25 (e) In commercial fertilizer, the principal constituent of which  
26 is calcium sulfate (gypsum), the percentage of calcium sulfate  
27 (CaSO<sub>4</sub>.2H<sub>2</sub>O) shall be given along with the percentage of total sulfur.

28 (14) "Imported fertilizer" means any fertilizer distributed into  
29 Washington from any other state, province, or country.

30 (15) "Label" means the display of all written, printed, or  
31 graphic matter, upon the immediate container, or a statement  
32 accompanying a fertilizer.

33 (16) "Labeling" includes all written, printed, or graphic matter,  
34 upon or accompanying a commercial fertilizer, or advertisement,  
35 brochures, posters, television, and radio announcements used in  
36 promoting the sale of such fertilizer.

1 (17) "Licensee" means the person who receives a license to  
2 distribute a commercial fertilizer under the provisions of this  
3 chapter.

4 (18) "Lime" means a substance or a mixture of substances, the  
5 principal constituent of which is calcium or magnesium carbonate,  
6 hydroxide, or oxide, singly or combined.

7 (19) "Manipulation" means processed or treated in any manner,  
8 including drying to a moisture content less than thirty percent.

9 (20) "Manufacture" means to compound, produce, granulate, mix,  
10 blend, repackage, or otherwise alter the composition of fertilizer  
11 materials.

12 (21) "Micronutrients" are: Boron; chlorine; cobalt; copper; iron;  
13 manganese; molybdenum; sodium; and zinc.

14 (22) "Micronutrient fertilizer" means a produced or imported  
15 commercial fertilizer that contains commercially valuable  
16 concentrations of micronutrients but does not contain commercially  
17 valuable concentrations of nitrogen, phosphoric acid, available  
18 phosphorus, potash, calcium, magnesium, or sulfur.

19 (23) "Official sample" means a sample of commercial fertilizer  
20 taken by the department and designated as "official" by the  
21 department.

22 (24) "Organic waste-derived material" means grass clippings,  
23 leaves, weeds, bark, plantings, prunings, and other vegetative  
24 wastes, uncontaminated wood waste from logging and milling  
25 operations, food wastes, food processing wastes, and materials  
26 derived from these wastes through composting. "Organic waste-derived  
27 material" does not include products that include biosolids.

28 (25) "Packaged fertilizer" means commercial fertilizers, either  
29 agricultural or specialty, distributed in nonbulk form.

30 (26) "Person" means an individual, firm, brokerage, partnership,  
31 corporation, company, society, or association.

32 (27) "Percent" or "percentage" means the percentage by weight.

33 (28) "Produce" means to compound or fabricate a commercial  
34 fertilizer through a physical or chemical process, or through mining.  
35 "Produce" does not include mixing, blending, or repackaging  
36 commercial fertilizer products.

37 (29) "Registrant" means the person who registers commercial  
38 fertilizer under the provisions of this chapter.

39 (30) "Specialty fertilizer" means a commercial fertilizer  
40 distributed primarily for nonfarm use, such as, but not limited to,

1 use on home gardens, lawns, shrubbery, flowers, golf courses,  
2 municipal parks, cemeteries, greenhouses, and nurseries.

3 (31) "Ton" means the net weight of two thousand pounds  
4 avoirdupois.

5 (32) "Total nutrients" means the sum of the percentages of total  
6 nitrogen, available phosphoric acid, and soluble potash as guaranteed  
7 and as determined by analysis.

8 (33)(a) "Turf" means land, including residential property,  
9 commercial property, and publicly owned land, which is planted in  
10 closely mowed, managed grass.

11 (b) "Turf" does not include pasture land, land used to grow grass  
12 for sod, or any other land used for agricultural production or  
13 residential vegetable or flower gardening.

14 (34) "Turf fertilizer" means a commercial fertilizer that is  
15 labeled for use on turf.

16 (35) "Washington application rate" is calculated by using an  
17 averaging period of up to four consecutive years that incorporates  
18 agronomic rates that are representative of soil, crop rotation, and  
19 climatic conditions in Washington state.

20 (36) "Waste-derived fertilizer" means a commercial fertilizer  
21 that is derived in whole or in part from solid waste as defined in  
22 chapter 70.95 or 70.105 RCW (as recodified by this act), or rules  
23 adopted thereunder, but does not include fertilizers derived from  
24 biosolids or biosolids products regulated under chapter 70.95J RCW  
25 (as recodified by this act) or wastewaters regulated under chapter  
26 90.48 RCW.

27 **Sec. 1002.** RCW 15.54.325 and 2008 c 292 s 1 are each amended to  
28 read as follows:

29 (1) No person may distribute in this state a commercial  
30 fertilizer until it has been registered with the department by the  
31 producer, importer, or packager of that product.

32 (2) An application for registration must be made on a form  
33 furnished by the department and must include the following:

34 (a) The product name;

35 (b) The brand and grade;

36 (c) The guaranteed analysis;

37 (d) Name, address, and phone number of the registrant;

38 (e) A label for each product being registered;

1 (f) Identification of those products that are (i) waste-derived  
2 fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer  
3 materials containing phosphate;

4 (g) The concentration of each metal, for which standards are  
5 established under RCW 15.54.800, in each product being registered,  
6 unless the product is (i) anhydrous ammonia or a solution derived  
7 solely from dissolving anhydrous ammonia in water, (ii) a customer-  
8 formula fertilizer containing only registered commercial fertilizers,  
9 or (iii) a packaged commercial fertilizer whose plant nutrient  
10 content is present in the form of a single chemical compound which is  
11 registered in compliance with this chapter and the product is not  
12 blended with any other material. The provisions of (g)(i) of this  
13 subsection do not apply if the anhydrous ammonia is derived in whole  
14 or in part from waste such that the fertilizer is a "waste-derived  
15 fertilizer" as defined in RCW 15.54.270. Verification of a  
16 registration relied on by an applicant under (g)(iii) of this  
17 subsection must be submitted with the application;

18 (h) If a waste-derived fertilizer or micronutrient fertilizer,  
19 information to ensure the product complies with chapter 70.105 RCW  
20 (as recodified by this act) and the resource conservation and  
21 recovery act, 42 U.S.C. Sec. 6901 et seq.; and

22 (i) Any other information required by the department by rule.

23 (3) All companies planning to mix customer-formula fertilizers  
24 shall include the statement "customer-formula grade mixes" under the  
25 column headed "product name" on the product registration application  
26 form. All customer-formula fertilizers sold under one brand name  
27 shall be considered one product.

28 (4) Registrations are issued by the department for a two-year  
29 period beginning on July 1st of a given year and ending twenty-four  
30 months later on July 1st, except that registrations issued to a  
31 registrant who applies to register an additional product during the  
32 last twelve months of the registrant's period expire on the next July  
33 1st.

34 (5) An application for registration must be accompanied by a fee  
35 of fifty dollars for each product.

36 (6) Application for renewal of registration is due July 1st of  
37 each registration period. If an application for renewal is not  
38 received by the department by the due date, a late fee of ten dollars  
39 per product is added to the original fee and must be paid by the  
40 applicant before the renewal registration may be issued. A late fee

1 does not apply if the applicant furnishes an affidavit that he or she  
2 has not distributed this commercial fertilizer subsequent to the  
3 expiration of the prior registration. Payment of a late fee does not  
4 prevent the department from taking any action authorized by this  
5 chapter for the violation.

6 **Sec. 1003.** RCW 15.54.820 and 1998 c 36 s 16 are each amended to  
7 read as follows:

8 (1) After receipt from the department of the completed  
9 application required by RCW 15.54.325, the department of ecology  
10 shall evaluate whether the use of the proposed waste-derived  
11 fertilizer or the micronutrient fertilizer as defined in RCW  
12 15.54.270 is consistent with the following:

13 (a) Chapter 70.95 RCW (as recodified by this act), the solid  
14 waste management act;

15 (b) Chapter 70.105 RCW (as recodified by this act), the hazardous  
16 waste management act; and

17 (c) 42 U.S.C. Sec. 6901 et seq., the resource conservation and  
18 recovery act.

19 (2) The department of ecology shall apply the standards adopted  
20 in RCW 15.54.800. If more stringent standards apply under chapter  
21 173-303 WAC for the same constituents, the department of ecology must  
22 use the more stringent standards.

23 (3) Within sixty days of receiving the completed application, the  
24 department of ecology shall advise the department as to whether the  
25 application complies with the requirements of subsections (1) and (2)  
26 of this section. In making a determination, the department of ecology  
27 shall consult with the department of health and the department of  
28 labor and industries.

29 (4) A party aggrieved by a decision of the department of ecology  
30 to issue a written approval under this section or to deny the  
31 issuance of such an approval may appeal the decision to the pollution  
32 control hearings board within thirty days of the decision. Review of  
33 such a decision shall be conducted in accordance with chapter 43.21B  
34 RCW. Any subsequent appeal of a decision of the hearings board shall  
35 be obtained in accordance with RCW 43.21B.180.

36 **Sec. 1004.** RCW 19.405.020 and 2019 c 288 s 2 are each amended to  
37 read as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

3 (1) "Allocation of electricity" means, for the purposes of  
4 setting electricity rates, the costs and benefits associated with the  
5 resources used to provide electricity to an electric utility's retail  
6 electricity consumers that are located in this state.

7 (2) "Alternative compliance payment" means the payment  
8 established in RCW 19.405.090(2).

9 (3) "Attorney general" means the Washington state office of the  
10 attorney general.

11 (4) "Auditor" means: (a) The Washington state auditor's office or  
12 its designee for utilities under its jurisdiction under this chapter  
13 that are consumer-owned utilities; or (b) an independent auditor  
14 selected by a utility that is not under the jurisdiction of the state  
15 auditor and is not an investor-owned utility.

16 (5) (a) "Biomass energy" includes: (i) Organic by-products of  
17 pulping and the wood manufacturing process; (ii) animal manure; (iii)  
18 solid organic fuels from wood; (iv) forest or field residues; (v)  
19 untreated wooden demolition or construction debris; (vi) food waste  
20 and food processing residuals; (vii) liquors derived from algae;  
21 (viii) dedicated energy crops; and (ix) yard waste.

22 (b) "Biomass energy" does not include: (i) Wood pieces that have  
23 been treated with chemical preservatives such as creosote,  
24 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old  
25 growth forests; or (iii) municipal solid waste.

26 (6) "Carbon dioxide equivalent" has the same meaning as defined  
27 in RCW 70.235.010 (as recodified by this act).

28 (7) (a) "Coal-fired resource" means a facility that uses coal-  
29 fired generating units, or that uses units fired in whole or in part  
30 by coal as feedstock, to generate electricity.

31 (b) (i) "Coal-fired resource" does not include an electric  
32 generating facility that is included as part of a limited duration  
33 wholesale power purchase, not to exceed one month, made by an  
34 electric utility for delivery to retail electric customers that are  
35 located in this state for which the source of the power is not known  
36 at the time of entry into the transaction to procure the electricity.

37 (ii) "Coal-fired resource" does not include an electric  
38 generating facility that is subject to an obligation to meet the  
39 standards contained in RCW 80.80.040(3)(c).



1 (8) "Commission" means the Washington utilities and  
2 transportation commission.

3 (9) "Conservation and efficiency resources" means any reduction  
4 in electric power consumption that results from increases in the  
5 efficiency of energy use, production, transmission, or distribution.

6 (10) "Consumer-owned utility" means a municipal electric utility  
7 formed under Title 35 RCW, a public utility district formed under  
8 Title 54 RCW, an irrigation district formed under chapter 87.03 RCW,  
9 a cooperative formed under chapter 23.86 RCW, or a mutual corporation  
10 or association formed under chapter 24.06 RCW, that is engaged in the  
11 business of distributing electricity to more than one retail electric  
12 customer in the state.

13 (11) "Demand response" means changes in electric usage by demand-  
14 side resources from their normal consumption patterns in response to  
15 changes in the price of electricity, or to incentive payments  
16 designed to induce lower electricity use, at times of high wholesale  
17 market prices or when system reliability is jeopardized. "Demand  
18 response" may include measures to increase or decrease electricity  
19 production on the customer's side of the meter in response to  
20 incentive payments.

21 (12) "Department" means the department of commerce.

22 (13) "Distributed energy resource" means a nonemitting electric  
23 generation or renewable resource or program that reduces electric  
24 demand, manages the level or timing of electricity consumption, or  
25 provides storage, electric energy, capacity, or ancillary services to  
26 an electric utility and that is located on the distribution system,  
27 any subsystem of the distribution system, or behind the customer  
28 meter, including conservation and energy efficiency.

29 (14) "Electric utility" or "utility" means a consumer-owned  
30 utility or an investor-owned utility.

31 (15) "Energy assistance" means a program undertaken by a utility  
32 to reduce the household energy burden of its customers.

33 (a) Energy assistance includes, but is not limited to,  
34 weatherization, conservation and efficiency services, and monetary  
35 assistance, such as a grant program or discounts for lower income  
36 households, intended to lower a household's energy burden.

37 (b) Energy assistance may include direct customer ownership in  
38 distributed energy resources or other strategies if such strategies  
39 achieve a reduction in energy burden for the customer above other  
40 available conservation and demand-side measures.

1 (16) "Energy assistance need" means the amount of assistance  
2 necessary to achieve a level of household energy burden established  
3 by the department or commission.

4 (17) "Energy burden" means the share of annual household income  
5 used to pay annual home energy bills.

6 (18)(a) "Energy transformation project" means a project or  
7 program that: Provides energy-related goods or services, other than  
8 the generation of electricity; results in a reduction of fossil fuel  
9 consumption and in a reduction of the emission of greenhouse gases  
10 attributable to that consumption; and provides benefits to the  
11 customers of an electric utility.

12 (b) "Energy transformation project" may include but is not  
13 limited to:

14 (i) Home weatherization or other energy efficiency measures,  
15 including market transformation for energy efficiency products, in  
16 excess of: The target established under RCW 19.285.040(1), if  
17 applicable; other state obligations; or other obligations in effect  
18 on May 7, 2019;

19 (ii) Support for electrification of the transportation sector  
20 including, but not limited to:

21 (A) Equipment on an electric utility's transmission and  
22 distribution system to accommodate electric vehicle connections, as  
23 well as smart grid systems that enable electronic interaction between  
24 the electric utility and charging systems, and facilitate the  
25 utilization of vehicle batteries for system needs;

26 (B) Incentives for the sale or purchase of electric vehicles,  
27 both battery and fuel cell powered, as authorized under state or  
28 federal law;

29 (C) Incentives for the installation of charging equipment for  
30 electric vehicles;

31 (D) Incentives for the electrification of vehicle fleets  
32 utilizing a battery or fuel cell for electric supply;

33 (E) Incentives to install and operate equipment to produce or  
34 distribute renewable hydrogen; and

35 (F) Incentives for renewable hydrogen fueling stations;

36 (iii) Investment in distributed energy resources and grid  
37 modernization to facilitate distributed energy resources and improved  
38 grid resilience;

39 (iv) Investments in equipment for renewable natural gas  
40 processing, conditioning, and production, or equipment or

1 infrastructure used solely for the purpose of delivering renewable  
2 natural gas for consumption or distribution;

3 (v) Contributions to self-directed investments in the following  
4 measures to serve the sites of large industrial gas and electrical  
5 customers: (A) Conservation; (B) new renewable resources; (C) behind-  
6 the-meter technology that facilitates demand response cooperation to  
7 reduce peak loads; (D) infrastructure to support electrification of  
8 transportation needs, including battery and fuel cell  
9 electrification; or (E) renewable natural gas processing,  
10 conditioning, or production; and

11 (vi) Projects and programs that achieve energy efficiency and  
12 emission reductions in the agricultural sector, including bioenergy  
13 and renewable natural gas projects.

14 (19) "Fossil fuel" means natural gas, petroleum, coal, or any  
15 form of solid, liquid, or gaseous fuel derived from such a material.

16 (20) "Governing body" means: The council of a city or town; the  
17 commissioners of an irrigation district, municipal electric utility,  
18 or public utility district; or the board of directors of an electric  
19 cooperative or mutual association that has the authority to set and  
20 approve rates.

21 (21) "Greenhouse gas" includes carbon dioxide, methane, nitrous  
22 oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and  
23 any other gas or gases designated by the department of ecology by  
24 rule under RCW 70.235.010 (as recodified by this act).

25 (22) "Greenhouse gas content calculation" means a calculation  
26 expressed in carbon dioxide equivalent and made by the department of  
27 ecology, in consultation with the department, for the purposes of  
28 determining the emissions from the complete combustion or oxidation  
29 of fossil fuels and the greenhouse gas emissions in electricity for  
30 use in calculating the greenhouse gas emissions content in  
31 electricity.

32 (23) "Highly impacted community" means a community designated by  
33 the department of health based on cumulative impact analyses in RCW  
34 19.405.140 or a community located in census tracts that are fully or  
35 partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

36 (24) "Investor-owned utility" means a company owned by investors  
37 that meets the definition of "corporation" in RCW 80.04.010 and is  
38 engaged in distributing electricity to more than one retail electric  
39 customer in the state.

1 (25) "Low-income" means household incomes as defined by the  
2 department or commission, provided that the definition may not exceed  
3 the higher of eighty percent of area median household income or two  
4 hundred percent of the federal poverty level, adjusted for household  
5 size.

6 (26)(a) "Market customer" means a nonresidential retail electric  
7 customer of an electric utility that: (i) Purchases electricity from  
8 an entity or entities other than the utility with which it is  
9 directly interconnected; or (ii) generates electricity to meet one  
10 hundred percent of its own needs.

11 (b) An "affected market customer" is a customer of an investor-  
12 owned utility who becomes a market customer after May 7, 2019.

13 (27)(a) "Natural gas" means naturally occurring mixtures of  
14 hydrocarbon gases and vapors consisting principally of methane,  
15 whether in gaseous or liquid form, including methane clathrate.

16 (b) "Natural gas" does not include renewable natural gas or the  
17 portion of renewable natural gas when blended into other fuels.

18 (28)(a) "Nonemitting electric generation" means electricity from  
19 a generating facility or a resource that provides electric energy,  
20 capacity, or ancillary services to an electric utility and that does  
21 not emit greenhouse gases as a by-product of energy generation.

22 (b) "Nonemitting electric generation" does not include renewable  
23 resources.

24 (29)(a) "Nonpower attributes" means all environmentally related  
25 characteristics, exclusive of energy, capacity reliability, and other  
26 electrical power service attributes, that are associated with the  
27 generation of electricity, including but not limited to the  
28 facility's fuel type, geographic location, vintage, qualification as  
29 a renewable resource, and avoided emissions of pollutants to the air,  
30 soil, or water, and avoided emissions of carbon dioxide and other  
31 greenhouse gases.

32 (b) "Nonpower attributes" does not include any aspects, claims,  
33 characteristics, and benefits associated with the on-site capture and  
34 destruction of methane or other greenhouse gases at a facility  
35 through a digester system, landfill gas collection system, or other  
36 mechanism, which may be separately marketable as greenhouse gas  
37 emission reduction credits, offsets, or similar tradable commodities.  
38 However, these separate avoided emissions may not result in or  
39 otherwise have the effect of attributing greenhouse gas emissions to  
40 the electricity.

1 (30) "Qualified transmission line" means an overhead transmission  
2 line that is: (a) Designed to carry a voltage in excess of one  
3 hundred thousand volts; (b) owned in whole or in part by an investor-  
4 owned utility; and (c) primarily or exclusively used by such an  
5 investor-owned utility as of May 7, 2019, to transmit electricity  
6 generated by a coal-fired resource.

7 (31) "Renewable energy credit" means a tradable certificate of  
8 proof of one megawatt-hour of a renewable resource. The certificate  
9 includes all of the nonpower attributes associated with that one  
10 megawatt-hour of electricity and the certificate is verified by a  
11 renewable energy credit tracking system selected by the department.

12 (32) "Renewable hydrogen" means hydrogen produced using renewable  
13 resources both as the source for the hydrogen and the source for the  
14 energy input into the production process.

15 (33) "Renewable natural gas" means a gas consisting largely of  
16 methane and other hydrocarbons derived from the decomposition of  
17 organic material in landfills, wastewater treatment facilities, and  
18 anaerobic digesters.

19 (34) "Renewable resource" means: (a) Water; (b) wind; (c) solar  
20 energy; (d) geothermal energy; (e) renewable natural gas; (f)  
21 renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel  
22 fuel that is not derived from crops raised on land cleared from old  
23 growth or first growth forests; or (i) biomass energy.

24 (35)(a) "Retail electric customer" means a person or entity that  
25 purchases electricity from any electric utility for ultimate  
26 consumption and not for resale.

27 (b) "Retail electric customer" does not include, in the case of  
28 any electric utility, any person or entity that purchases electricity  
29 exclusively from carbon-free and eligible renewable resources, as  
30 defined in RCW 19.285.030 as of January 1, 2019, pursuant to a  
31 special contract with an investor-owned utility approved by an order  
32 of the commission prior to May 7, 2019.

33 (36) "Retail electric load" means the amount of megawatt-hours of  
34 electricity delivered in a given calendar year by an electric utility  
35 to its Washington retail electric customers. "Retail electric load"  
36 does not include:

37 (a) Megawatt-hours delivered from qualifying facilities under the  
38 federal public utility regulatory policies act of 1978, P.L. 95-617,  
39 in operation prior to May 7, 2019, provided that no entity other than

1 the electric utility can make a claim on delivery of the megawatt-  
2 hours from those resources; or

3 (b) Megawatt-hours delivered to an electric utility's system from  
4 a renewable resource through a voluntary renewable energy purchase by  
5 a retail electric customer of the utility in which the renewable  
6 energy credits associated with the megawatt-hours delivered are  
7 retired on behalf of the retail electric customer.

8 (37) "Thermal renewable energy credit" means, with respect to a  
9 facility that generates electricity using biomass energy that also  
10 generates thermal energy for a secondary purpose, a renewable energy  
11 credit that is equivalent to three million four hundred twelve  
12 thousand British thermal units of energy used for such secondary  
13 purpose.

14 (38) "Unbundled renewable energy credit" means a renewable energy  
15 credit that is sold, delivered, or purchased separately from  
16 electricity. All thermal renewable energy credits are considered  
17 unbundled renewable energy credits.

18 (39) "Unspecified electricity" means an electricity source for  
19 which the fuel attribute is unknown or has been separated from the  
20 energy delivered to retail electric customers.

21 (40) "Vulnerable populations" means communities that experience a  
22 disproportionate cumulative risk from environmental burdens due to:

23 (a) Adverse socioeconomic factors, including unemployment, high  
24 housing and transportation costs relative to income, access to food  
25 and health care, and linguistic isolation; and

26 (b) Sensitivity factors, such as low birth weight and higher  
27 rates of hospitalization.

28 **Sec. 1005.** RCW 35.21.120 and 1989 c 399 s 1 are each amended to  
29 read as follows:

30 A city or town may by ordinance provide for the establishment of  
31 a system or systems of solid waste handling for the entire city or  
32 town or for portions thereof. A city or town may provide for solid  
33 waste handling by or under the direction of officials and employees  
34 of the city or town or may award contracts for any service related to  
35 solid waste handling including contracts entered into under RCW  
36 35.21.152. Contracts for solid waste handling may provide that a city  
37 or town provide for a minimum periodic fee or other method of  
38 compensation in consideration of the operational availability of a  
39 solid waste handling system, plant, site, or other facility at a

1 specified minimum level, without regard to the ownership of the  
2 system, plant, site, or other facility, or the amount of solid waste  
3 actually handled during all or any part of the contract period. When  
4 a minimum level of solid waste is specified in a contract for solid  
5 waste handling, there shall be a specific allocation of financial  
6 responsibility in the event the amount of solid waste handled falls  
7 below the minimum level provided in the contract.

8 As used in this chapter, the terms "solid waste" and "solid waste  
9 handling" shall be as defined in RCW 70.95.030 (as recodified by this  
10 act).

11 **Sec. 1006.** RCW 35.21.135 and 1991 c 319 s 404 are each amended  
12 to read as follows:

13 (1) Each city or town providing by ordinance or resolution a  
14 reduced solid waste collection rate to residents participating in a  
15 residential curbside recycling program implemented under RCW  
16 70.95.090 (as recodified by this act), may provide a similar reduced  
17 rate to residents participating in any other recycling program, if  
18 such program is approved by the jurisdiction. Nothing in this section  
19 shall be interpreted to reduce the authority of a city to adopt  
20 ordinances under RCW 35.21.130(1).

21 (2) For the purposes of this section, "reduced rate" means a  
22 residential solid waste collection rate incorporating a rebate,  
23 refund, or discount. Reduced rate shall not include residential solid  
24 waste collection rate based on the volume or weight of solid waste  
25 set out for collection.

26 **Sec. 1007.** RCW 35.21.154 and 1989 c 399 s 3 are each amended to  
27 read as follows:

28 Nothing in RCW 35.21.152 will relieve a city or town of its  
29 obligations to comply with the requirements of chapter 70.95 RCW (as  
30 recodified by this act).

31 **Sec. 1008.** RCW 35.21.156 and 1989 c 399 s 7 are each amended to  
32 read as follows:

33 (1) Notwithstanding the provisions of any city charter, or any  
34 law to the contrary, and in addition to any other authority provided  
35 by law, the legislative authority of a city or town may contract with  
36 one or more vendors for one or more of the design, construction, or  
37 operation of, or other service related to, the systems, plants,

1 sites, or other facilities for solid waste handling in accordance  
2 with the procedures set forth in this section. Solid waste handling  
3 systems, plants, sites, or other facilities constructed, purchased,  
4 acquired, leased, added to, altered, extended, maintained, managed,  
5 utilized, or operated pursuant to this section, RCW 35.21.120 and  
6 35.21.152, whether publicly or privately owned, shall be in  
7 substantial compliance with the solid waste management plan  
8 applicable to the city or town adopted pursuant to chapter 70.95 RCW  
9 (as recodified by this act). Agreements relating to such solid waste  
10 handling systems, plants, sites, or other facilities may be for such  
11 term and may contain such covenants, conditions, and remedies as the  
12 legislative authority of a city or town may deem necessary or  
13 appropriate. When a contract for design services is entered into  
14 separately from other services permitted under this section,  
15 procurement shall be in accordance with chapter 39.80 RCW.

16 (2) If the legislative authority of the city or town decides to  
17 proceed with the consideration of qualifications or proposals for  
18 services from vendors, the city or town shall publish notice of its  
19 requirements and request submission of qualifications statements or  
20 proposals. The notice shall be published in the official newspaper of  
21 the city or town at least once a week for two weeks not less than  
22 sixty days before the final date for the submission of qualifications  
23 statements or proposals. The notice shall state in summary form (a)  
24 the general scope and nature of the design, construction, operation,  
25 or other service, (b) the name and address of a representative of the  
26 city or town who can provide further details, (c) the final date for  
27 the submission of qualifications statements or proposals, (d) an  
28 estimated schedule for the consideration of qualifications, the  
29 selection of vendors, and the negotiation of a contract or contracts  
30 for services, (e) the location at which a copy of any request for  
31 qualifications or request for proposals will be made available, and  
32 (f) the criteria established by the legislative authority to select a  
33 vendor or vendors, which may include but shall not be limited to the  
34 vendor's prior experience, including design, construction, or  
35 operation of other similar facilities; respondent's management  
36 capability, schedule availability and financial resources; cost of  
37 the services, nature of facility design proposed by the vendor;  
38 system reliability; performance standards required for the  
39 facilities; compatibility with existing service facilities operated  
40 by the public body or other providers of service to the public;



1 project performance guarantees; penalty and other enforcement  
2 provisions; environmental protection measures to be used; consistency  
3 with the applicable comprehensive solid waste management plan; and  
4 allocation of project risks.

5 (3) If the legislative authority of the city or town decides to  
6 proceed with the consideration of qualifications or proposals, it may  
7 designate a representative to evaluate the vendors who submitted  
8 qualifications statements or proposals and conduct discussions  
9 regarding qualifications or proposals with one or more vendors. The  
10 legislative authority or representative may request submission of  
11 qualifications statements and may later request more detailed  
12 proposals from one or more vendors who have submitted qualifications  
13 statements, or may request detailed proposals without having first  
14 received and evaluated qualifications statements. The legislative  
15 authority or its representative shall evaluate the qualifications or  
16 proposals, as applicable. If two or more vendors submit  
17 qualifications or proposals that meet the criteria established by the  
18 legislative authority of the city or town, discussions and interviews  
19 shall be held with at least two vendors. Any revisions to a request  
20 for qualifications or request for proposals shall be made available  
21 to all vendors then under consideration by the city or town and shall  
22 be made available to any other person who has requested receipt of  
23 that information.

24 (4) Based on criteria established by the legislative authority of  
25 the city or town, the representative shall recommend to the  
26 legislative authority a vendor or vendors that are initially  
27 determined to be the best qualified to provide one or more of the  
28 design, construction or operation of, or other service related to,  
29 the proposed project or services. The legislative authority may  
30 select one or more qualified vendors for one or more of the design,  
31 construction, or operation of, or other service related to, the  
32 proposed project or services.

33 (5) The legislative authority or its representative may attempt  
34 to negotiate a contract with the vendor or vendors selected for one  
35 or more of the design, construction, or operation of, or other  
36 service related to, the proposed project or services on terms that  
37 the legislative authority determines to be fair and reasonable and in  
38 the best interest of the city or town. If the legislative authority  
39 or its representative is unable to negotiate such a contract with any  
40 one or more of the vendors first selected on terms that it determines

1 to be fair and reasonable and in the best interest of the city or  
2 town, negotiations with any one or more of the vendors shall be  
3 terminated or suspended and another qualified vendor or vendors may  
4 be selected in accordance with the procedures set forth in this  
5 section. If the legislative authority decides to continue the process  
6 of selection, negotiations shall continue with a qualified vendor or  
7 vendors in accordance with this section at the sole discretion of the  
8 legislative authority until an agreement is reached with one or more  
9 qualified vendors, or the process is terminated by the legislative  
10 authority. The process may be repeated until an agreement is reached.

11 (6) Prior to entering into a contract with a vendor, the  
12 legislative authority of the city or town shall make written  
13 findings, after holding a public hearing on the proposal, that it is  
14 in the public interest to enter into the contract, that the contract  
15 is financially sound, and that it is advantageous for the city or  
16 town to use this method for awarding contracts compared to other  
17 methods.

18 (7) Each contract shall include a project performance bond or  
19 bonds or other security by the vendor that in the judgment of the  
20 legislative authority of the city or town is sufficient to secure  
21 adequate performance by the vendor.

22 (8) The provisions of chapters 39.12(~~(7)~~) and 39.19(~~(7) and~~  
23 ~~39.25~~) RCW shall apply to a contract entered into under this section  
24 to the same extent as if the systems and plants were owned by a  
25 public body.

26 (9) The vendor selection process permitted by this section shall  
27 be supplemental to and shall not be construed as a repeal of or  
28 limitation on any other authority granted by law.

29 The alternative selection process provided by this section may  
30 not be used in the selection of a person or entity to construct a  
31 publicly owned facility for the storage or transfer of solid waste or  
32 solid waste handling equipment unless the facility is either (a)  
33 privately operated pursuant to a contract greater than five years, or  
34 (b) an integral part of a solid waste processing facility located on  
35 the same site. Instead, the applicable provisions of RCW 35.22.620,  
36 and 35.23.352, and chapters 39.04 and 39.30 RCW shall be followed.

37 **Sec. 1009.** RCW 35.21.157 and 1994 c 161 s 2 are each amended to  
38 read as follows:

1 (1) A city that contracts for the collection of solid waste, or  
2 provides for the collection of solid waste directly, shall notify the  
3 public of each proposed rate increase for a solid waste handling  
4 service. The notice may be mailed to each affected ratepayer or  
5 published once a week for two consecutive weeks in a newspaper of  
6 general circulation in the collection area. The notice shall be  
7 available to affected ratepayers at least forty-five days prior to  
8 the proposed effective date of the rate increase.

9 (2) For purposes of this section, "solid waste handling" has the  
10 same meaning as provided in RCW 70.95.030 (as recodified by this  
11 act).

12 **Sec. 1010.** RCW 35.21.409 and 2013 c 291 s 16 are each amended to  
13 read as follows:

14 (1) Following the inspection required under RCW 35.21.408 and  
15 prior to transferring ownership of a city or town-owned vessel, a  
16 city or town shall obtain the following from the transferee:

17 (a) The purposes for which the transferee intends to use the  
18 vessel; and

19 (b) Information demonstrating the prospective owner's intent to  
20 obtain legal moorage following the transfer, in the manner determined  
21 by the city or town.

22 (2)(a) The city or town shall remove any containers or other  
23 materials that are not fixed to the vessel and contain hazardous  
24 substances, as defined under RCW 70.105D.020 (as recodified by this  
25 act).

26 (b) However, the city or town may transfer a vessel with:

27 (i) Those containers or materials described under (a) of this  
28 subsection where the transferee demonstrates to the city or town's  
29 satisfaction that the container's or material's presence is  
30 consistent with the anticipated use of the vessel; and

31 (ii) A reasonable amount of fuel as determined by the city or  
32 town, based on factors including the vessel's size, condition, and  
33 anticipated use of the vessel, including initial destination  
34 following transfer.

35 (c) The city or town may consult with the department of ecology  
36 in carrying out the requirements of this subsection.

37 (3) Prior to sale, and unless the vessel has a title or valid  
38 marine document, the city or town is required to apply for a

1 certificate of title for the vessel under RCW 88.02.510 and register  
2 the vessel under RCW 88.02.550.

3 **Sec. 1011.** RCW 35.21.755 and 2007 c 104 s 16 are each amended to  
4 read as follows:

5 (1) A public corporation, commission, or authority created  
6 pursuant to RCW 35.21.730, 35.21.660, or 81.112.320 shall receive the  
7 same immunity or exemption from taxation as that of the city, town,  
8 or county creating the same: PROVIDED, That, except for (a) any  
9 property within a special review district established by ordinance  
10 prior to January 1, 1976, or listed on or which is within a district  
11 listed on any federal or state register of historical sites or (b)  
12 any property owned, operated, or controlled by a public corporation  
13 that is used primarily for low-income housing, or that is used as a  
14 convention center, performing arts center, public assembly hall,  
15 public meeting place, public esplanade, street, public way, public  
16 open space, park, public utility corridor, or view corridor for the  
17 general public or (c) any blighted property owned, operated, or  
18 controlled by a public corporation that was acquired for the purpose  
19 of remediation and redevelopment of the property in accordance with  
20 an agreement or plan approved by the city, town, or county in which  
21 the property is located, or (d) any property owned, operated, or  
22 controlled by a public corporation created under RCW 81.112.320, any  
23 such public corporation, commission, or authority shall pay to the  
24 county treasurer an annual excise tax equal to the amounts which  
25 would be paid upon real property and personal property devoted to the  
26 purposes of such public corporation, commission, or authority were it  
27 in private ownership, and such real property and personal property is  
28 acquired and/or operated under RCW 35.21.730 through 35.21.755, and  
29 the proceeds of such excise tax shall be allocated by the county  
30 treasurer to the various taxing authorities in which such property is  
31 situated, in the same manner as though the property were in private  
32 ownership: PROVIDED FURTHER, That the provisions of chapter 82.29A  
33 RCW shall not apply to property within a special review district  
34 established by ordinance prior to January 1, 1976, or listed on or  
35 which is within a district listed on any federal or state register of  
36 historical sites and which is controlled by a public corporation,  
37 commission, or authority created pursuant to RCW 35.21.730 or  
38 35.21.660, which was in existence prior to January 1, 1987: AND  
39 PROVIDED FURTHER, That property within a special review district

1 established by ordinance prior to January 1, 1976, or property which  
2 is listed on any federal or state register of historical sites and  
3 controlled by a public corporation, commission, or authority created  
4 pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior  
5 to January 1, 1976, shall receive the same immunity or exemption from  
6 taxation as if such property had been within a district listed on any  
7 such federal or state register of historical sites as of January 1,  
8 1976, and controlled by a public corporation, commission, or  
9 authority created pursuant to RCW 35.21.730 or 35.21.660 which was in  
10 existence prior to January 1, 1976.

11 (2) As used in this section:

12 (a) "Low-income" means a total annual income, adjusted for family  
13 size, not exceeding fifty percent of the area median income.

14 (b) "Area median income" means:

15 (i) For an area within a standard metropolitan statistical area,  
16 the area median income reported by the United States department of  
17 housing and urban development for that standard metropolitan  
18 statistical area; or

19 (ii) For an area not within a standard metropolitan statistical  
20 area, the county median income reported by the department of  
21 (~~community, trade, and economic development~~) commerce.

22 (c) "Blighted property" means property that is contaminated with  
23 hazardous substances as defined under RCW 70.105D.020 (as recodified  
24 by this act).

25 **Sec. 1012.** RCW 35.22.625 and 1989 c 399 s 4 are each amended to  
26 read as follows:

27 RCW 35.22.620 does not apply to the selection of persons or  
28 entities to construct or develop water pollution control facilities  
29 or to provide water pollution control services under RCW 70.150.040  
30 (as recodified by this act) or the selection of persons or entities  
31 to construct or develop solid waste handling facilities or to provide  
32 solid waste handling services under RCW 35.21.156.

33 **Sec. 1013.** RCW 35.23.351 and 1989 c 399 s 5 are each amended to  
34 read as follows:

35 RCW 35.23.352 does not apply to the selection of persons or  
36 entities to construct or develop water pollution control facilities  
37 or to provide water pollution control services under RCW 70.150.040  
38 (as recodified by this act) or the selection of persons or entities

1 to construct or develop solid waste handling facilities or to provide  
2 solid waste handling services under RCW 35.21.156.

3 **Sec. 1014.** RCW 35.92.020 and 2003 c 394 s 2 are each amended to  
4 read as follows:

5 (1) A city or town may construct, condemn and purchase, purchase,  
6 acquire, add to, alter, maintain, and operate systems, plants, sites,  
7 or other facilities of sewerage as defined in RCW 35.67.010, or solid  
8 waste handling as defined by RCW 70.95.030 (as recodified by this  
9 act). A city or town shall have full authority to manage, regulate,  
10 operate, control, and, except as provided in subsection (3) of this  
11 section, to fix the price of service and facilities of those systems,  
12 plants, sites, or other facilities within and without the limits of  
13 the city or town.

14 (2) Subject to subsection (3) of this section, the rates charged  
15 shall be uniform for the same class of customers or service and  
16 facilities. In classifying customers served or service and facilities  
17 furnished by a system or systems of sewerage, the legislative  
18 authority of the city or town may in its discretion consider any or  
19 all of the following factors:

20 (a) The difference in cost of service and facilities to  
21 customers;

22 (b) The location of customers within and without the city or  
23 town;

24 (c) The difference in cost of maintenance, operation, repair, and  
25 replacement of the parts of the system;

26 (d) The different character of the service and facilities  
27 furnished to customers;

28 (e) The quantity and quality of the sewage delivered and the time  
29 of its delivery;

30 (f) Capital contributions made to the systems, plants, sites, or  
31 other facilities, including but not limited to, assessments;

32 (g) The nonprofit public benefit status, as defined in RCW  
33 24.03.490, of the land user; and

34 (h) Any other factors that present a reasonable difference as a  
35 ground for distinction.

36 (3) The rate a city or town may charge under this section for  
37 storm or surface water sewer systems or the portion of the rate  
38 allocable to the storm or surface water sewer system of combined  
39 sanitary sewage and storm or surface water sewer systems shall be

1 reduced by a minimum of ten percent for any new or remodeled  
2 commercial building that utilizes a permissive rainwater harvesting  
3 system. Rainwater harvesting systems shall be properly sized to  
4 utilize the available roof surface of the building. The jurisdiction  
5 shall consider rate reductions in excess of ten percent dependent  
6 upon the amount of rainwater harvested.

7 (4) Rates or charges for on-site inspection and maintenance  
8 services may not be imposed under this chapter on the development,  
9 construction, or reconstruction of property.

10 (5) A city or town may provide assistance to aid low-income  
11 persons in connection with services provided under this chapter.

12 (6) Under this chapter, after July 1, 1998, any requirements for  
13 pumping the septic tank of an on-site sewage system should be based,  
14 among other things, on actual measurement of accumulation of sludge  
15 and scum by a trained inspector, trained owner's agent, or trained  
16 owner. Training must occur in a program approved by the state board  
17 of health or by a local health officer.

18 (7) Before adopting on-site inspection and maintenance utility  
19 services, or incorporating residences into an on-site inspection and  
20 maintenance or sewer utility under this chapter, notification must be  
21 provided, prior to the applicable public hearing, to all residences  
22 within the proposed service area that have on-site systems permitted  
23 by the local health officer. The notice must clearly state that the  
24 residence is within the proposed service area and must provide  
25 information on estimated rates or charges that may be imposed for the  
26 service.

27 (8) A city or town shall not provide on-site sewage system  
28 inspection, pumping services, or other maintenance or repair services  
29 under this section using city or town employees unless the on-site  
30 system is connected by a publicly owned collection system to the city  
31 or town's sewerage system, and the on-site system represents the  
32 first step in the sewage disposal process. Nothing in this section  
33 shall affect the authority of state or local health officers to carry  
34 out their responsibilities under any other applicable law.

35 **Sec. 1015.** RCW 35.94.050 and 1986 c 244 s 11 are each amended to  
36 read as follows:

37 This chapter does not apply to dispositions of utility property  
38 in connection with an agreement entered into pursuant to chapter  
39 70.150 RCW (as recodified by this act) provided there is compliance

1 with the procurement procedure under RCW 70.150.040 (as recodified by  
2 this act).

3 **Sec. 1016.** RCW 35A.21.152 and 1994 c 161 s 3 are each amended to  
4 read as follows:

5 (1) A city that contracts for the collection of solid waste, or  
6 provides for the collection of solid waste directly, shall notify the  
7 public of each proposed rate increase for a solid waste handling  
8 service. The notice may be mailed to each affected ratepayer or  
9 published once a week for two consecutive weeks in a newspaper of  
10 general circulation in the collection area. The notice shall be  
11 available to affected ratepayers at least forty-five days prior to  
12 the proposed effective date of the rate increase.

13 (2) For purposes of this section, "solid waste handling" has the  
14 same meaning as provided in RCW 70.95.030 (as recodified by this  
15 act).

16 **Sec. 1017.** RCW 35A.21.153 and 1991 c 319 s 405 are each amended  
17 to read as follows:

18 (1) Each city or town providing by ordinance or resolution a  
19 reduced solid waste collection rate to residents participating in a  
20 residential curbside recycling program implemented under RCW  
21 70.95.090 (as recodified by this act), may provide a similar reduced  
22 rate to residents participating in any other recycling program, if  
23 such program is approved by the jurisdiction. Nothing in this section  
24 shall be interpreted to reduce the authority of a city to adopt  
25 ordinances under RCW 35.21.130(1).

26 (2) For the purposes of this section, "reduced rate" means a  
27 residential solid waste collection rate incorporating a rebate,  
28 refund, or discount. Reduced rate shall not include residential solid  
29 waste collection rate based on the volume or weight of solid waste  
30 set out for collection.

31 **Sec. 1018.** RCW 35A.21.324 and 2013 c 291 s 18 are each amended  
32 to read as follows:

33 (1) Following the inspection required under RCW 35A.21.322 and  
34 prior to transferring ownership of a code city-owned vessel, a code  
35 city shall obtain the following from the transferee:

36 (a) The purposes for which the transferee intends to use the  
37 vessel; and



1 (b) Information demonstrating the prospective owner's intent to  
2 obtain legal moorage following the transfer, in the manner determined  
3 by the code city.

4 (2)(a) The code city shall remove any containers or other  
5 materials that are not fixed to the vessel and contain hazardous  
6 substances, as defined under RCW 70.105D.020 (as recodified by this  
7 act).

8 (b) However, the code city may transfer a vessel with:

9 (i) Those containers or materials described under (a) of this  
10 subsection where the transferee demonstrates to the code city's  
11 satisfaction that the container's or material's presence is  
12 consistent with the anticipated use of the vessel; and

13 (ii) A reasonable amount of fuel as determined by the code city,  
14 based on factors including the vessel's size, condition, and  
15 anticipated use of the vessel, including initial destination  
16 following transfer.

17 (c) The code city may consult with the department of ecology in  
18 carrying out the requirements of this subsection.

19 (3) Prior to sale, and unless the vessel has a title or valid  
20 marine document, the code city is required to apply for a certificate  
21 of title for the vessel under RCW 88.02.510 and register the vessel  
22 under RCW 88.02.550.

23 **Sec. 1019.** RCW 36.32.120 and 2003 c 337 s 6 are each amended to  
24 read as follows:

25 The legislative authorities of the several counties shall:

26 (1) Provide for the erection and repairing of courthouses, jails,  
27 and other necessary public buildings for the use of the county;

28 (2) Lay out, discontinue, or alter county roads and highways  
29 within their respective counties, and do all other necessary acts  
30 relating thereto according to law, except within cities and towns  
31 which have jurisdiction over the roads within their limits;

32 (3) License and fix the rates of ferriage; grant grocery and  
33 other licenses authorized by law to be by them granted at fees set by  
34 the legislative authorities which shall not exceed the costs of  
35 administration and operation of such licensed activities;

36 (4) Fix the amount of county taxes to be assessed according to  
37 the provisions of law, and cause the same to be collected as  
38 prescribed by law;

1 (5) Allow all accounts legally chargeable against the county not  
2 otherwise provided for, and audit the accounts of all officers having  
3 the care, management, collection, or disbursement of any money  
4 belonging to the county or appropriated to its benefit;

5 (6) Have the care of the county property and the management of  
6 the county funds and business and in the name of the county prosecute  
7 and defend all actions for and against the county, and such other  
8 powers as are or may be conferred by law;

9 (7) Make and enforce, by appropriate resolutions or ordinances,  
10 all such police and sanitary regulations as are not in conflict with  
11 state law, and within the unincorporated area of the county may adopt  
12 by reference Washington state statutes and recognized codes and/or  
13 compilations printed in book form relating to the construction of  
14 buildings, the installation of plumbing, the installation of electric  
15 wiring, health, or other subjects, and may adopt such codes and/or  
16 compilations or portions thereof, together with amendments thereto,  
17 or additions thereto: PROVIDED, That except for Washington state  
18 statutes, there shall be filed in the county auditor's office one  
19 copy of such codes and compilations ten days prior to their adoption  
20 by reference, and additional copies may also be filed in library or  
21 city offices within the county as deemed necessary by the county  
22 legislative authority: PROVIDED FURTHER, That no such regulation,  
23 code, compilation, and/or statute shall be effective unless before  
24 its adoption, a public hearing has been held thereon by the county  
25 legislative authority of which at least ten days' notice has been  
26 given. Any violation of such regulations, ordinances, codes,  
27 compilations, and/or statutes or resolutions shall constitute a  
28 misdemeanor or a civil violation subject to a monetary penalty:  
29 PROVIDED FURTHER, That violation of a regulation, ordinance, code,  
30 compilation, and/or statute relating to traffic including parking,  
31 standing, stopping, and pedestrian offenses is a traffic infraction,  
32 except that violation of a regulation, ordinance, code, compilation,  
33 and/or statute equivalent to those provisions of Title 46 RCW set  
34 forth in RCW 46.63.020 remains a misdemeanor. However, the punishment  
35 for any criminal ordinance shall be the same as the punishment  
36 provided in state law for the same crime and no act that is a state  
37 crime may be made a civil violation. The notice must set out a copy  
38 of the proposed regulations or summarize the content of each proposed  
39 regulation; or if a code is adopted by reference the notice shall set  
40 forth the full official title and a statement describing the general

1 purpose of such code. For purposes of this subsection, a summary  
2 shall mean a brief description which succinctly describes the main  
3 points of the proposed regulation. When the county publishes a  
4 summary, the publication shall include a statement that the full text  
5 of the proposed regulation will be mailed upon request. An  
6 inadvertent mistake or omission in publishing the text or a summary  
7 of the content of a proposed regulation shall not render the  
8 regulation invalid if it is adopted. The notice shall also include  
9 the day, hour, and place of hearing and must be given by publication  
10 in the newspaper in which legal notices of the county are printed;

11 (8) Have power to compound and release in whole or in part any  
12 debt due to the county when in their opinion the interest of their  
13 county will not be prejudiced thereby, except in cases where they or  
14 any of them are personally interested;

15 (9) Have power to administer oaths or affirmations necessary in  
16 the discharge of their duties and commit for contempt any witness  
17 refusing to testify before them with the same power as district  
18 judges;

19 (10) Have power to declare by ordinance what shall be deemed a  
20 nuisance within the county, including but not limited to "litter" and  
21 "potentially dangerous litter" as defined in RCW 70.93.030 (as  
22 recodified by this act); to prevent, remove, and abate a nuisance at  
23 the expense of the parties creating, causing, or committing the  
24 nuisance; and to levy a special assessment on the land or premises on  
25 which the nuisance is situated to defray the cost, or to reimburse  
26 the county for the cost of abating it. This assessment shall  
27 constitute a lien against the property which shall be of equal rank  
28 with state, county, and municipal taxes.

29 **Sec. 1020.** RCW 36.32.304 and 2013 c 291 s 20 are each amended to  
30 read as follows:

31 (1) Following the inspection required under RCW 36.32.302 and  
32 prior to transferring ownership of a county-owned vessel, a county  
33 shall obtain the following from the transferee:

34 (a) The purposes for which the transferee intends to use the  
35 vessel; and

36 (b) Information demonstrating the prospective owner's intent to  
37 obtain legal moorage following the transfer, in the manner determined  
38 by the county.

1 (2) (a) The county shall remove any containers or other materials  
2 that are not fixed to the vessel and contain hazardous substances, as  
3 defined under RCW 70.105D.020 (as recodified by this act).

4 (b) However, the county may transfer a vessel with:

5 (i) Those containers or materials described under (a) of this  
6 subsection where the transferee demonstrates to the county's  
7 satisfaction that the container's or material's presence is  
8 consistent with the anticipated use of the vessel; and

9 (ii) A reasonable amount of fuel as determined by the county,  
10 based on factors including the vessel's size, condition, and  
11 anticipated use of the vessel including initial destination following  
12 transfer.

13 (c) The county may consult with the department of ecology in  
14 carrying out the requirements of this subsection.

15 (3) Prior to sale, and unless the vessel has a title or valid  
16 marine document, the county is required to apply for a certificate of  
17 title for the vessel under RCW 88.02.510 and register the vessel  
18 under RCW 88.02.550.

19 **Sec. 1021.** RCW 36.34.192 and 1986 c 244 s 12 are each amended to  
20 read as follows:

21 RCW 36.34.150 through 36.34.190 shall not apply to agreements  
22 entered into pursuant to chapter 70.150 RCW (as recodified by this  
23 act) provided there is compliance with the procurement procedure  
24 under RCW 70.150.040 (as recodified by this act).

25 **Sec. 1022.** RCW 36.58.040 and 1992 c 131 s 3 are each amended to  
26 read as follows:

27 (1) The legislative authority of a county may by ordinance  
28 provide for the establishment of a system or systems of solid waste  
29 handling for all unincorporated areas of the county or for portions  
30 thereof. A county may designate a disposal site or sites for all  
31 solid waste collected in the unincorporated areas pursuant to the  
32 provisions of a comprehensive solid waste plan adopted pursuant to  
33 chapter 70.95 RCW (as recodified by this act). However for any solid  
34 waste collected by a private hauler operating under a certificate  
35 granted by the Washington utilities and transportation commission  
36 under the provisions of chapter 81.77 RCW and which certificate is  
37 for collection in a geographic area lying in more than one county,

1 such designation of disposal sites shall be pursuant to an interlocal  
2 agreement between the involved counties.

3 (2) A county may construct, lease, purchase, acquire, add to,  
4 alter, or extend solid waste handling systems, plants, sites, or  
5 other facilities and shall have full jurisdiction and authority to  
6 manage, regulate, maintain, utilize, operate, control, and establish  
7 the rates and charges for those solid waste handling systems, plants,  
8 sites, or other facilities. A county may enter into agreements with  
9 public or private parties to: ~~((1))~~ (a) Construct, purchase,  
10 acquire, lease, add to, alter, extend, maintain, manage, utilize, or  
11 operate publicly or privately owned or operated solid waste handling  
12 systems, plants, sites, or other facilities; ~~((2))~~ (b) establish  
13 rates and charges for those systems, plants, sites, or other  
14 facilities; ~~((3))~~ (c) designate particular publicly or privately  
15 owned or operated systems, plants, sites, or other facilities as  
16 disposal sites; ~~((4))~~ (d) process, treat, or convert solid waste  
17 into other valuable or useful materials or products; and ~~((5))~~ (e)  
18 sell the material or products of those systems, plants, or other  
19 facilities.

20 (3) The legislative authority of a county may award contracts for  
21 solid waste handling that provide that a county provide for a minimum  
22 periodic fee or other method of compensation in consideration of the  
23 operational availability of those solid waste handling systems,  
24 plants, sites, or other facilities at a specified minimum level,  
25 without regard to the ownership of the systems, plants, sites or  
26 other facilities, or the amount of solid waste actually handled  
27 during all or any part of the contract. When a minimum level of solid  
28 waste is specified in a contract entered into under this section,  
29 there shall be a specific allocation of financial responsibility in  
30 the event the amount of solid waste handled falls below the minimum  
31 level provided in the contract. Solid waste handling systems, plants,  
32 sites, or other facilities constructed, purchased, acquired, leased,  
33 added to, altered, extended, maintained, managed, utilized, or  
34 operated pursuant to this section, whether publicly or privately  
35 owned, shall be in substantial compliance with the solid waste  
36 management plan applicable to the county adopted pursuant to chapter  
37 70.95 RCW (as recodified by this act). Agreements relating to such  
38 solid waste handling systems, ~~((plans—[plants]))~~ plants, sites, or  
39 other facilities may be for such term and may contain such covenants,

1 conditions, and remedies as the legislative authority of the county  
2 may deem necessary or appropriate.

3 (4) As used in this chapter, the terms "solid waste" and "solid  
4 waste handling" shall be as defined in RCW 70.95.030 (as recodified  
5 by this act).

6 (5) The legislative authority of a county may:

7 ~~((1))~~ (a) By ordinance award a contract to collect source  
8 separated recyclable materials from residences within unincorporated  
9 areas. The legislative authority has complete authority to manage,  
10 regulate, and fix the price of the source separated recyclable  
11 collection service. The contracts may provide that the county pay  
12 minimum periodic fees to a municipal entity or permit holder; or

13 ~~((2))~~ (b) Notify the commission in writing to carry out and  
14 implement the provisions of the waste reduction and recycling element  
15 of the comprehensive solid waste management plan.

16 (6) This election may be made by counties at any time after July  
17 23, 1989. An initial election must be made no later than ninety days  
18 following approval of the local comprehensive waste management plan  
19 required by RCW 70.95.090 (as recodified by this act).

20 (7) Nothing in this section shall be construed to authorize the  
21 operation of a solid waste collection system by counties or to  
22 authorize counties to affect the authority of the utilities and  
23 transportation commission under RCW 81.77.020.

24 **Sec. 1023.** RCW 36.58.045 and 1989 c 431 s 15 are each amended to  
25 read as follows:

26 (1) The legislative authority of any county may impose a fee upon  
27 the solid waste collection services of a solid waste collection  
28 company operating within the unincorporated areas of the county, to  
29 fund the administration and planning expenses that may be incurred by  
30 the county in complying with the requirements in RCW 70.95.090 (as  
31 recodified by this act). The fee may be in addition to any other  
32 solid waste services fees and charges a county may legally impose.

33 (2) Each county imposing the fee authorized by this section shall  
34 notify the Washington utilities and transportation commission and the  
35 affected solid waste collection companies of the amount of the fee  
36 ninety days prior to its implementation.

37 **Sec. 1024.** RCW 36.58.050 and 1975-'76 2nd ex.s. c 58 s 3 are  
38 each amended to read as follows:

1           When a comprehensive solid waste plan, as provided in RCW  
2 70.95.080 (as recodified by this act), incorporates the use of  
3 transfer stations, such stations shall be considered part of the  
4 disposal site and as such, along with the transportation of solid  
5 wastes between disposal sites, shall be exempt from regulation by the  
6 Washington utilities and transportation commission as provided in  
7 chapter 81.77 RCW.

8           Each county may enter into contracts for the hauling of trailers  
9 of solid wastes from these transfer stations to disposal sites and  
10 return either by (1) the normal bidding process, or (2) negotiation  
11 with the qualified collection company servicing the area under  
12 authority of chapter 81.77 RCW.

13           **Sec. 1025.** RCW 36.58A.010 and 1971 ex.s. c 293 s 2 are each  
14 amended to read as follows:

15           Any county legislative authority may establish solid waste  
16 collection districts within the county boundaries for the mandatory  
17 collection of solid waste: PROVIDED, That no such district shall  
18 include any area within the corporate limits of any city or town  
19 without the consent of the legislative authority of the city or town.  
20 Such districts may be established only after approval of a  
21 coordinated, comprehensive solid waste management plan adopted  
22 pursuant to chapter 134, Laws of 1969 ex. sess. and chapter 70.95 RCW  
23 (as recodified by this act) or pursuant to another solid waste  
24 management plan adopted prior to May 21, 1971 or within one year  
25 thereafter. The legislative authority of the county may modify or  
26 dissolve such district after a hearing as provided for in RCW  
27 36.58A.020.

28           **Sec. 1026.** RCW 36.70A.130 and 2012 c 191 s 1 are each amended to  
29 read as follows:

30           (1)(a) Each comprehensive land use plan and development  
31 regulations shall be subject to continuing review and evaluation by  
32 the county or city that adopted them. Except as otherwise provided, a  
33 county or city shall take legislative action to review and, if  
34 needed, revise its comprehensive land use plan and development  
35 regulations to ensure the plan and regulations comply with the  
36 requirements of this chapter according to the deadlines in  
37 subsections (4) and (5) of this section.

1 (b) Except as otherwise provided, a county or city not planning  
2 under RCW 36.70A.040 shall take action to review and, if needed,  
3 revise its policies and development regulations regarding critical  
4 areas and natural resource lands adopted according to this chapter to  
5 ensure these policies and regulations comply with the requirements of  
6 this chapter according to the deadlines in subsections (4) and (5) of  
7 this section. Legislative action means the adoption of a resolution  
8 or ordinance following notice and a public hearing indicating at a  
9 minimum, a finding that a review and evaluation has occurred and  
10 identifying the revisions made, or that a revision was not needed and  
11 the reasons therefor.

12 (c) The review and evaluation required by this subsection shall  
13 include, but is not limited to, consideration of critical area  
14 ordinances and, if planning under RCW 36.70A.040, an analysis of the  
15 population allocated to a city or county from the most recent ten-  
16 year population forecast by the office of financial management.

17 (d) Any amendment of or revision to a comprehensive land use plan  
18 shall conform to this chapter. Any amendment of or revision to  
19 development regulations shall be consistent with and implement the  
20 comprehensive plan.

21 (2)(a) Each county and city shall establish and broadly  
22 disseminate to the public a public participation program consistent  
23 with RCW 36.70A.035 and 36.70A.140 that identifies procedures and  
24 schedules whereby updates, proposed amendments, or revisions of the  
25 comprehensive plan are considered by the governing body of the county  
26 or city no more frequently than once every year, except that, until  
27 December 31, 2015, the program shall provide for consideration of  
28 amendments of an urban growth area in accordance with RCW 36.70A.1301  
29 once every year. "Updates" means to review and revise, if needed,  
30 according to subsection (1) of this section, and the deadlines in  
31 subsections (4) and (5) of this section or in accordance with the  
32 provisions of subsection (6) of this section. Amendments may be  
33 considered more frequently than once per year under the following  
34 circumstances:

35 (i) The initial adoption of a subarea plan. Subarea plans adopted  
36 under this subsection (2)(a)(i) must clarify, supplement, or  
37 implement jurisdiction-wide comprehensive plan policies, and may only  
38 be adopted if the cumulative impacts of the proposed plan are  
39 addressed by appropriate environmental review under chapter 43.21C  
40 RCW;



1 (ii) The development of an initial subarea plan for economic  
2 development located outside of the one hundred year floodplain in a  
3 county that has completed a state-funded pilot project that is based  
4 on watershed characterization and local habitat assessment;

5 (iii) The adoption or amendment of a shoreline master program  
6 under the procedures set forth in chapter 90.58 RCW;

7 (iv) The amendment of the capital facilities element of a  
8 comprehensive plan that occurs concurrently with the adoption or  
9 amendment of a county or city budget; or

10 (v) The adoption of comprehensive plan amendments necessary to  
11 enact a planned action under RCW (~~(43.21C.031(2))~~) 43.21C.440,  
12 provided that amendments are considered in accordance with the public  
13 participation program established by the county or city under this  
14 subsection (2)(a) and all persons who have requested notice of a  
15 comprehensive plan update are given notice of the amendments and an  
16 opportunity to comment.

17 (b) Except as otherwise provided in (a) of this subsection, all  
18 proposals shall be considered by the governing body concurrently so  
19 the cumulative effect of the various proposals can be ascertained.  
20 However, after appropriate public participation a county or city may  
21 adopt amendments or revisions to its comprehensive plan that conform  
22 with this chapter whenever an emergency exists or to resolve an  
23 appeal of a comprehensive plan filed with the growth management  
24 hearings board or with the court.

25 (3)(a) Each county that designates urban growth areas under RCW  
26 36.70A.110 shall review, according to the schedules established in  
27 subsection (5) of this section, its designated urban growth area or  
28 areas, and the densities permitted within both the incorporated and  
29 unincorporated portions of each urban growth area. In conjunction  
30 with this review by the county, each city located within an urban  
31 growth area shall review the densities permitted within its  
32 boundaries, and the extent to which the urban growth occurring within  
33 the county has located within each city and the unincorporated  
34 portions of the urban growth areas.

35 (b) The county comprehensive plan designating urban growth areas,  
36 and the densities permitted in the urban growth areas by the  
37 comprehensive plans of the county and each city located within the  
38 urban growth areas, shall be revised to accommodate the urban growth  
39 projected to occur in the county for the succeeding twenty-year

1 period. The review required by this subsection may be combined with  
2 the review and evaluation required by RCW 36.70A.215.

3 (4) Except as provided in subsection (6) of this section,  
4 counties and cities shall take action to review and, if needed,  
5 revise their comprehensive plans and development regulations to  
6 ensure the plan and regulations comply with the requirements of this  
7 chapter as follows:

8 (a) On or before December 1, 2004, for Clallam, Clark, Jefferson,  
9 King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and  
10 the cities within those counties;

11 (b) On or before December 1, 2005, for Cowlitz, Island, Lewis,  
12 Mason, San Juan, Skagit, and Skamania counties and the cities within  
13 those counties;

14 (c) On or before December 1, 2006, for Benton, Chelan, Douglas,  
15 Grant, Kittitas, Spokane, and Yakima counties and the cities within  
16 those counties; and

17 (d) On or before December 1, 2007, for Adams, Asotin, Columbia,  
18 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln,  
19 Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and  
20 Whitman counties and the cities within those counties.

21 (5) Except as otherwise provided in subsections (6) and (8) of  
22 this section, following the review of comprehensive plans and  
23 development regulations required by subsection (4) of this section,  
24 counties and cities shall take action to review and, if needed,  
25 revise their comprehensive plans and development regulations to  
26 ensure the plan and regulations comply with the requirements of this  
27 chapter as follows:

28 (a) On or before June 30, 2015, and every eight years thereafter,  
29 for King, Pierce, and Snohomish counties and the cities within those  
30 counties;

31 (b) On or before June 30, 2016, and every eight years thereafter,  
32 for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan,  
33 Skagit, Thurston, and Whatcom counties and the cities within those  
34 counties;

35 (c) On or before June 30, 2017, and every eight years thereafter,  
36 for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania,  
37 Spokane, and Yakima counties and the cities within those counties;  
38 and

39 (d) On or before June 30, 2018, and every eight years thereafter,  
40 for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays

1 Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens,  
2 Wahkiakum, Walla Walla, and Whitman counties and the cities within  
3 those counties.

4 (6) (a) Nothing in this section precludes a county or city from  
5 conducting the review and evaluation required by this section before  
6 the deadlines established in subsections (4) and (5) of this section.  
7 Counties and cities may begin this process early and may be eligible  
8 for grants from the department, subject to available funding, if they  
9 elect to do so.

10 (b) A county that is subject to a deadline established in  
11 subsection (4) (b) through (d) of this section and meets the following  
12 criteria may comply with the requirements of this section at any time  
13 within the thirty-six months following the deadline established in  
14 subsection (4) of this section: The county has a population of less  
15 than fifty thousand and has had its population increase by no more  
16 than seventeen percent in the ten years preceding the deadline  
17 established in subsection (4) of this section as of that date.

18 (c) A city that is subject to a deadline established in  
19 subsection (4) (b) through (d) of this section and meets the following  
20 criteria may comply with the requirements of this section at any time  
21 within the thirty-six months following the deadline established in  
22 subsection (4) of this section: The city has a population of no more  
23 than five thousand and has had its population increase by the greater  
24 of either no more than one hundred persons or no more than seventeen  
25 percent in the ten years preceding the deadline established in  
26 subsection (4) of this section as of that date.

27 (d) A county or city that is subject to a deadline established in  
28 subsection (4) (d) of this section and that meets the criteria  
29 established in (b) or (c) of this subsection may comply with the  
30 requirements of subsection (4) (d) of this section at any time within  
31 the thirty-six months after the extension provided in (b) or (c) of  
32 this subsection.

33 (e) A county that is subject to a deadline established in  
34 subsection (5) (b) through (d) of this section and meets the following  
35 criteria may comply with the requirements of this section at any time  
36 within the twenty-four months following the deadline established in  
37 subsection (5) of this section: The county has a population of less  
38 than fifty thousand and has had its population increase by no more  
39 than seventeen percent in the ten years preceding the deadline  
40 established in subsection (5) of this section as of that date.

1 (f) A city that is subject to a deadline established in  
2 subsection (5)(b) through (d) of this section and meets the following  
3 criteria may comply with the requirements of this section at any time  
4 within the twenty-four months following the deadline established in  
5 subsection (5) of this section: The city has a population of no more  
6 than five thousand and has had its population increase by the greater  
7 of either no more than one hundred persons or no more than seventeen  
8 percent in the ten years preceding the deadline established in  
9 subsection (5) of this section as of that date.

10 (g) State agencies are encouraged to provide technical assistance  
11 to the counties and cities in the review of critical area ordinances,  
12 comprehensive plans, and development regulations.

13 (7)(a) The requirements imposed on counties and cities under this  
14 section shall be considered "requirements of this chapter" under the  
15 terms of RCW 36.70A.040(1). Only those counties and cities that meet  
16 the following criteria may receive grants, loans, pledges, or  
17 financial guarantees under chapter 43.155 or 70.146 RCW (as  
18 recodified by this act):

19 (i) Complying with the deadlines in this section;

20 (ii) Demonstrating substantial progress towards compliance with  
21 the schedules in this section for development regulations that  
22 protect critical areas; or

23 (iii) Complying with the extension provisions of subsection  
24 (6)(b), (c), or (d) of this section.

25 (b) A county or city that is fewer than twelve months out of  
26 compliance with the schedules in this section for development  
27 regulations that protect critical areas is making substantial  
28 progress towards compliance. Only those counties and cities in  
29 compliance with the schedules in this section may receive preference  
30 for grants or loans subject to the provisions of RCW 43.17.250.

31 (8)(a) Except as otherwise provided in (c) of this subsection, if  
32 a participating watershed is achieving benchmarks and goals for the  
33 protection of critical areas functions and values, the county is not  
34 required to update development regulations to protect critical areas  
35 as they specifically apply to agricultural activities in that  
36 watershed.

37 (b) A county that has made the election under RCW 36.70A.710(1)  
38 may only adopt or amend development regulations to protect critical  
39 areas as they specifically apply to agricultural activities in a  
40 participating watershed if:

1 (i) A work plan has been approved for that watershed in  
2 accordance with RCW 36.70A.725;

3 (ii) The local watershed group for that watershed has requested  
4 the county to adopt or amend development regulations as part of a  
5 work plan developed under RCW 36.70A.720;

6 (iii) The adoption or amendment of the development regulations is  
7 necessary to enable the county to respond to an order of the growth  
8 management hearings board or court;

9 (iv) The adoption or amendment of development regulations is  
10 necessary to address a threat to human health or safety; or

11 (v) Three or more years have elapsed since the receipt of  
12 funding.

13 (c) Beginning ten years from the date of receipt of funding, a  
14 county that has made the election under RCW 36.70A.710(1) must review  
15 and, if necessary, revise development regulations to protect critical  
16 areas as they specifically apply to agricultural activities in a  
17 participating watershed in accordance with the review and revision  
18 requirements and timeline in subsection (5) of this section. This  
19 subsection (8)(c) does not apply to a participating watershed that  
20 has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's  
21 goals and benchmarks for protection have been met.

22 **Sec. 1027.** RCW 36.70A.200 and 2013 c 275 s 5 are each amended to  
23 read as follows:

24 (1) The comprehensive plan of each county and city that is  
25 planning under RCW 36.70A.040 shall include a process for identifying  
26 and siting essential public facilities. Essential public facilities  
27 include those facilities that are typically difficult to site, such  
28 as airports, state education facilities and state or regional  
29 transportation facilities as defined in RCW 47.06.140, regional  
30 transit authority facilities as defined in RCW 81.112.020, state and  
31 local correctional facilities, solid waste handling facilities, and  
32 inpatient facilities including substance abuse facilities, mental  
33 health facilities, group homes, and secure community transition  
34 facilities as defined in RCW 71.09.020.

35 (2) Each county and city planning under RCW 36.70A.040 shall, not  
36 later than September 1, 2002, establish a process, or amend its  
37 existing process, for identifying and siting essential public  
38 facilities and adopt or amend its development regulations as  
39 necessary to provide for the siting of secure community transition

1 facilities consistent with statutory requirements applicable to these  
2 facilities.

3 (3) Any city or county not planning under RCW 36.70A.040 shall,  
4 not later than September 1, 2002, establish a process for siting  
5 secure community transition facilities and adopt or amend its  
6 development regulations as necessary to provide for the siting of  
7 such facilities consistent with statutory requirements applicable to  
8 these facilities.

9 (4) The office of financial management shall maintain a list of  
10 those essential state public facilities that are required or likely  
11 to be built within the next six years. The office of financial  
12 management may at any time add facilities to the list.

13 (5) No local comprehensive plan or development regulation may  
14 preclude the siting of essential public facilities.

15 (6) No person may bring a cause of action for civil damages based  
16 on the good faith actions of any county or city to provide for the  
17 siting of secure community transition facilities in accordance with  
18 this section and with the requirements of chapter 12, Laws of 2001  
19 2nd sp. sess. For purposes of this subsection, "person" includes, but  
20 is not limited to, any individual, agency as defined in RCW  
21 42.17A.005, corporation, partnership, association, and limited  
22 liability entity.

23 (7) Counties or cities siting facilities pursuant to subsection  
24 (2) or (3) of this section shall comply with RCW 71.09.341.

25 (8) The failure of a county or city to act by the deadlines  
26 established in subsections (2) and (3) of this section is not:

27 (a) A condition that would disqualify the county or city for  
28 grants, loans, or pledges under RCW 43.155.070 or 70.146.070 (as  
29 recodified by this act);

30 (b) A consideration for grants or loans provided under RCW  
31 43.17.250(3); or

32 (c) A basis for any petition under RCW 36.70A.280 or for any  
33 private cause of action.

34 **Sec. 1028.** RCW 36.93.090 and 1996 c 230 s 1608 are each amended  
35 to read as follows:

36 Whenever any of the following described actions are proposed in a  
37 county in which a board has been established, the initiators of the  
38 action shall file within one hundred eighty days a notice of  
39 intention with the board: PROVIDED, That when the initiator is the

1 legislative body of a governmental unit, the notice of intention may  
2 be filed immediately following the body's first acceptance or  
3 approval of the action. The board may review any such proposed  
4 actions pertaining to:

5 (1) The: (a) Creation, incorporation, or change in the boundary,  
6 other than a consolidation, of any city, town, or special purpose  
7 district; (b) consolidation of special purpose districts, but not  
8 including consolidation of cities and towns; or (c) dissolution or  
9 disincorporation of any city, town, or special purpose district,  
10 except that a board may not review the dissolution or  
11 disincorporation of a special purpose district which was dissolved or  
12 disincorporated pursuant to the provisions of chapter 36.96 RCW:  
13 PROVIDED, That the change in the boundary of a city or town arising  
14 from the annexation of contiguous city or town owned property held  
15 for a public purpose shall be exempted from the requirements of this  
16 section; or

17 (2) The assumption by any city or town of all or part of the  
18 assets, facilities, or indebtedness of a special purpose district  
19 which lies partially within such city or town; or

20 (3) The establishment of or change in the boundaries of a mutual  
21 water and sewer system or separate sewer system by a water-sewer  
22 district pursuant to RCW 57.08.065 (~~or chapter 57.40 RCW~~); or

23 (4) The extension of permanent water or sewer service outside of  
24 its existing service area by a city, town, or special purpose  
25 district. The service area of a city, town, or special purpose  
26 district shall include all of the area within its corporate  
27 boundaries plus, (a) for extensions of water service, the area  
28 outside of the corporate boundaries which it is designated to serve  
29 pursuant to a coordinated water system plan approved in accordance  
30 with RCW 70.116.050 (as recodified by this act); and (b) for  
31 extensions of sewer service, the area outside of the corporate  
32 boundaries which it is designated to serve pursuant to a  
33 comprehensive sewerage plan approved in accordance with chapter 36.94  
34 RCW and RCW 90.48.110.

35 **Sec. 1029.** RCW 36.94.010 and 2007 c 343 s 14 are each amended to  
36 read as follows:

37 As used in this chapter:

38 (1) A "system of sewerage" means and may include any or all of  
39 the following:

1 (a) Sanitary sewage collection, treatment, and/or disposal  
2 facilities and services, including without limitation on-site or off-  
3 site sanitary sewerage facilities, large on-site sewage systems  
4 defined under RCW 70.118B.010 (as recodified by this act), inspection  
5 services and maintenance services for private or public on-site  
6 systems, or any other means of sewage treatment and disposal approved  
7 by the county;

8 (b) Combined sanitary sewage disposal and storm or surface water  
9 drains and facilities;

10 (c) Storm or surface water drains, channels, and facilities;

11 (d) Outfalls for storm drainage or sanitary sewage and works,  
12 plants, and facilities for storm drainage or sanitary sewage  
13 treatment and disposal, and rights and interests in property relating  
14 to the system;

15 (e) Combined water and sewerage systems;

16 (f) Point and nonpoint water pollution monitoring programs that  
17 are directly related to the sewerage facilities and programs operated  
18 by a county;

19 (g) Public restroom and sanitary facilities;

20 (h) The facilities and services authorized in RCW 36.94.020; and

21 (i) Any combination of or part of any or all of such facilities.

22 (2) A "system of water" means and includes:

23 (a) A water distribution system, including dams, reservoirs,  
24 aqueducts, plants, pumping stations, transmission and lateral  
25 distribution lines and other facilities for distribution of water;

26 (b) A combined water and sewerage system;

27 (c) Any combination of or any part of any or all of such  
28 facilities.

29 (3) A "sewerage and/or water general plan" means a general plan  
30 for a system of sewerage and/or water for the county which shall be  
31 an element of the comprehensive plan established by the county  
32 pursuant to RCW 36.70.350(6) and/or chapter 35.63 RCW, if there is  
33 such a comprehensive plan.

34 (a) A sewerage general plan shall include the general location  
35 and description of treatment and disposal facilities, trunk and  
36 interceptor sewers, pumping stations, monitoring and control  
37 facilities, channels, local service areas and a general description  
38 of the collection system to serve those areas, a description of on-  
39 site sanitary sewerage system inspection services and maintenance  
40 services, and other facilities and services as may be required to



1 provide a functional and implementable plan, including preliminary  
2 engineering to assure feasibility. The plan may also include a  
3 description of the regulations deemed appropriate to carrying out  
4 surface drainage plans.

5 (b) A water general plan shall include the general location and  
6 description of water resources to be utilized, wells, treatment  
7 facilities, transmission lines, storage reservoirs, pumping stations,  
8 and monitoring and control facilities as may be required to provide a  
9 functional and implementable plan.

10 (c) Water and/or sewerage general plans shall include preliminary  
11 engineering in adequate detail to assure technical feasibility and,  
12 to the extent then known, shall further discuss the methods of  
13 distributing the cost and expense of the system and shall indicate  
14 the economic feasibility of plan implementation. The plans may also  
15 specify local or lateral facilities and services. The sewerage and/or  
16 water general plan does not mean the final engineering construction  
17 or financing plans for the system.

18 (4) "Municipal corporation" means and includes any city, town,  
19 metropolitan municipal corporation, any public utility district which  
20 operates and maintains a sewer or water system, any sewer, water,  
21 diking, or drainage district, any diking, drainage, and sewerage  
22 improvement district, and any irrigation district.

23 (5) A "private utility" means and includes all utilities, both  
24 public and private, which provide sewerage and/or water service and  
25 which are not municipal corporations within the definition of this  
26 chapter. The ownership of a private utility may be in a corporation,  
27 nonprofit or for profit, in a cooperative association, in a mutual  
28 organization, or in individuals.

29 (6) "Board" means one or more boards of county commissioners  
30 and/or the legislative authority of a home rule charter county.

31 **Sec. 1030.** RCW 43.21A.020 and 1970 ex.s. c 62 s 2 are each  
32 amended to read as follows:

33 In recognition of the responsibility of state government to carry  
34 out the policies set forth in RCW 43.21A.010, it is the purpose of  
35 this chapter to establish a single state agency with the authority to  
36 manage and develop our air and water resources in an orderly,  
37 efficient, and effective manner and to carry out a coordinated  
38 program of pollution control involving these and related land  
39 resources. To this end a department of ecology is created by this

1 chapter to undertake, in an integrated manner, the various water  
2 regulation, management, planning and development programs now  
3 authorized to be performed by the department of water resources and  
4 the water pollution control commission, the air regulation and  
5 management program now performed by the state air pollution control  
6 board, the solid waste regulation and management program authorized  
7 to be performed by state government as provided by chapter 70.95 RCW  
8 (as recodified by this act), and such other environmental, management  
9 protection and development programs as may be authorized by the  
10 legislature.

11 **Sec. 1031.** RCW 43.21A.175 and 1997 c 419 s 2 are each amended to  
12 read as follows:

13 (1) At the request of a project proponent, the department shall  
14 consider information developed through a certification program when  
15 making permit or other regulatory decisions. The department may not  
16 require duplicative demonstration of such information, but may  
17 require additional information as necessary to assure that state  
18 requirements are met. A local government that has a regulatory  
19 authority delegated by the department may use information developed  
20 through a certification program when making permit or other  
21 regulatory decisions.

22 (2) The department shall develop a certification program for  
23 technologies for remediation of radioactive and mixed waste, as those  
24 terms are defined in chapter 70.105 RCW (as recodified by this act),  
25 if all program development and operational costs are paid by the  
26 federal government or persons seeking certification of the  
27 technologies.

28 (3) Following the development of the certification program in  
29 subsection (2) of this section, the department may use the policies  
30 and procedures of that program on a pilot basis to evaluate the use  
31 of certification for site remediation technologies and other  
32 environmental technologies, if the operational costs of the  
33 certification are paid by the federal government or persons seeking  
34 certification of such technologies.

35 (4) The department shall charge a reasonable fee to recover the  
36 operational costs of certifying a technology.

37 (5) Subsections (1), (3), and (4) of this section apply to permit  
38 and other regulatory decisions made under the following: Chapters  
39 70.94 (as recodified by this act), 70.95 (as recodified by this act),

1 70.105 (as recodified by this act), 70.105D (as recodified by this  
2 act), 70.120 (as recodified by this act), 70.138 (as recodified by  
3 this act), 90.48, 90.54, and 90.56 RCW.

4 (6) For the purposes of this section, "certification program"  
5 means a program, developed or approved by the department, to certify  
6 the quantitative performance of an environmental technology over a  
7 specified range of parameters and conditions. Certification of a  
8 technology does not imply endorsement of a specific technology by the  
9 department, or a guarantee of the performance of a technology.

10 (7) The department may adopt rules as necessary to implement the  
11 requirements of subsections (2) and (3) of this section, and  
12 establish requirements and procedures for evaluation and  
13 certification of environmental technologies.

14 (8) The state, the department, and officers and employees of the  
15 state shall not be liable for damages resulting from the utilization  
16 of information developed through a certification program, or from a  
17 decision to certify or deny certification to an environmental  
18 technology. Actions of the department under this section are not  
19 decisions reviewable under RCW 43.21B.110.

20 **Sec. 1032.** RCW 43.21A.702 and 2013 c 291 s 24 are each amended  
21 to read as follows:

22 (1) Following the inspection required under RCW 43.21A.700 and  
23 prior to transferring ownership of a department-owned vessel, the  
24 department shall obtain the following from the transferee:

25 (a) The purposes for which the transferee intends to use the  
26 vessel; and

27 (b) Information demonstrating the prospective owner's intent to  
28 obtain legal moorage following the transfer, in the manner determined  
29 by the department.

30 (2)(a) The department shall remove any containers or other  
31 materials that are not fixed to the vessel and contain hazardous  
32 substances, as defined under RCW 70.105D.020 (as recodified by this  
33 act).

34 (b) However, the department may transfer a vessel with:

35 (i) Those containers or materials described under (a) of this  
36 subsection where the transferee demonstrates to the department's  
37 satisfaction that the container's or material's presence is  
38 consistent with the anticipated use of the vessel; and

1 (ii) A reasonable amount of fuel as determined by the department,  
2 based on factors including the vessel's size, condition, and  
3 anticipated use of the vessel including initial destination following  
4 transfer.

5 (3) Prior to sale, and unless the vessel has a valid marine  
6 document, the department is required to apply for a title or  
7 certificate of title for the vessel under RCW 88.02.510 and register  
8 the vessel under RCW 88.02.550.

9 **Sec. 1033.** RCW 43.21A.711 and 2014 c 173 s 3 are each amended to  
10 read as follows:

11 (1) Cities and counties may submit a petition to the department  
12 for reimbursement of extraordinary costs associated with managing  
13 unforeseen consequences of used oil contaminated with polychlorinated  
14 biphenyl and compliance with United States environmental protection  
15 agency enforcement orders and enforcement-related agreements.

16 (2) The department, in consultation with city and county moderate  
17 risk waste coordinators, the United States environmental protection  
18 agency, and other stakeholders, must process and prioritize city and  
19 county petitions that meet the following conditions:

20 (a) The petitioning city or county has followed and met:

21 (i) The updated best management practices guidelines for the  
22 collection and management of used oil; and

23 (ii) The best management practices for preventing and managing  
24 polychlorinated biphenyl contamination, as required under RCW  
25 70.95I.030 (as recodified by this act); and

26 (b) The department has determined that:

27 (i) The costs to the petitioning city or county for disposal of  
28 the contaminated oil or for compliance with United States  
29 environmental protection agency enforcement orders or enforcement-  
30 related agreements are extraordinary; and

31 (ii) The city or county could not reasonably accommodate or  
32 anticipate the extraordinary costs in their normal budget processes  
33 by following and meeting the best management practices for oil  
34 contaminated with polychlorinated biphenyl.

35 (3) Before January 1st of each year, the department must develop  
36 and submit to the appropriate fiscal committees of the senate and  
37 house of representatives a prioritized list of submitted petitions  
38 that the department recommends for funding by the legislature. It is  
39 the intent of the legislature that if funded, the reimbursement of

1 extraordinary city or county costs associated with polychlorinated  
2 biphenyl management and compliance activities come from the model  
3 toxics control ((accounts)) operating account created in RCW  
4 70.105D.190 (as recodified by this act).

5 **Sec. 1034.** RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10,  
6 and 2019 c 290 s 12 are each reenacted and amended to read as  
7 follows:

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

16 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431  
17 (as recodified by this act), 70.105.080 (as recodified by this act),  
18 70.107.050 (as recodified by this act), 70.365.070 (as recodified by  
19 this act), 70.375.060 (as recodified by this act), 76.09.170,  
20 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
21 90.56.310, 90.56.330, and 90.64.102.

22 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
23 43.27A.190, 70.94.211 (as recodified by this act), 70.94.332 (as  
24 recodified by this act), 70.105.095 (as recodified by this act),  
25 70.365.070 (as recodified by this act), 86.16.020, 88.46.070,  
26 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

29 (d) Except as provided in RCW 90.03.210(2), the issuance,  
30 modification, or termination of any permit, certificate, or license  
31 by the department or any air authority in the exercise of its  
32 jurisdiction, including the issuance or termination of a waste  
33 disposal permit, the denial of an application for a waste disposal  
34 permit, the modification of the conditions or the terms of a waste  
35 disposal permit, or a decision to approve or deny an application for  
36 a solid waste permit exemption under RCW 70.95.300 (as recodified by  
37 this act).

1 (e) Decisions of local health departments regarding the grant or  
2 denial of solid waste permits pursuant to chapter 70.95 RCW (as  
3 recodified by this act).

4 (f) Decisions of local health departments regarding the issuance  
5 and enforcement of permits to use or dispose of biosolids under RCW  
6 70.95J.080 (as recodified by this act).

7 (g) Decisions of the department regarding waste-derived  
8 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
9 decisions of the department regarding waste-derived soil amendments  
10 under RCW 70.95.205 (as recodified by this act).

11 (h) Decisions of local conservation districts related to the  
12 denial of approval or denial of certification of a dairy nutrient  
13 management plan; conditions contained in a plan; application of any  
14 dairy nutrient management practices, standards, methods, and  
15 technologies to a particular dairy farm; and failure to adhere to the  
16 plan review and approval timelines in RCW 90.64.026.

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

20 (j) Decisions of the department of natural resources, the  
21 department of fish and wildlife, and the department that are  
22 reviewable under chapter 76.09 RCW, and the department of natural  
23 resources' appeals of county, city, or town objections under RCW  
24 76.09.050(7).

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

27 (l) Decisions of the department of fish and wildlife to issue,  
28 deny, condition, or modify a hydraulic project approval permit under  
29 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
30 comply, to issue a civil penalty, or to issue a notice of intent to  
31 disapprove applications.

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

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

38 (2) The following hearings shall not be conducted by the hearings  
39 board:

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

3 (b) Hearings conducted by the department pursuant to RCW  
4 70.94.332 (as recodified by this act), 70.94.390 (as recodified by  
5 this act), 70.94.395 (as recodified by this act), 70.94.400 (as  
6 recodified by this act), 70.94.405 (as recodified by this act),  
7 70.94.410 (as recodified by this act), and 90.44.180.

8 (c) Appeals of decisions by the department under RCW 90.03.110  
9 and 90.44.220.

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

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

15 **Sec. 1035.** RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10,  
16 and 2019 c 290 s 12 are each reenacted and amended to read as  
17 follows:

18 (1) The hearings board shall only have jurisdiction to hear and  
19 decide appeals from the following decisions of the department, the  
20 director, local conservation districts, the air pollution control  
21 boards or authorities as established pursuant to chapter 70.94 RCW  
22 (as recodified by this act), local health departments, the department  
23 of natural resources, the department of fish and wildlife, the parks  
24 and recreation commission, and authorized public entities described  
25 in chapter 79.100 RCW:

26 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431  
27 (as recodified by this act), 70.105.080 (as recodified by this act),  
28 70.107.050 (as recodified by this act), 70.365.070 (as recodified by  
29 this act), 70.375.060 (as recodified by this act), 76.09.170,  
30 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
31 90.56.310, 90.56.330, and 90.64.102.

32 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
33 43.27A.190, 70.94.211 (as recodified by this act), 70.94.332 (as  
34 recodified by this act), 70.105.095 (as recodified by this act),  
35 70.365.070 (as recodified by this act), 86.16.020, 88.46.070,  
36 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

37 (c) Except as provided in RCW 90.03.210(2), the issuance,  
38 modification, or termination of any permit, certificate, or license  
39 by the department or any air authority in the exercise of its

1 jurisdiction, including the issuance or termination of a waste  
2 disposal permit, the denial of an application for a waste disposal  
3 permit, the modification of the conditions or the terms of a waste  
4 disposal permit, or a decision to approve or deny an application for  
5 a solid waste permit exemption under RCW 70.95.300 (as recodified by  
6 this act).

7 (d) Decisions of local health departments regarding the grant or  
8 denial of solid waste permits pursuant to chapter 70.95 RCW (as  
9 recodified by this act).

10 (e) Decisions of local health departments regarding the issuance  
11 and enforcement of permits to use or dispose of biosolids under RCW  
12 70.95J.080 (as recodified by this act).

13 (f) Decisions of the department regarding waste-derived  
14 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
15 decisions of the department regarding waste-derived soil amendments  
16 under RCW 70.95.205 (as recodified by this act).

17 (g) Decisions of local conservation districts related to the  
18 denial of approval or denial of certification of a dairy nutrient  
19 management plan; conditions contained in a plan; application of any  
20 dairy nutrient management practices, standards, methods, and  
21 technologies to a particular dairy farm; and failure to adhere to the  
22 plan review and approval timelines in RCW 90.64.026.

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

26 (i) Decisions of the department of natural resources, the  
27 department of fish and wildlife, and the department that are  
28 reviewable under chapter 76.09 RCW, and the department of natural  
29 resources' appeals of county, city, or town objections under RCW  
30 76.09.050(7).

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

33 (k) Decisions of the department of fish and wildlife to issue,  
34 deny, condition, or modify a hydraulic project approval permit under  
35 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
36 comply, to issue a civil penalty, or to issue a notice of intent to  
37 disapprove applications.

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



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

5 (2) The following hearings shall not be conducted by the hearings  
6 board:

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

9 (b) Hearings conducted by the department pursuant to RCW  
10 70.94.332 (as recodified by this act), 70.94.390 (as recodified by  
11 this act), 70.94.395 (as recodified by this act), 70.94.400 (as  
12 recodified by this act), 70.94.405 (as recodified by this act),  
13 70.94.410 (as recodified by this act), and 90.44.180.

14 (c) Appeals of decisions by the department under RCW 90.03.110  
15 and 90.44.220.

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

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

21 **Sec. 1036.** RCW 43.21B.130 and 1990 c 65 s 3 are each amended to  
22 read as follows:

23 The administrative procedure act, chapter 34.05 RCW, shall apply  
24 to the appeal of rules and regulations adopted by the board to the  
25 same extent as it applied to the review of rules and regulations  
26 adopted by the directors and/or boards or commissions of the various  
27 departments whose powers, duties and functions were transferred by  
28 section 6, chapter 62, Laws of 1970 ex. sess. to the department. All  
29 other decisions and orders of the director and all decisions of air  
30 pollution control boards or authorities established pursuant to  
31 chapter 70.94 RCW (as recodified by this act) shall be subject to  
32 review by the hearings board as provided in this chapter.

33 **Sec. 1037.** RCW 43.21B.260 and 1974 ex.s. c 69 s 5 are each  
34 amended to read as follows:

35 Activated air pollution control authorities, established under  
36 chapter 70.94 RCW (as recodified by this act), may file certified  
37 copies of their regulations and amendments thereto with the pollution  
38 control hearings board of the state of Washington, and the hearings

1 board shall take judicial note of the copies so filed and the said  
2 regulations and amendments shall be received and admitted, by  
3 reference, in all hearings before the board, as prima facie evidence  
4 that such regulations and amendments on file are in full force and  
5 effect.

6 **Sec. 1038.** RCW 43.21B.300 and 2019 c 64 s 19 are each amended to  
7 read as follows:

8 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431 (as  
9 recodified by this act), 70.95.315 (as recodified by this act),  
10 70.105.080 (as recodified by this act), 70.107.050 (as recodified by  
11 this act), 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
12 90.56.330, and 90.64.102 and chapter 90.76 RCW (as recodified by this  
13 act) shall be imposed by a notice in writing, either by certified  
14 mail with return receipt requested or by personal service, to the  
15 person incurring the penalty from the department or the local air  
16 authority, describing the violation with reasonable particularity.  
17 For penalties issued by local air authorities, within thirty days  
18 after the notice is received, the person incurring the penalty may  
19 apply in writing to the authority for the remission or mitigation of  
20 the penalty. Upon receipt of the application, the authority may remit  
21 or mitigate the penalty upon whatever terms the authority in its  
22 discretion deems proper. The authority may ascertain the facts  
23 regarding all such applications in such reasonable manner and under  
24 such rules as it may deem proper and shall remit or mitigate the  
25 penalty only upon a demonstration of extraordinary circumstances such  
26 as the presence of information or factors not considered in setting  
27 the original penalty.

28 (2) Any penalty imposed under this section may be appealed to the  
29 pollution control hearings board in accordance with this chapter if  
30 the appeal is filed with the hearings board and served on the  
31 department or authority thirty days after the date of receipt by the  
32 person penalized of the notice imposing the penalty or thirty days  
33 after the date of receipt of the notice of disposition by a local air  
34 authority of the application for relief from penalty.

35 (3) A penalty shall become due and payable on the later of:  
36 (a) Thirty days after receipt of the notice imposing the penalty;  
37 (b) Thirty days after receipt of the notice of disposition by a  
38 local air authority on application for relief from penalty, if such  
39 an application is made; or

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

3 (4) If the amount of any penalty is not paid to the department  
4 within thirty days after it becomes due and payable, the attorney  
5 general, upon request of the department, shall bring an action in the  
6 name of the state of Washington in the superior court of Thurston  
7 county, or of any county in which the violator does business, to  
8 recover the penalty. If the amount of the penalty is not paid to the  
9 authority within thirty days after it becomes due and payable, the  
10 authority may bring an action to recover the penalty in the superior  
11 court of the county of the authority's main office or of any county  
12 in which the violator does business. In these actions, the procedures  
13 and rules of evidence shall be the same as in an ordinary civil  
14 action.

15 (5) All penalties recovered shall be paid into the state treasury  
16 and credited to the general fund except those penalties imposed  
17 pursuant to RCW 18.104.155, which shall be credited to the  
18 reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431  
19 (as recodified by this act), the disposition of which shall be  
20 governed by that provision, RCW 70.105.080 (as recodified by this  
21 act), which shall be credited to the ~~((hazardous waste control and~~  
22 ~~elimination account created by RCW 70.105.180))~~ model toxics control  
23 operating account created in RCW 70.105D.190 (as recodified by this  
24 act), RCW 90.56.330, which shall be credited to the coastal  
25 protection fund created by RCW 90.48.390, and RCW 90.76.080 (as  
26 recodified by this act), which shall be credited to the underground  
27 storage tank account created by RCW 90.76.100 (as recodified by this  
28 act).

29 **Sec. 1039.** RCW 43.21C.036 and 1994 c 257 s 21 are each amended  
30 to read as follows:

31 In conducting a remedial action at a facility pursuant to a  
32 consent decree, order, or agreed order issued pursuant to chapter  
33 70.105D RCW (as recodified by this act), or if conducted by the  
34 department of ecology, the department of ecology to the maximum  
35 extent practicable shall integrate the procedural requirements and  
36 documents of this chapter with the procedures and documents under  
37 chapter 70.105D RCW (as recodified by this act). Such integration  
38 shall at a minimum include the public participation procedures of

1 chapter 70.105D RCW (as recodified by this act) and the public notice  
2 and review requirements of this chapter.

3 **Sec. 1040.** RCW 43.21C.0381 and 1995 c 172 s 1 are each amended  
4 to read as follows:

5 Decisions pertaining to the issuance, renewal, reopening, or  
6 revision of an air operating permit under RCW 70.94.161 (as  
7 recodified by this act) are not subject to the requirements of RCW  
8 43.21C.030(2)(c).

9 **Sec. 1041.** RCW 43.21C.210 and 1981 c 278 s 4 are each amended to  
10 read as follows:

11 This chapter does not apply to actions authorized by RCW  
12 43.37.215 and 43.37.220 (as recodified by this act) which are  
13 undertaken during a state of emergency declared by the governor under  
14 RCW 43.06.210.

15 **Sec. 1042.** RCW 43.21F.090 and 2019 c 288 s 22 are each amended  
16 to read as follows:

17 (1) The department shall review the state energy strategy by  
18 December 31, 2020, and at least once every eight years thereafter,  
19 subject to funding provided for this purpose, for the purpose of  
20 aligning the state energy strategy with the requirements of RCW  
21 43.21F.088 and chapters 19.285 and 19.405 RCW, and the emission  
22 reduction targets recommended by the department of ecology under RCW  
23 70.235.040 (as recodified by this act). The department must establish  
24 an energy strategy advisory committee for each review to provide  
25 guidance to the department in conducting the review. The membership  
26 of the energy strategy advisory committee must consist of the  
27 following:

- 28 (a) One person recommended by investor-owned electric utilities;
- 29 (b) One person recommended by investor-owned natural gas  
30 utilities;
- 31 (c) One person employed by or recommended by a natural gas  
32 pipeline serving the state;
- 33 (d) One person recommended by suppliers of petroleum products;
- 34 (e) One person recommended by municipally owned electric  
35 utilities;
- 36 (f) One person recommended by public utility districts;
- 37 (g) One person recommended by rural electrical cooperatives;

1 (h) One person recommended by industrial energy users;  
2 (i) One person recommended by commercial energy users;  
3 (j) One person recommended by agricultural energy users;  
4 (k) One person recommended by the association of Washington  
5 cities;  
6 (l) One person recommended by the Washington association of  
7 counties;  
8 (m) One person recommended by Washington Indian tribes;  
9 (n) One person recommended by businesses in the clean energy  
10 industry;  
11 (o) One person recommended by labor unions;  
12 (p) Two persons recommended by civic organizations, one of which  
13 must be a representative of a civic organization that represents  
14 vulnerable populations;  
15 (q) Two persons recommended by environmental organizations;  
16 (r) One person representing independent power producers;  
17 (s) The chair of the energy facility site evaluation council or  
18 the chair's designee;  
19 (t) One of the representatives of the state of Washington to the  
20 Pacific Northwest electric power and conservation planning council  
21 selected by the governor;  
22 (u) The chair of the utilities and transportation commission or  
23 the chair's designee;  
24 (v) One member from each of the two largest caucuses of the house  
25 of representatives selected by the speaker of the house of  
26 representatives; and  
27 (w) One member from each of the two largest caucuses of the  
28 senate selected by the president of the senate.  
29 (2) The chair of the advisory committee must be appointed by the  
30 governor from citizen members. The director may establish technical  
31 advisory groups as necessary to assist in the development of the  
32 strategy. The director shall provide for extensive public involvement  
33 throughout the development of the strategy.  
34 (3) Upon completion of a public hearing regarding the advisory  
35 committee's advice and recommendations for revisions to the energy  
36 strategy, a written report shall be conveyed by the department to the  
37 governor and the appropriate legislative committees. The energy  
38 strategy advisory committee established under this section must be  
39 dissolved within three months after their written report is conveyed.

1       **Sec. 1043.** RCW 43.27A.190 and 2009 c 549 s 5111 are each amended  
2 to read as follows:

3       Notwithstanding and in addition to any other powers granted to  
4 the department of ecology, whenever it appears to the department that  
5 a person is violating or is about to violate any of the provisions of  
6 the following:

7       (1) Chapter 90.03 RCW; or

8       (2) Chapter 90.44 RCW; or

9       (3) Chapter 86.16 RCW; or

10       (4) Chapter 43.37 RCW (as recodified by this act); or

11       (5) Chapter 43.27A RCW; or

12       (6) Any other law relating to water resources administered by the  
13 department; or

14       (7) A rule or regulation adopted, or a directive or order issued  
15 by the department relating to subsections (1) through (6) of this  
16 section; the department may cause a written regulatory order to be  
17 served upon said person either personally, or by registered or  
18 certified mail delivered to addressee only with return receipt  
19 requested and acknowledged by him or her. The order shall specify the  
20 provision of the statute, rule, regulation, directive or order  
21 alleged to be or about to be violated, and the facts upon which the  
22 conclusion of violating or potential violation is based, and shall  
23 order the act constituting the violation or the potential violation  
24 to cease and desist or, in appropriate cases, shall order necessary  
25 corrective action to be taken with regard to such acts within a  
26 specific and reasonable time. The regulation of a headgate or  
27 controlling works as provided in RCW 90.03.070, by a watermaster,  
28 stream patrol officer, or other person so authorized by the  
29 department shall constitute a regulatory order within the meaning of  
30 this section. A regulatory order issued hereunder shall become  
31 effective immediately upon receipt by the person to whom the order is  
32 directed, except for regulations under RCW 90.03.070 which shall  
33 become effective when a written notice is attached as provided  
34 therein. Any person aggrieved by such order may appeal the order  
35 pursuant to RCW 43.21B.310.

36       **Sec. 1044.** RCW 43.37.050 and 2009 c 549 s 5113 are each amended  
37 to read as follows:

38       In the case of hearings pursuant to RCW 43.37.180 (as recodified  
39 by this act) the department shall, and in other cases may, cause a

1 record of the proceedings to be taken and filed with the department,  
2 together with its findings and conclusions. For any hearing, the  
3 director of the department or a representative designated by him or  
4 her is authorized to administer oaths and affirmations, examine  
5 witnesses, and issue, in the name of the department, notice of the  
6 hearing or subpoenas requiring any person to appear and testify, or  
7 to appear and produce documents, or both, at any designated place.

8 **Sec. 1045.** RCW 43.37.080 and 1973 c 64 s 6 are each amended to  
9 read as follows:

10 Except as provided in RCW 43.37.090 (as recodified by this act),  
11 no person shall engage in activities for weather modification and  
12 control except under and in accordance with a license and a permit  
13 issued by the department authorizing such activities.

14 **Sec. 1046.** RCW 43.37.110 and 1973 c 64 s 9 are each amended to  
15 read as follows:

16 The department shall issue permits in accordance with such  
17 procedures and subject to such conditions as it may by regulation  
18 establish to effectuate the provisions of this chapter only:

19 (1) If the applicant is licensed pursuant to this chapter;

20 (2) If a sufficient notice of intention is published and proof of  
21 publication is filed as required by RCW 43.37.140 (as recodified by  
22 this act);

23 (3) If the applicant furnishes proof of financial responsibility,  
24 as provided in RCW 43.37.150 (as recodified by this act), in an  
25 amount to be determined by the department but not to exceed twenty  
26 thousand dollars;

27 (4) If the fee for a permit is paid as required by RCW 43.37.160  
28 (as recodified by this act);

29 (5) If the weather modification and control activities to be  
30 conducted under authority of the permit are determined by the  
31 department to be for the general welfare and public good;

32 (6) If the department has held an open public hearing in Olympia  
33 as to such issuance.

34 **Sec. 1047.** RCW 43.37.140 and 1973 c 64 s 11 are each amended to  
35 read as follows:

36 (1) The applicant shall cause the notice of intention, or that  
37 portion thereof including the items specified in RCW 43.37.130 (as

1 recodified by this act), to be published at least once a week for  
2 three consecutive weeks in a legal newspaper having a general  
3 circulation and published within any county in which the operation is  
4 to be conducted and in which the affected area is located, or, if the  
5 operation is to be conducted in more than one county or if the  
6 affected area is located in more than one county or is located in a  
7 county other than the one in which the operation is to be conducted,  
8 then in a legal newspaper having a general circulation and published  
9 within each of such counties. In case there is no legal newspaper  
10 published within the appropriate county, publication shall be made in  
11 a legal newspaper having a general circulation within the county;

12 (2) Proof of publication, made in the manner provided by law,  
13 shall be filed by the licensee with the department within fifteen  
14 days from the date of the last publication of the notice.

15 **Sec. 1048.** RCW 43.37.170 and 2009 c 549 s 5117 are each amended  
16 to read as follows:

17 (1) Every licensee shall keep and maintain a record of all  
18 operations conducted by him or her pursuant to his or her license and  
19 each permit, showing the method employed, the type of equipment used,  
20 materials and amounts thereof used, the times and places of operation  
21 of the equipment, the name and post office address of each individual  
22 participating or assisting in the operation other than the licensee,  
23 and such other general information as may be required by the  
24 department and shall report the same to the department at the time  
25 and in the manner required.

26 (2) The department shall require written reports in such manner  
27 as it provides but not inconsistent with the provisions of this  
28 chapter, covering each operation for which a permit is issued.  
29 Further, the department shall require written reports from such  
30 organizations as are exempted from license, permit, and liability  
31 requirements as provided in RCW 43.37.090 (as recodified by this  
32 act).

33 (3) The reports and records in the custody of the department  
34 shall be open for public examination.

35 **Sec. 1049.** RCW 43.37.220 and 1981 c 278 s 3 are each amended to  
36 read as follows:

37 Upon a proclamation of a state of emergency, related to a lack of  
38 precipitation or a shortage of water supply, by the governor under



1 RCW 43.06.210, the department shall exempt a licensee from the  
2 requirements of RCW 43.37.110 (2) and (6) and ((RCW)) 43.37.140 (as  
3 recodified by this act).

4 **Sec. 1050.** RCW 43.41.270 and 2009 c 345 s 12 are each amended to  
5 read as follows:

6 (1) The office of financial management shall assist natural  
7 resource-related agencies in developing outcome-focused performance  
8 measures for administering natural resource-related and  
9 environmentally based grant and loan programs. These performance  
10 measures are to be used in determining grant eligibility, for program  
11 management and performance assessment.

12 (2) The office of financial management and the recreation and  
13 conservation office shall assist natural resource-related agencies in  
14 developing recommendations for a monitoring program to measure  
15 outcome-focused performance measures required by this section. The  
16 recommendations must be consistent with the framework and coordinated  
17 monitoring strategy developed by the monitoring oversight committee  
18 established in RCW 77.85.210.

19 (3) Natural resource agencies shall consult with grant or loan  
20 recipients including local governments, tribes, nongovernmental  
21 organizations, and other interested parties, and report to the office  
22 of financial management on the implementation of this section.

23 (4) For purposes of this section, "natural resource-related  
24 agencies" include the department of ecology, the department of  
25 natural resources, the department of fish and wildlife, the state  
26 conservation commission, the recreation and conservation funding  
27 board, the salmon recovery funding board, and the public works board  
28 within the department of ((community, trade, and economic  
29 development)) commerce.

30 (5) For purposes of this section, "natural resource-related  
31 environmentally based grant and loan programs" includes the  
32 conservation reserve enhancement program; dairy nutrient management  
33 grants under chapter 90.64 RCW; state conservation commission water  
34 quality grants under chapter 89.08 RCW; coordinated prevention  
35 grants, public participation grants, and remedial action grants under  
36 RCW ((70.105D.070)) 70.105D.200 (as recodified by this act); water  
37 pollution control facilities financing under chapter 70.146 RCW (as  
38 recodified by this act); aquatic lands enhancement grants under RCW  
39 79.105.150; habitat grants under the Washington wildlife and

1 recreation program under RCW 79A.15.040; salmon recovery grants under  
2 chapter 77.85 RCW; and the public works trust fund program under  
3 chapter 43.155 RCW. The term also includes programs administered by  
4 the department of fish and wildlife related to protection or recovery  
5 of fish stocks which are funded with moneys from the capital budget.

6 **Sec. 1051.** RCW 43.131.394 and 2018 c 194 s 2 are each amended to  
7 read as follows:

8 The following acts or parts of acts, as now existing or hereafter  
9 amended, are each repealed, effective July 1, 2030:

10 (1) RCW 90.76.005 (as recodified by this act) and 2007 c 147 s 1  
11 & 1989 c 346 s 1;

12 (2) RCW 90.76.010 (as recodified by this act) and 2013 c 144 s  
13 53, 2011 c 298 s 39, 2007 c 147 s 2, 1998 c 155 s 1, & 1989 c 346 s  
14 2;

15 (3) RCW 90.76.020 (as recodified by this act) and 2013 c 144 s  
16 54, 2011 c 298 s 40, 2007 c 147 s 3, 1998 c 155 s 2, & 1989 c 346 s  
17 3;

18 (4) RCW 90.76.040 (as recodified by this act) and 1998 c 155 s 3  
19 & 1989 c 346 s 5;

20 (5) RCW 90.76.050 (as recodified by this act) and 2007 c 147 s 4,  
21 1998 c 155 s 4, & 1989 c 346 s 6;

22 (6) RCW 90.76.060 (as recodified by this act) and 1998 c 155 s 5  
23 & 1989 c 346 s 7;

24 (7) RCW 90.76.070 (as recodified by this act) and 2007 c 147 s 5  
25 & 1989 c 346 s 8;

26 (8) RCW 90.76.080 (as recodified by this act) and 2007 c 147 s 6,  
27 1995 c 403 s 639, & 1989 c 346 s 9;

28 (9) RCW 90.76.090 (as recodified by this act) and 2007 c 147 s 7,  
29 1998 c 155 s 6, & 1989 c 346 s 10;

30 (10) RCW 90.76.100 (as recodified by this act) and 1991 sp.s. c  
31 13 s 72 & 1989 c 346 s 11;

32 (11) RCW 90.76.110 (as recodified by this act) and 2007 c 147 s  
33 8, 1991 c 83 s 1, & 1989 c 346 s 12;

34 (12) RCW 90.76.900 (as recodified by this act) and 1989 c 346 s  
35 15;

36 (13) RCW 90.76.901 (as recodified by this act) and 1989 c 346 s  
37 14; and

38 (14) RCW 90.76.902 (as recodified by this act) and 1989 c 346 s  
39 18.

1       **Sec. 1052.** RCW 43.146.900 and 1987 c 90 s 2 are each amended to  
2 read as follows:

3       (1) Section 1 of this act shall constitute a new chapter in Title  
4 ((43)) 70A RCW.

5       (2) The Washington state designee to the committee shall be  
6 appointed by the governor.

7       **Sec. 1053.** RCW 43.200.015 and 2012 c 19 s 1 are each reenacted  
8 and amended to read as follows:

9       As used in this chapter, the following terms have the meanings  
10 indicated unless the context clearly requires otherwise.

11       (1) "Commercial low-level radioactive waste disposal facility"  
12 has the same meaning as "facility" as defined in RCW 43.145.010 (as  
13 recodified by this act).

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

15       (3) "High-level radioactive waste" means "high-level radioactive  
16 waste" as the term is defined in 42 U.S.C. Sec. 10101 (P.L. 97-425).

17       (4) "Low-level radioactive waste" means waste material that  
18 contains radioactive nuclides emitting primarily beta or gamma  
19 radiation, or both, in concentrations or quantities that exceed  
20 applicable federal or state standards for unrestricted release. Low-  
21 level waste does not include waste containing more than one hundred  
22 nanocuries of transuranic contaminants per gram of material, nor  
23 spent nuclear fuel, nor material classified as either high-level  
24 radioactive waste or waste that is unsuited for disposal by near-  
25 surface burial under any applicable federal regulations.

26       (5) "Radioactive waste" means both high-level and low-level  
27 radioactive waste.

28       (6) "Spent nuclear fuel" means spent nuclear fuel as the term is  
29 defined in 42 U.S.C. Sec. 10101.

30       **Sec. 1054.** RCW 43.200.070 and 1989 c 322 s 5 are each amended to  
31 read as follows:

32       The department of ecology shall adopt such rules as are necessary  
33 to carry out responsibilities under this chapter. The department of  
34 ecology is authorized to adopt such rules as are necessary to carry  
35 out its responsibilities under chapter 43.145 RCW (as recodified by  
36 this act).

1       **Sec. 1055.** RCW 43.200.080 and 2012 c 19 s 2 are each amended to  
2 read as follows:

3       The director of ecology shall, in addition to the powers and  
4 duties otherwise imposed by law, have the following special powers  
5 and duties:

6       (1) To fulfill the responsibilities of the state under the lease  
7 between the state of Washington and the federal government executed  
8 September 10, 1964, as amended, covering approximately one hundred  
9 fifteen acres of land lying within the Hanford reservation near  
10 Richland, Washington. The department of ecology may sublease to  
11 private or public entities all or a portion of the land for specific  
12 purposes or activities which are determined, after public hearing, to  
13 be in agreement with the terms of the lease and in the best interests  
14 of the citizens of the state consistent with any criteria that may be  
15 developed as a requirement by the legislature;

16       (2) To assume the responsibilities of the state under the  
17 perpetual care agreement between the state of Washington and the  
18 federal government executed July 29, 1965, and the sublease between  
19 the state of Washington and the site operator of the commercial low-  
20 level radioactive waste disposal facility. In order to finance  
21 perpetual surveillance and maintenance under the agreement and ensure  
22 site closure under the sublease, the department of ecology shall  
23 impose and collect fees from parties holding radioactive materials  
24 for waste management purposes. The fees shall be established by rule  
25 adopted under chapter 34.05 RCW and shall be an amount determined by  
26 the department of ecology to be necessary to defray the estimated  
27 liability of the state. Such fees shall reflect equity between the  
28 disposal facilities of this and other states. A site closure account  
29 and a perpetual surveillance and maintenance account are hereby  
30 created in the state treasury. Site use permit fees collected by the  
31 department of health under RCW 70.98.085(3) (as recodified by this  
32 act) must be deposited in the site closure account and must be used  
33 as specified in RCW 70.98.085(3) (as recodified by this act). Funds  
34 in the site closure account other than site use permit fee funds  
35 shall be exclusively available to reimburse, to the extent that  
36 moneys are available in the account, the site operator for its costs  
37 plus a reasonable profit as agreed by the operator and the state, or  
38 to reimburse the state licensing agency and any agencies under  
39 contract to the state licensing agency for their costs in final  
40 closure and decommissioning of the commercial low-level radioactive

1 waste disposal facility. If a balance remains in the account after  
2 satisfactory performance of closure and decommissioning, this balance  
3 shall be transferred to the perpetual surveillance and maintenance  
4 account. The perpetual surveillance and maintenance account shall be  
5 used exclusively by the state to meet post-closure surveillance and  
6 maintenance costs, or for otherwise satisfying surveillance and  
7 maintenance obligations. Appropriations are required to permit  
8 expenditures and payment of obligations from the site closure account  
9 and the perpetual surveillance and maintenance account. Receipts  
10 shall be directed to the site closure account and the perpetual  
11 surveillance and maintenance account as specified by the department.  
12 Additional moneys specifically appropriated by the legislature or  
13 received from any public or private source may be placed in the site  
14 closure account and the perpetual surveillance and maintenance  
15 account. During the 2003-2005 fiscal biennium, the legislature may  
16 transfer up to thirteen million eight hundred thousand dollars from  
17 the site closure account to the general fund;

18 (3) (a) Subject to the conditions in (b) of this subsection, on  
19 July 1, 2008, and each July 1st thereafter, the treasurer shall  
20 transfer from the perpetual surveillance and maintenance account to  
21 the site closure account the sum of nine hundred sixty-six thousand  
22 dollars. The nine hundred sixty-six thousand dollars transferred on  
23 July 1, 2009, and thereafter shall be adjusted to a level equal to  
24 the percentage increase in the United States implicit price deflator  
25 for personal consumption. The last transfer under this section shall  
26 occur on July 1, 2033.

27 (b) The transfer in (a) of this subsection shall occur only if  
28 written agreement is reached between the state department of ecology  
29 and the United States department of energy pursuant to section 6 of  
30 the perpetual care agreement dated July 29, 1965, between the United  
31 States atomic energy commission and the state of Washington. If  
32 agreement cannot be reached between the state department of ecology  
33 and the United States department of energy by June 1, 2008, the  
34 treasurer shall transfer the funds from the general fund to the site  
35 closure account according to the schedule in (a) of this subsection.

36 (c) If for any reason the commercial low-level radioactive waste  
37 disposal facility is closed to further disposal operations during or  
38 after the 2003-2005 biennium and before 2033, then the amount  
39 remaining to be repaid from the 2003-2005 transfer of thirteen  
40 million eight hundred thousand dollars from the site closure account

1 shall be transferred by the treasurer from the general fund to the  
2 site closure account to fund the closure and decommissioning of the  
3 facility. The treasurer shall transfer to the site closure account in  
4 full the amount remaining to be repaid upon written notice from the  
5 secretary of health that the department of health has authorized  
6 closure or that disposal operations have ceased. The treasurer shall  
7 complete the transfer within sixty days of written notice from the  
8 secretary of health.

9 (d) To the extent that money in the site closure account together  
10 with the amount of money identified for repayment to the site closure  
11 account, pursuant to (a) through (c) of this subsection, equals or  
12 exceeds the cost estimate approved by the department of health for  
13 closure and decommissioning of the facility, the money in the site  
14 closure account together with the amount of money identified for  
15 repayment to the site closure account shall constitute adequate  
16 financial assurance for purposes of the department of health  
17 financial assurance requirements;

18 (4) To assure maintenance of such insurance coverage by state  
19 licensees, lessees, or sublessees as will adequately, in the opinion  
20 of the director, protect the citizens of the state against nuclear  
21 accidents or incidents that may occur on privately or state-  
22 controlled nuclear facilities;

23 (5) To make application for or otherwise pursue any federal funds  
24 to which the state may be eligible, through the federal resource  
25 conservation and recovery act or any other federal programs, for the  
26 management, treatment or disposal, and any remedial actions, of  
27 wastes that are both radioactive and hazardous at all commercial low-  
28 level radioactive waste disposal facilities; and

29 (6) To develop contingency plans for duties and options for the  
30 department and other state agencies related to the commercial low-  
31 level radioactive waste disposal facility based on various  
32 projections of annual levels of waste disposal. These plans shall  
33 include an analysis of expected revenue to the state in various taxes  
34 and funds related to low-level radioactive waste disposal and the  
35 resulting implications that any increase or decrease in revenue may  
36 have on state agency duties or responsibilities. The plans shall be  
37 updated annually.

38 **Sec. 1056.** RCW 43.200.170 and 2012 c 19 s 3 are each amended to  
39 read as follows:

1 The governor may assess surcharges and penalty surcharges on the  
2 disposal of waste at the commercial low-level radioactive waste  
3 disposal facility. The surcharges may be imposed up to the maximum  
4 extent permitted by federal law. Ten dollars per cubic foot of the  
5 moneys received under this section shall be transmitted monthly to  
6 the site closure account established under RCW 43.200.080 (as  
7 recodified by this act). The rest of the moneys received under this  
8 section shall be deposited in the general fund.

9 **Sec. 1057.** RCW 43.200.180 and 2012 c 19 s 4 are each amended to  
10 read as follows:

11 Except as provided in chapter 70.98 RCW (as recodified by this  
12 act) related to administration of a user permit system, the  
13 department of ecology shall be the state agency responsible for  
14 implementation of the federal low-level radioactive waste policy  
15 amendments act of 1985, including:

16 (1) Collecting and administering the surcharge assessed by the  
17 governor under RCW 43.200.170 (as recodified by this act);

18 (2) Collecting low-level radioactive waste data from disposal  
19 facility operators, generators, intermediate handlers, and the  
20 federal department of energy;

21 (3) Developing and operating a computerized information system to  
22 manage low-level radioactive waste data;

23 (4) Denying and reinstating access to the commercial low-level  
24 radioactive waste disposal facility pursuant to the authority granted  
25 under federal law;

26 (5) Administering and/or monitoring (a) the maximum waste volume  
27 levels for the commercial low-level radioactive waste disposal  
28 facility, (b) reactor waste allocations, (c) priority allocations  
29 under the Northwest Interstate Compact on Low-Level Radioactive Waste  
30 Management, and (d) adherence by other states and compact regions to  
31 federal statutory deadlines; and

32 (6) Coordinating the state's low-level radioactive waste disposal  
33 program with similar programs in other states.

34 **Sec. 1058.** RCW 43.200.220 and 1990 c 21 s 4 are each amended to  
35 read as follows:

36 Beginning January 1, 1993, the department of ecology may impose a  
37 reasonable site closure fee if necessary to be deposited in the site  
38 closure account established under RCW 43.200.080 (as recodified by

1 this act). The department may continue to collect moneys for the site  
2 closure account until the account contains an amount sufficient to  
3 complete the closure plan, as specified in the radioactive materials  
4 license issued by the department of health.

5 **Sec. 1059.** RCW 43.200.230 and 2012 c 19 s 7 are each amended to  
6 read as follows:

7 The director of the department of ecology shall require that  
8 generators of waste pay a fee for each cubic foot of waste disposed  
9 at any facility in the state equal to six dollars and fifty cents.  
10 The fee shall be imposed specifically on the generator of the waste  
11 and shall not be considered to apply in any way to the low-level site  
12 operator's disposal activities. The fee shall be allocated in  
13 accordance with RCW 43.200.233 and 43.200.235 (as recodified by this  
14 act). Failure to comply with this section may result in denial or  
15 suspension of the generator's site use permit pursuant to RCW  
16 70.98.085 (as recodified by this act).

17 **Sec. 1060.** RCW 43.200.233 and 1991 c 272 s 17 are each amended  
18 to read as follows:

19 A portion of the surcharge received under RCW 43.200.230 (as  
20 recodified by this act) shall be remitted monthly to the county in  
21 which the low-level radioactive waste disposal facility is located in  
22 the following manner:

23 (1) During 1993, six dollars and fifty cents per cubic foot of  
24 waste;

25 (2) During 1994, three dollars and twenty-five cents per cubic  
26 foot of waste; and

27 (3) During 1995 and thereafter, two dollars per cubic foot of  
28 waste.

29 **Sec. 1061.** RCW 43.200.235 and 1991 c 272 s 18 are each amended  
30 to read as follows:

31 Except for moneys that may be remitted to a county in which a  
32 low-level radioactive waste disposal facility is located, all  
33 surcharges authorized under RCW 43.200.230 (as recodified by this  
34 act) shall be deposited in the fund created in RCW 43.31.422.

35 **Sec. 1062.** RCW 43.200.905 and 1986 c 191 s 4 are each amended to  
36 read as follows:



1 The provisions of this act shall not have the effect of reducing  
2 the level of liability coverage required under any law, regulation,  
3 or contract of the state before December 31, 1987, or the effective  
4 date of the first determination made pursuant to RCW 43.200.200 (as  
5 recodified by this act), if earlier.

6 **Sec. 1063.** RCW 43.200.907 and 2012 c 19 s 14 are each amended to  
7 read as follows:

8 (1) The site use permit program is transferred from the  
9 department of ecology to the department of health.

10 (2)(a) All reports, documents, surveys, books, records, files,  
11 papers, or written material in the possession of the department of  
12 ecology site use permit program shall be delivered to the custody of  
13 the department of health. All funds, credits, or other assets held by  
14 the department of ecology site use permit program shall be assigned  
15 to the department of health.

16 (b) Any appropriations made to the department of ecology for the  
17 site use permit program shall be transferred and credited to the  
18 department of health.

19 (3) All rules of the department of ecology site use permit  
20 program shall be continued and acted upon by the department of health  
21 until new rules are adopted under RCW 70.98.085 (as recodified by  
22 this act). All permit applications and pending business before the  
23 department of ecology site use permit program shall be continued and  
24 acted upon by the department of health. All existing contracts and  
25 obligations shall remain in full force and shall be performed by the  
26 department of health.

27 (4) The transfer of the powers, duties, functions, and personnel  
28 of the department of ecology site use permit program to the  
29 department of health under chapter 19, Laws of 2012 shall not affect  
30 the validity of any activity performed before July 1, 2012.

31 **Sec. 1064.** RCW 64.70.020 and 2017 c 23 s 6 are each amended to  
32 read as follows:

33 The definitions in this section apply throughout this chapter  
34 unless the context clearly requires otherwise.

35 (1) "Activity or use limitations" means restrictions or  
36 obligations created under this chapter with respect to real property.

37 (2) "Agency" means either the department of ecology, the  
38 pollution liability insurance agency, or the United States

1 environmental protection agency, whichever determines or approves the  
2 environmental response project pursuant to which the environmental  
3 covenant is created.

4 (3) (a) "Common interest community" means a condominium,  
5 cooperative, or other real property with respect to which a person,  
6 by virtue of the person's ownership of a parcel of real property, is  
7 obligated to pay property taxes or insurance premiums, or for  
8 maintenance, or improvement of other real property described in a  
9 recorded covenant that creates the common interest community.

10 (b) "Common interest community" includes but is not limited to:

11 (i) An association of apartment owners as defined in RCW  
12 64.32.010;

13 (ii) A unit owners' association as defined in RCW 64.34.020 and  
14 organized under RCW 64.34.300;

15 (iii) A master association as provided in RCW 64.34.276;

16 (iv) A subassociation as provided in RCW 64.34.278; and

17 (v) A homeowners' association as defined in RCW 64.38.010.

18 (4) "Environmental covenant" means a servitude arising under an  
19 environmental response project that imposes activity or use  
20 limitations.

21 (5) "Environmental response project" means a plan or work  
22 performed for environmental remediation of real property and  
23 conducted:

24 (a) Under a federal or state program governing environmental  
25 remediation of real property, including chapters 43.21C, 64.44, 70.95  
26 (as recodified by this act), 70.98 (as recodified by this act),  
27 70.105 (as recodified by this act), 70.105D (as recodified by this  
28 act), 90.48, and 90.52 RCW;

29 (b) Incident to closure of a solid or hazardous waste management  
30 unit, if the closure is conducted with approval of an agency; or

31 (c) Under the state voluntary clean-up program authorized under  
32 chapter 70.105D RCW (as recodified by this act) or technical  
33 assistance program authorized under chapter 70.149 RCW (as recodified  
34 by this act).

35 (6) "Holder" means the grantee of an environmental covenant as  
36 specified in RCW 64.70.030(1).

37 (7) "Person" means an individual, corporation, business trust,  
38 estate, trust, partnership, limited liability company, association,  
39 joint venture, public corporation, government, governmental

1 subdivision, agency, or instrumentality, or any other legal or  
2 commercial entity.

3 (8) "Record," used as a noun, means information that is inscribed  
4 on a tangible medium or that is stored in an electronic or other  
5 medium and is retrievable in perceivable form.

6 (9) "State" means a state of the United States, the District of  
7 Columbia, Puerto Rico, the United States Virgin Islands, or any  
8 territory or insular possession subject to the jurisdiction of the  
9 United States.

10 **Sec. 1065.** RCW 64.70.040 and 2007 c 104 s 5 are each amended to  
11 read as follows:

12 (1) An environmental covenant must:

13 (a) State that the instrument is an environmental covenant  
14 executed pursuant to this chapter;

15 (b) Contain a legally sufficient description of the real property  
16 subject to the covenant;

17 (c) Describe with specificity the activity or use limitations on  
18 the real property;

19 (d) Identify every holder;

20 (e) Be signed by the agency, every holder, and unless waived by  
21 the agency every owner of the fee simple of the real property subject  
22 to the covenant; and

23 (f) Identify the name and location of any administrative record  
24 for the environmental response project reflected in the environmental  
25 covenant.

26 (2) In addition to the information required by subsection (1) of  
27 this section, an environmental covenant may contain other  
28 information, restrictions, and requirements agreed to by the persons  
29 who signed it, including any:

30 (a) Requirements for notice following transfer of a specified  
31 interest in, or concerning proposed changes in use of, applications  
32 for building permits for, or proposals for any site work affecting  
33 the contamination on, the property subject to the covenant;

34 (b) Requirements for periodic reporting describing compliance  
35 with the covenant;

36 (c) Rights of access to the property granted in connection with  
37 implementation or enforcement of the covenant;

1 (d) Narrative descriptions of the contamination and remedy,  
2 including the contaminants of concern, the pathways of exposure,  
3 limits on exposure, and the location and extent of the contamination;

4 (e) Limitations on amendment or termination of the covenant in  
5 addition to those contained in RCW 64.70.090 and 64.70.100;

6 (f) Rights of the holder in addition to its right to enforce the  
7 covenant pursuant to RCW 64.70.110;

8 (g) Other information, restrictions, or requirements required by  
9 the agency, including the department of ecology under the authority  
10 of chapter 70.105D RCW (as recodified by this act).

11 (3) In addition to other conditions for its approval of an  
12 environmental covenant, the agency may require those persons  
13 specified by the agency who have interests in the real property to  
14 sign the covenant.

15 (4) The agency may also require notice and opportunity to comment  
16 upon an environmental covenant as part of public participation  
17 efforts related to the environmental response project.

18 (5) The agency shall consult with local land use planning  
19 authorities in the development of the land use or activity  
20 restrictions in the environmental covenant. The agency shall consider  
21 potential redevelopment and revitalization opportunities and obtain  
22 information regarding present and proposed land and resource uses,  
23 and consider comprehensive land use plan and zoning provisions  
24 applicable to the real property to be subject to the environmental  
25 covenant.

26 **Sec. 1066.** RCW 70.05.070 and 2013 c 200 s 26 are each amended to  
27 read as follows:

28 The local health officer, acting under the direction of the local  
29 board of health or under direction of the administrative officer  
30 appointed under RCW 70.05.040 or 70.05.035, if any, shall:

31 (1) Enforce the public health statutes of the state, rules of the  
32 state board of health and the secretary of health, and all local  
33 health rules, regulations and ordinances within his or her  
34 jurisdiction including imposition of penalties authorized under RCW  
35 70.119A.030 and 70.118.130 (as recodified by this act), the  
36 confidentiality provisions in RCW 70.02.220 and rules adopted to  
37 implement those provisions, and filing of actions authorized by RCW  
38 43.70.190;

1 (2) Take such action as is necessary to maintain health and  
2 sanitation supervision over the territory within his or her  
3 jurisdiction;

4 (3) Control and prevent the spread of any dangerous, contagious  
5 or infectious diseases that may occur within his or her jurisdiction;

6 (4) Inform the public as to the causes, nature, and prevention of  
7 disease and disability and the preservation, promotion and  
8 improvement of health within his or her jurisdiction;

9 (5) Prevent, control or abate nuisances which are detrimental to  
10 the public health;

11 (6) Attend all conferences called by the secretary of health or  
12 his or her authorized representative;

13 (7) Collect such fees as are established by the state board of  
14 health or the local board of health for the issuance or renewal of  
15 licenses or permits or such other fees as may be authorized by law or  
16 by the rules of the state board of health;

17 (8) Inspect, as necessary, expansion or modification of existing  
18 public water systems, and the construction of new public water  
19 systems, to assure that the expansion, modification, or construction  
20 conforms to system design and plans;

21 (9) Take such measures as he or she deems necessary in order to  
22 promote the public health, to participate in the establishment of  
23 health educational or training activities, and to authorize the  
24 attendance of employees of the local health department or individuals  
25 engaged in community health programs related to or part of the  
26 programs of the local health department.

27 **Sec. 1067.** RCW 70.75A.040 and 2018 c 286 s 5 are each amended to  
28 read as follows:

29 (1) A manufacturer of class B firefighting foam restricted under  
30 RCW 70.75A.020 (as recodified by this act) must notify, in writing,  
31 persons that sell the manufacturer's products in this state about the  
32 provisions of this chapter no less than one year prior to the  
33 effective date of the restrictions.

34 (2) A manufacturer that produces, sells, or distributes a class B  
35 firefighting foam prohibited under RCW 70.75A.020 (as recodified by  
36 this act) shall recall the product and reimburse the retailer or any  
37 other purchaser for the product.

1       **Sec. 1068.** RCW 70.75A.060 and 2019 c 422 s 403 are each amended  
2 to read as follows:

3       A manufacturer of class B firefighting foam in violation of RCW  
4 70.75A.020 or 70.75A.040 (as recodified by this act) or a person in  
5 violation of RCW 70.75A.010 or 70.75A.030 (as recodified by this act)  
6 is subject to a civil penalty not to exceed five thousand dollars for  
7 each violation in the case of a first offense. Manufacturers, local  
8 governments, or persons that are repeat violators are subject to a  
9 civil penalty not to exceed ten thousand dollars for each repeat  
10 offense. Penalties collected under this section must be deposited in  
11 the model toxics control operating account created in RCW 70.105D.190  
12 (as recodified by this act).

13       **Sec. 1069.** RCW 70.76.020 and 2007 c 65 s 3 are each amended to  
14 read as follows:

15       After January 1, 2008, no person may manufacture, knowingly sell,  
16 offer for sale, distribute for sale, or distribute for use in this  
17 state noncombustible products containing PBDEs. Exemptions from the  
18 prohibition in this section are limited to the following:

19       (1) Products containing deca-bde, except as provided in RCW  
20 70.76.030 (as recodified by this act);

21       (2) The sale or distribution of any used transportation vehicle  
22 manufactured before January 1, 2008, with component parts containing  
23 PBDEs;

24       (3) The sale or distribution of any used transportation vehicle  
25 parts or new transportation vehicle parts manufactured before January  
26 1, 2008, that contain PBDEs;

27       (4) The manufacture, sale, repair, distribution, maintenance,  
28 refurbishment, or modification of equipment containing PBDEs and used  
29 primarily for military or federally funded space program  
30 applications. The exemption in this subsection (4) does not cover  
31 consumer-based goods with broad applicability;

32       (5) Federal aviation administration fire worthiness requirements  
33 and recommendations;

34       (6) The manufacture, sale, repair, distribution, maintenance,  
35 refurbishment, or modification of any new raw material or component  
36 part used in a transportation vehicle with component parts, including  
37 original spare parts, containing deca-bde;

38       (7) The use of commercial deca-bde in the maintenance,  
39 refurbishment, or modification of transportation equipment;

1 (8) The sale or distribution of any product containing PBDEs that  
2 has been previously owned, purchased, or sold in commerce, provided  
3 it was manufactured before the effective date of the prohibition;

4 (9) The manufacture, sale, or distribution of any new product or  
5 product component consisting of recycled or used materials containing  
6 deca-bde;

7 (10) The sale or purchase of any previously owned product  
8 containing PBDEs made in casual or isolated sales as defined in RCW  
9 82.04.040 and to sales by nonprofit organizations;

10 (11) The manufacture, sale, or distribution of new carpet cushion  
11 made from recycled foam containing less than one-tenth of one percent  
12 penta-bde; and

13 (12) Medical devices.

14 **Sec. 1070.** RCW 70.76.030 and 2007 c 65 s 4 are each amended to  
15 read as follows:

16 (1) Except as provided in RCW 70.76.090 (as recodified by this  
17 act), no person may manufacture, knowingly sell, offer for sale,  
18 distribute for sale, or distribute for use in this state mattresses  
19 containing commercial deca-bde after January 1, 2008.

20 (2) Except as provided in RCW 70.76.090 (as recodified by this  
21 act), no person may manufacture, knowingly sell, offer for sale,  
22 distribute for sale, or distribute for use in this state residential  
23 upholstered furniture that contains commercial deca-bde, or any  
24 television or computer that has an electronic enclosure that contains  
25 commercial deca-bde after the effective date established in  
26 subsection (3) of this section. This prohibition may not take effect  
27 until the department and the department of health identify that a  
28 safer and technically feasible alternative is available, and the fire  
29 safety committee, created in RCW 70.76.040 (as recodified by this  
30 act), determines that the identified alternative meets applicable  
31 fire safety standards. The effective date of the prohibition must be  
32 established according to the following process:

33 (a) The department and the department of health shall review risk  
34 assessments, scientific studies, and other relevant findings  
35 regarding alternatives to the use of commercial deca-bde in  
36 residential upholstered furniture, televisions, and computers.

37 (b) If the department and the department of health jointly find  
38 that safer and technically feasible alternatives are available for  
39 any of these uses, the department shall convene the fire safety

1 committee created in RCW 70.76.040 (as recodified by this act) to  
2 determine whether the identified alternatives meet applicable fire  
3 safety standards.

4 (c) By majority vote, the fire safety committee created in RCW  
5 70.76.040 (as recodified by this act) shall make a finding whether an  
6 alternative identified under (b) of this subsection meets applicable  
7 fire safety standards. The fire safety committee shall report their  
8 finding to the state fire marshal. After reviewing the finding of the  
9 fire safety committee, the state fire marshal shall determine whether  
10 an alternative identified under (b) of this subsection meets  
11 applicable fire safety standards. The determination of the fire  
12 marshal must be based upon the finding of the fire safety committee.  
13 The state fire marshal shall report the determination to the  
14 department.

15 (d) The department shall seek public input on their findings, the  
16 findings of the fire safety committee, and the determination by the  
17 state fire marshal. The department shall publish these findings in  
18 the Washington State Register, and submit them in a report to the  
19 appropriate committees of the legislature. The department shall  
20 initially report these findings by December 31, 2008.

21 (3) The effective date of the prohibition is as follows:

22 (a) If the December 31, 2008, report required in subsection  
23 (2)(d) of this section finds that a safer and technically feasible  
24 alternative that meets applicable fire safety standards is available,  
25 the prohibition takes effect January 1, 2011;

26 (b) If the December 31, 2008, report required in subsection  
27 (2)(d) of this section does not find that a safer and technically  
28 feasible alternative that meets applicable fire safety standards is  
29 available, the prohibition does not take effect January 1, 2011.  
30 Beginning in 2009, by December 31st of each year, the department  
31 shall review and report on alternatives as described in subsection  
32 (2) of this section. The prohibition in subsection (2) of this  
33 section takes effect two years after a report submitted to the  
34 legislature required under subsection (2)(d) of this section finds  
35 that a safer and technically feasible alternative that meets  
36 applicable fire safety standards is available.

37 **Sec. 1071.** RCW 70.76.040 and 2007 c 65 s 5 are each amended to  
38 read as follows:



1 (1) The fire safety committee is created for the exclusive  
2 purpose of finding whether an alternative identified under RCW  
3 70.76.030(2)(b) (as recodified by this act) meets applicable fire  
4 safety standards.

5 (2) A majority vote of the members of the fire safety committee  
6 constitutes a finding that an alternative meets applicable fire  
7 safety standards.

8 (3) The fire safety committee consists of the following members:

9 (a) A representative from the department, who shall chair the  
10 fire safety committee, and serve as an ex officio nonvoting member.

11 (b) Five voting members, appointed by the governor, as follows:

12 (i) A representative of the office of the state fire marshal;

13 (ii) A representative of a statewide association representing the  
14 interests of fire chiefs;

15 (iii) A representative of a statewide association representing  
16 the interests of fire commissioners;

17 (iv) A representative of a recognized statewide council,  
18 affiliated with an international association representing the  
19 interests of firefighters; and

20 (v) A representative of a statewide association representing the  
21 interests of volunteer firefighters.

22 **Sec. 1072.** RCW 70.76.050 and 2007 c 65 s 6 are each amended to  
23 read as follows:

24 The department and the department of health shall review risk  
25 assessments, scientific studies, and other relevant findings  
26 regarding alternatives to the use of commercial deca-bde in products  
27 not directly addressed in this chapter. If a flame retardant that is  
28 safer and technically feasible becomes available, the department  
29 shall convene the fire safety committee created in RCW 70.76.040 (as  
30 recodified by this act). The fire safety committee and the state fire  
31 marshal shall proceed as required in RCW 70.76.030(2)(c) (as  
32 recodified by this act) to determine if the identified alternative  
33 meets applicable fire safety standards. The department and the  
34 department of health shall also review risk assessments, scientific  
35 studies, and other findings regarding the potential effect of PBDEs  
36 in the waste stream. By December 31st of the year in which the  
37 finding is made, the department must publish the information required  
38 by this ~~((subsection))~~ section in the Washington State Register and

1 present it in a report to the appropriate committees of the  
2 legislature.

3 **Sec. 1073.** RCW 70.76.090 and 2007 c 65 s 10 are each amended to  
4 read as follows:

5 (1) Retailers who unknowingly sell products prohibited under RCW  
6 70.76.020 or 70.76.030 (as recodified by this act) are not liable  
7 under this chapter.

8 (2) In-state retailers in possession of products on the date that  
9 restrictions on the sale of the products become effective under RCW  
10 70.76.020 or 70.76.030 (as recodified by this act) may exhaust their  
11 existing stock through sales to the public.

12 (3) The department must assist in-state retailers in identifying  
13 potential products containing PBDEs.

14 (4) If a retailer unknowingly possesses products that are  
15 prohibited for sale under RCW 70.76.020 or 70.76.030 (as recodified  
16 by this act) and the manufacturer does not recall the products as  
17 required under RCW 70.76.100(2) (as recodified by this act), the  
18 retailer may exhaust its existing stock through sales to the public.  
19 However, no additional prohibited stock may be sold or offered for  
20 sale.

21 **Sec. 1074.** RCW 70.76.100 and 2019 c 422 s 404 are each amended  
22 to read as follows:

23 (1) Enforcement of this chapter must rely on notification and  
24 information exchange between the department and manufacturers. The  
25 department must achieve compliance with this chapter using the  
26 following enforcement sequence:

27 (a) Before the effective date of the product prohibition in RCW  
28 70.76.020 or 70.76.030 (as recodified by this act), the department  
29 must prepare and distribute information to in-state manufacturers and  
30 out-of-state manufacturers, to the maximum extent practicable, to  
31 assist them in identifying products prohibited for manufacture, sale,  
32 or distribution under this chapter.

33 (b) The department may request a certificate of compliance from a  
34 manufacturer. A certificate of compliance attests that a  
35 manufacturer's product or products meets the requirements of this  
36 chapter.

37 (c) The department may issue a warning letter to a manufacturer  
38 that produces, sells, or distributes prohibited products in violation

1 of this chapter. The department must offer information or other  
2 appropriate assistance to the manufacturer in complying with this  
3 chapter. If, after one year, compliance is not achieved, penalties  
4 may be assessed under subsection (3) of this section.

5 (2) A manufacturer that knowingly produces, sells, or distributes  
6 a product prohibited from manufacture, sale, or distribution in this  
7 state under this chapter must recall the product and reimburse the  
8 retailer or any other purchaser for the product and any applicable  
9 shipping and handling for returning the products.

10 (3) A manufacturer of products containing PBDEs in violation of  
11 this chapter is subject to a civil penalty not to exceed one thousand  
12 dollars for each violation in the case of a first offense.  
13 Manufacturers who are repeat violators are subject to a civil penalty  
14 not to exceed five thousand dollars for each repeat offense.  
15 Penalties collected under this section must be deposited in the model  
16 toxics control operating account created in RCW 70.105D.190 (as  
17 recodified by this act).

18 **Sec. 1075.** RCW 70.93.095 and 1991 c 11 s 2 are each amended to  
19 read as follows:

20 (1) Each marina with thirty or more slips and each airport  
21 providing regularly scheduled commercial passenger service shall  
22 provide adequate recycling receptacles on, or adjacent to, its  
23 facility. The receptacles shall be clearly marked for the disposal of  
24 at least two of the following recyclable materials: Aluminum, glass,  
25 newspaper, plastic, and tin.

26 (2) Marinas and airports subject to this section shall not be  
27 required to provide recycling receptacles until the city or county in  
28 which it is located adopts a waste reduction and recycling element of  
29 a solid waste management plan pursuant to RCW 70.95.090 (as  
30 recodified by this act).

31 **Sec. 1076.** RCW 70.93.180 and 2019 c 255 s 3 and 2019 c 166 s 5  
32 are each reenacted and amended to read as follows:

33 (1) There is hereby created an account within the state treasury  
34 to be known as the waste reduction, recycling, and litter control  
35 account. Moneys in the account may be spent only after appropriation.  
36 Expenditures from the waste reduction, recycling, and litter control  
37 account shall be used as follows:

1 (a) Forty percent to the department of ecology, primarily for use  
2 by the departments of ecology, natural resources, revenue,  
3 transportation, and corrections, and the parks and recreation  
4 commission, for litter collection programs under RCW 70.93.220 (as  
5 recodified by this act). The amount to the department of ecology  
6 shall also be used for a central coordination function for litter  
7 control efforts statewide; to support employment of youth in litter  
8 cleanup as intended in RCW 70.93.020 (as recodified by this act), and  
9 for litter pick up using other authorized agencies; and for statewide  
10 public awareness programs under RCW 70.93.200(7) (as recodified by  
11 this act). The amount to the department shall also be used to defray  
12 the costs of administering the funding, coordination, and oversight  
13 of local government programs for waste reduction, litter control,  
14 recycling, and composting so that local governments can apply one  
15 hundred percent of their funding to achieving program goals. The  
16 amount to the department of revenue shall be used to enforce  
17 compliance with the litter tax imposed in chapter 82.19 RCW;

18 (b) (i) Twenty percent to the department for local government  
19 funding programs for waste reduction, litter control, recycling  
20 activities, and composting activities by cities and counties under  
21 RCW 70.93.250 (as recodified by this act), to be administered by the  
22 department of ecology; (ii) any unspent funds under (b) (i) of this  
23 subsection may be used to create and pay for a matching fund  
24 competitive grant program to be used by local governments for the  
25 development and implementation of contamination reduction and  
26 outreach plans for inclusion in comprehensive solid waste management  
27 plans or by local governments and nonprofit organizations for local  
28 or statewide education programs designed to help the public with  
29 litter control, waste reduction, recycling, and composting of  
30 primarily the products taxed under chapter 82.19 RCW. Recipients  
31 under this subsection include programs to reduce wasted food and food  
32 waste that are designed to achieve the goals established in RCW  
33 70.95.815(1) (as recodified by this act) and that are consistent with  
34 the plan developed in RCW 70.95.815(3) (as recodified by this act).  
35 Grants must adhere to the following requirements: (A) No grant may  
36 exceed sixty thousand dollars; (B) grant recipients shall match the  
37 grant funding allocated by the department by an amount equal to  
38 twenty-five percent of eligible expenses. A local government's share  
39 of these costs may be met by cash or contributed services; (C) the  
40 obligation of the department to make grant payments is contingent

1 upon the availability of the amount of money appropriated for this  
2 subsection (1)(b); and (D) grants are managed under the guidelines  
3 for existing grant programs; and

4 (c) Forty percent to the department of ecology to: (i) Implement  
5 activities under RCW 70.93.200 (as recodified by this act) for waste  
6 reduction, recycling, and composting efforts; (ii) provide technical  
7 assistance to local governments and commercial businesses to increase  
8 recycling markets and recycling and composting programs primarily for  
9 the products taxed under chapter 82.19 RCW designed to educate  
10 citizens about waste reduction, litter control, and recyclable and  
11 compostable products and programs; (iii) increase access to waste  
12 reduction, composting, and recycling programs, particularly for food  
13 packaging and plastic bags and appropriate composting techniques; and  
14 (iv) for programs to reduce wasted food and food waste that are  
15 designed to achieve the goals established in RCW 70.95.815(1) (as  
16 recodified by this act) and that are consistent with the plan  
17 developed in RCW 70.95.815(3) (as recodified by this act).

18 (2) All taxes imposed in RCW 82.19.010 and fines and bail  
19 forfeitures collected or received pursuant to this chapter shall be  
20 deposited in the waste reduction, recycling, and litter control  
21 account and used for the programs under subsection (1) of this  
22 section.

23 (3) Not less than five percent and no more than ten percent of  
24 the amount appropriated into the waste reduction, recycling, and  
25 litter control account every biennium shall be reserved for capital  
26 needs, including the purchase of vehicles for transporting crews and  
27 for collecting litter and solid waste. Capital funds shall be  
28 distributed among state agencies and local governments according to  
29 the same criteria provided in RCW 70.93.220 (as recodified by this  
30 act) for the remainder of the funds, so that the most effective waste  
31 reduction, litter control, recycling, and composting programs receive  
32 the most funding. The intent of this subsection is to provide funds  
33 for the purchase of equipment that will enable the department to  
34 account for the greatest return on investment in terms of reaching a  
35 zero litter goal.

36 (4) Funds in the waste reduction, recycling, and litter control  
37 account, collected under chapter 82.19 RCW, must be prioritized for  
38 the products identified under RCW 82.19.020 solely for the purposes  
39 of recycling, composting, and litter collection, reduction, and  
40 control programs.

1       **Sec. 1077.** RCW 70.93.200 and 2015 c 15 s 4 are each amended to  
2 read as follows:

3       In addition to the foregoing, the department of ecology shall use  
4 the moneys from RCW 70.93.180 (as recodified by this act) of the  
5 waste reduction, recycling, and litter control account to:

6       (1) Serve as the coordinating agency between the various industry  
7 organizations seeking to aid in the waste reduction, anti-litter,  
8 recycling, and composting efforts;

9       (2) Serve as the coordinating and administrating agency for all  
10 state agencies and local governments receiving funds for waste  
11 reduction, litter control, recycling, and composting under this  
12 chapter;

13       (3) Recommend to the governing bodies of all local governments  
14 that they adopt ordinances similar to the provisions of this chapter;

15       (4) Cooperate with all local governments to accomplish  
16 coordination of local waste reduction, anti-litter, recycling, and  
17 composting efforts;

18       (5) Encourage, organize, and coordinate all voluntary local waste  
19 reduction, anti-litter, and recycling campaigns seeking to focus the  
20 attention of the public on the programs of this state to reduce  
21 waste, control and remove litter, and foster recycling and  
22 composting;

23       (6) Investigate the availability of, and apply for funds  
24 available from any private or public source to be used in the program  
25 outlined in this chapter;

26       (7) Develop statewide programs by working with local governments,  
27 payers of the waste reduction, recycling, and litter control tax, and  
28 industry organizations that are active in waste reduction, anti-  
29 litter, recycling, and composting efforts to:

30       (a) Increase public awareness of and participation in recycling  
31 and composting; and

32       (b) Stimulate and encourage local private recycling and  
33 composting centers, public participation in recycling and composting,  
34 and research and development in the field of litter control, and  
35 recycling, removal, and disposal of litter-related recycling  
36 materials, and composting; and

37       (8) Provide on the department's web site a summary of all waste  
38 reduction, litter control, recycling, and composting efforts  
39 statewide including those of the department and other state agencies  
40 and local governments funded for such programs under this chapter.

1       **Sec. 1078.** RCW 70.93.220 and 2014 c 76 s 3 are each amended to  
2 read as follows:

3       (1) The department is the coordinating and administrative agency  
4 working with the departments of natural resources, revenue,  
5 transportation, and corrections, and the parks and recreation  
6 commission in developing a biennial budget request for funds for the  
7 various agencies' litter collection programs.

8       (2) Funds may be used to meet the needs of efficient and  
9 effective litter collection and illegal dumping programs identified  
10 by the various agencies. The department shall develop criteria for  
11 evaluating the effectiveness and efficiency of the waste reduction,  
12 litter control, and recycling programs being administered by the  
13 various agencies listed in RCW 70.93.180 (as recodified by this act),  
14 and shall distribute funds according to the effectiveness and  
15 efficiency of those programs. In addition, the department shall  
16 approve funding requests for efficient and effective waste reduction,  
17 litter control, and recycling programs, provide funds, and monitor  
18 the results of all agency programs.

19       (3) All agencies are responsible for reporting information on  
20 their litter collection programs as requested by the department.

21       **Sec. 1079.** RCW 70.93.250 and 2014 c 76 s 4 are each amended to  
22 read as follows:

23       (1) The department shall provide funding to local units of  
24 government to establish, conduct, and evaluate community restitution  
25 and other programs for waste reduction, litter and illegal dump  
26 cleanup, and recycling. Programs eligible for funding under this  
27 section shall include, but not be limited to, programs established  
28 pursuant to RCW 72.09.260.

29       (2) Funds may be offered for costs associated with community  
30 waste reduction, litter cleanup and prevention, and recycling  
31 activities. The funding program must be flexible, allowing local  
32 governments to use funds broadly to meet their needs to reduce waste,  
33 control litter and illegal dumping, and promote recycling. Local  
34 governments are required to contribute resources or in-kind services.  
35 The department shall evaluate funding requests from local government  
36 according to the same criteria as those developed in RCW 70.93.220  
37 (as recodified by this act), provide funds according to the  
38 effectiveness and efficiency of local government litter control

1 programs, and monitor the results of all local government programs  
2 under this section.

3 (3) Local governments shall report information as requested by  
4 the department in funding agreements entered into by the department  
5 and a local government.

6 **Sec. 1080.** RCW 70.94.015 and 2019 c 284 s 6 are each amended to  
7 read as follows:

8 (1) The air pollution control account is established in the state  
9 treasury. All receipts collected by or on behalf of the department  
10 from RCW 70.94.151(2) (as recodified by this act), and receipts from  
11 nonpermit program sources under RCW 70.94.152(1) and 70.94.154(7) (as  
12 recodified by this act), and all receipts from RCW 70.94.6528 and  
13 70.94.6534 (as recodified by this act) shall be deposited into the  
14 account. Moneys in the account may be spent only after appropriation.  
15 Expenditures from the account may be used only to develop and  
16 implement the provisions of (~~chapters 70.94 and~~) this chapter,  
17 chapter 70.120 RCW (as recodified by this act), and RCW 70.235.080  
18 (as recodified by this act).

19 (2) The amounts collected and allocated in accordance with this  
20 section shall be expended upon appropriation except as otherwise  
21 provided in this section and in accordance with the following  
22 limitations:

23 Portions of moneys received by the department of ecology from the  
24 air pollution control account shall be distributed by the department  
25 to local authorities based on:

26 (a) The level and extent of air quality problems within such  
27 authority's jurisdiction;

28 (b) The costs associated with implementing air pollution  
29 regulatory programs by such authority; and

30 (c) The amount of funding available to such authority from other  
31 sources, whether state, federal, or local, that could be used to  
32 implement such programs.

33 (3) The air operating permit account is created in the custody of  
34 the state treasurer. All receipts collected by or on behalf of the  
35 department from permit program sources under RCW 70.94.152(1),  
36 70.94.161, 70.94.162, and 70.94.154(7) (as recodified by this act)  
37 shall be deposited into the account. Expenditures from the account  
38 may be used only for the activities described in RCW 70.94.152(1),



1 70.94.161, 70.94.162, and 70.94.154(7) (as recodified by this act).  
2 Moneys in the account may be spent only after appropriation.

3 **Sec. 1081.** RCW 70.94.030 and 2005 c 197 s 2 are each amended to  
4 read as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

7 (1) "Air contaminant" means dust, fumes, mist, smoke, other  
8 particulate matter, vapor, gas, odorous substance, or any combination  
9 thereof.

10 (2) "Air pollution" is presence in the outdoor atmosphere of one  
11 or more air contaminants in sufficient quantities and of such  
12 characteristics and duration as is, or is likely to be, injurious to  
13 human health, plant or animal life, or property, or which  
14 unreasonably interfere with enjoyment of life and property. For the  
15 purpose of this chapter, air pollution shall not include air  
16 contaminants emitted in compliance with chapter 17.21 RCW.

17 (3) "Air quality standard" means an established concentration,  
18 exposure time, and frequency of occurrence of an air contaminant or  
19 multiple contaminants in the ambient air which shall not be exceeded.

20 (4) "Ambient air" means the surrounding outside air.

21 (5) "Authority" means any air pollution control agency whose  
22 jurisdictional boundaries are coextensive with the boundaries of one  
23 or more counties.

24 (6) "Best available control technology" (BACT) means an emission  
25 limitation based on the maximum degree of reduction for each air  
26 pollutant subject to regulation under this chapter emitted from or  
27 that results from any new or modified stationary source, that the  
28 permitting authority, on a case-by-case basis, taking into account  
29 energy, environmental, and economic impacts and other costs,  
30 determines is achievable for such a source or modification through  
31 application of production processes and available methods, systems,  
32 and techniques, including fuel cleaning, clean fuels, or treatment or  
33 innovative fuel combustion techniques for control of each such a  
34 pollutant. In no event shall application of "best available control  
35 technology" result in emissions of any pollutants that will exceed  
36 the emissions allowed by any applicable standard under 40 C.F.R. Part  
37 60 and Part 61, as they exist on July 25, 1993, or their later  
38 enactments as adopted by reference by the director by rule. Emissions  
39 from any source utilizing clean fuels, or any other means, to comply

1 with this subsection shall not be allowed to increase above levels  
2 that would have been required under the definition of BACT as it  
3 existed prior to enactment of the federal clean air act amendments of  
4 1990.

5 (7) "Best available retrofit technology" (BART) means an emission  
6 limitation based on the degree of reduction achievable through the  
7 application of the best system of continuous emission reduction for  
8 each pollutant that is emitted by an existing stationary facility.  
9 The emission limitation must be established, on a case-by-case basis,  
10 taking into consideration the technology available, the costs of  
11 compliance, the energy and nonair quality environmental impacts of  
12 compliance, any pollution control equipment in use or in existence at  
13 the source, the remaining useful life of the source, and the degree  
14 of improvement in visibility that might reasonably be anticipated to  
15 result from the use of the technology.

16 (8) "Board" means the board of directors of an authority.

17 (9) "Control officer" means the air pollution control officer of  
18 any authority.

19 (10) "Department" or "ecology" means the department of ecology.

20 (11) "Emission" means a release of air contaminants into the  
21 ambient air.

22 (12) "Emission standard" and "emission limitation" mean a  
23 requirement established under the federal clean air act or this  
24 chapter that limits the quantity, rate, or concentration of emissions  
25 of air contaminants on a continuous basis, including any requirement  
26 relating to the operation or maintenance of a source to assure  
27 continuous emission reduction, and any design, equipment, work  
28 practice, or operational standard adopted under the federal clean air  
29 act or this chapter.

30 (13) "Fine particulate" means particulates with a diameter of two  
31 and one-half microns and smaller.

32 (14) "Lowest achievable emission rate" (LAER) means for any  
33 source that rate of emissions that reflects:

34 (a) The most stringent emission limitation that is contained in  
35 the implementation plan of any state for such class or category of  
36 source, unless the owner or operator of the proposed source  
37 demonstrates that such limitations are not achievable; or

38 (b) The most stringent emission limitation that is achieved in  
39 practice by such class or category of source, whichever is more  
40 stringent.

1 In no event shall the application of this term permit a proposed  
2 new or modified source to emit any pollutant in excess of the amount  
3 allowable under applicable new source performance standards.

4 (15) "Modification" means any physical change in, or change in  
5 the method of operation of, a stationary source that increases the  
6 amount of any air contaminant emitted by such source or that results  
7 in the emission of any air contaminant not previously emitted. The  
8 term modification shall be construed consistent with the definition  
9 of modification in Section 7411, Title 42, United States Code, and  
10 with rules implementing that section.

11 (16) "Multicounty authority" means an authority which consists of  
12 two or more counties.

13 (17) "New source" means (a) the construction or modification of a  
14 stationary source that increases the amount of any air contaminant  
15 emitted by such source or that results in the emission of any air  
16 contaminant not previously emitted, and (b) any other project that  
17 constitutes a new source under the federal clean air act.

18 (18) "Permit program source" means a source required to apply for  
19 or to maintain an operating permit under RCW 70.94.161 (as recodified  
20 by this act).

21 (19) "Person" means an individual, firm, public or private  
22 corporation, association, partnership, political subdivision of the  
23 state, municipality, or governmental agency.

24 (20) "Reasonably available control technology" (RACT) means the  
25 lowest emission limit that a particular source or source category is  
26 capable of meeting by the application of control technology that is  
27 reasonably available considering technological and economic  
28 feasibility. RACT is determined on a case-by-case basis for an  
29 individual source or source category taking into account the impact  
30 of the source upon air quality, the availability of additional  
31 controls, the emission reduction to be achieved by additional  
32 controls, the impact of additional controls on air quality, and the  
33 capital and operating costs of the additional controls. RACT  
34 requirements for a source or source category shall be adopted only  
35 after notice and opportunity for comment are afforded.

36 (21) "Silvicultural burning" means burning of wood fiber on  
37 forestland consistent with the provisions of RCW ~~((70.94.660))~~  
38 70.94.6534 (as recodified by this act).

39 (22) "Source" means all of the emissions units including  
40 quantifiable fugitive emissions, that are located on one or more

1 contiguous or adjacent properties, and are under the control of the  
2 same person, or persons under common control, whose activities are  
3 ancillary to the production of a single product or functionally  
4 related group of products.

5 (23) "Stationary source" means any building, structure, facility,  
6 or installation that emits or may emit any air contaminant.

7 (24) "Trigger level" means the ambient level of fine  
8 particulates, measured in micrograms per cubic meter, that must be  
9 detected prior to initiating a first or second stage of impaired air  
10 quality under RCW 70.94.473 (as recodified by this act).

11 **Sec. 1082.** RCW 70.94.040 and 1980 c 175 s 2 are each amended to  
12 read as follows:

13 Except where specified in a variance permit, as provided in RCW  
14 70.94.181 (as recodified by this act), it shall be unlawful for any  
15 person to cause air pollution or permit it to be caused in violation  
16 of this chapter, or of any ordinance, resolution, rule or regulation  
17 validly promulgated hereunder.

18 **Sec. 1083.** RCW 70.94.041 and 1991 c 199 s 506 are each amended  
19 to read as follows:

20 Except as otherwise provided in this section, any building or  
21 structure listed on the national register of historic sites,  
22 structures, or buildings established pursuant to 80 Stat. 915, 16  
23 U.S.C. Sec. 470a, or on the state register established pursuant to  
24 RCW 27.34.220, shall be permitted to burn wood as it would have when  
25 it was a functioning facility as an authorized exception to the  
26 provisions of this chapter. Such burning of wood shall not be  
27 exempted from the provisions of RCW 70.94.710 through 70.94.730 (as  
28 recodified by this act).

29 **Sec. 1084.** RCW 70.94.053 and 1995 c 135 s 5 are each amended to  
30 read as follows:

31 (1) In each county of the state there is hereby created an air  
32 pollution control authority, which shall bear the name of the county  
33 within which it is located. The boundaries of each authority shall be  
34 coextensive with the boundaries of the county within which it is  
35 located. An authority shall include all incorporated and  
36 unincorporated areas of the county within which it is located.

1 (2) Except as provided in RCW 70.94.262 (as recodified by this  
2 act), all authorities which are presently activated authorities shall  
3 carry out the duties and exercise the powers provided in this  
4 chapter. Those activated authorities which encompass contiguous  
5 counties are declared to be and directed to function as a multicounty  
6 authority.

7 (3) All other air pollution control authorities are hereby  
8 designated as inactive authorities.

9 (4) The boards of those authorities designated as activated  
10 authorities by this chapter shall be comprised of such individuals as  
11 is provided in RCW 70.94.100 (as recodified by this act).

12 **Sec. 1085.** RCW 70.94.069 and 1969 ex.s. c 168 s 4 are each  
13 amended to read as follows:

14 Whenever there occurs a merger of an inactive authority with an  
15 activated authority or authorities, or of two activated authorities  
16 to form a multicounty authority, the board of directors shall be  
17 reorganized as provided in RCW 70.94.100, 70.94.110, and 70.94.120  
18 (as recodified by this act).

19 In the case of the merger of two or more activated authorities  
20 the rules and regulations of each authority shall continue in effect  
21 and shall be enforced within the jurisdiction of each until such time  
22 as the board of directors adopts rules and regulations applicable to  
23 the newly formed multicounty authority.

24 In the case of the merger of an inactive authority with an  
25 activated authority or authorities, upon approval of such merger by  
26 the board or boards of county commissioners of the county or counties  
27 comprising the existing activated authority or authorities, the rules  
28 and regulations of the activated authority or authorities shall  
29 remain in effect until superseded by the rules and regulations of the  
30 multicounty authority as provided in RCW 70.94.230 (as recodified by  
31 this act).

32 **Sec. 1086.** RCW 70.94.100 and 2009 c 254 s 1 are each amended to  
33 read as follows:

34 (1) The governing body of each authority shall be known as the  
35 board of directors.

36 (2) (a) In the case of an authority comprised of one county, with  
37 a population of less than four hundred thousand people, the board  
38 shall be comprised of two appointees of the city selection committee,

1 at least one of whom shall represent the city having the most  
2 population in the county, and two representatives to be designated by  
3 the board of county commissioners.

4 (b) In the case of an authority comprised of one county, with a  
5 population of equal to or greater than four hundred thousand people,  
6 the board shall be comprised of three appointees of cities, one each  
7 from the two cities with the most population in the county and one  
8 appointee of the city selection committee representing the other  
9 cities, and one representative to be designated by the board of  
10 county commissioners.

11 (c) In the case of an authority comprised of two, three, four, or  
12 five counties, the board shall be comprised of one appointee from  
13 each county, who shall represent the city having the most population  
14 in such county, to be designated by the mayor and city council of  
15 such city, and one representative from each county to be designated  
16 by the board of county commissioners of each county making up the  
17 authority.

18 (d) In the case of an authority comprised of six or more  
19 counties, the board shall be comprised of one representative from  
20 each county to be designated by the board of county commissioners of  
21 each county making up the authority, and three appointees, one each  
22 from the three largest cities within the local authority's  
23 jurisdiction to be appointed by the mayor and city council of such  
24 city.

25 (3) If the board of an authority otherwise would consist of an  
26 even number, the members selected as above provided shall agree upon  
27 and elect an additional member who shall be:

28 (a) In the case of an authority comprised of one county with a  
29 population of equal to or greater than four hundred thousand people,  
30 a citizen residing in the county who demonstrates significant  
31 professional experience in the field of public health, air quality  
32 protection, or meteorology; or

33 (b) In the case of an authority comprised of one county, with a  
34 population less than four hundred thousand people, or of more than  
35 one county, either a member of the governing body of one of the  
36 towns, cities or counties comprising the authority, or a private  
37 citizen residing in the authority.

38 (4) The terms of office of board members shall be four years.

39 (5) If an appointee is unable to complete his or her term as a  
40 board member, the vacancy for that office must be filled by the same

1 method as the original appointment, except for the appointment by the  
2 city selection committee, which must use the method in RCW  
3 70.94.120(1) (as recodified by this act) for replacements. The person  
4 appointed as a replacement will serve the remainder of the term for  
5 that office.

6 (6) Wherever a member of a board has a potential conflict of  
7 interest in an action before the board, the member shall declare to  
8 the board the nature of the potential conflict prior to participating  
9 in the action review. The board shall, if the potential conflict of  
10 interest, in the judgment of a majority of the board, may prevent the  
11 member from a fair and objective review of the case, remove the  
12 member from participation in the action.

13 **Sec. 1087.** RCW 70.94.130 and 1998 c 342 s 1 are each amended to  
14 read as follows:

15 The board shall exercise all powers of the authority except as  
16 otherwise provided. The board shall conduct its first meeting within  
17 thirty days after all of its members have been appointed or  
18 designated as provided in RCW 70.94.100 (as recodified by this act).  
19 The board shall meet at least ten times per year. All meetings shall  
20 be publicly announced prior to their occurrence. All meetings shall  
21 be open to the public. A majority of the board shall constitute a  
22 quorum for the transaction of business and shall be necessary for any  
23 action taken by the board. The board shall elect from its members a  
24 chair and such other officers as may be necessary. Any member of the  
25 board may designate a regular alternate to serve on the board in his  
26 or her place with the same authority as the member when he or she is  
27 unable to attend. In no event may a regular alternate serve as the  
28 permanent chair. Each member of the board, or his or her  
29 representative, shall receive from the authority compensation  
30 consistent with such authority's rates (but not to exceed one  
31 thousand dollars per year) for time spent in the performance of  
32 duties under this chapter, plus the actual and necessary expenses  
33 incurred by the member in such performance. The board may appoint a  
34 control officer, and any other personnel, and shall determine their  
35 salaries, and pay same, together with any other proper indebtedness,  
36 from authority funds.

37 **Sec. 1088.** RCW 70.94.142 and 2012 c 117 s 407 are each amended  
38 to read as follows:

1 In connection with the subpoena powers given in RCW 70.94.141(2)  
2 (as recodified by this act):

3 (1) In any hearing held under RCW 70.94.181 and 70.94.221 (as  
4 recodified by this act), the board or the department, and their  
5 authorized agents:

6 (a) Shall issue a subpoena upon the request of any party and, to  
7 the extent required by rule or regulation, upon a statement or  
8 showing of general relevance and reasonable scope of the evidence  
9 sought;

10 (b) May issue a subpoena upon their own motion.

11 (2) The subpoena powers given in RCW 70.94.141(2) (as recodified  
12 by this act) shall be statewide in effect.

13 (3) Witnesses appearing under the compulsion of a subpoena in a  
14 hearing before the board or the department shall be paid the same  
15 fees and mileage that are provided for witnesses in the courts of  
16 this state. Such fees and mileage, and the cost of duplicating  
17 records required to be produced by subpoena issued upon the motion of  
18 the board or department, shall be paid by the board or department.  
19 Such fees and mileage, and the cost of producing records required to  
20 be produced by subpoena issued upon the request of a party, shall be  
21 paid by that party.

22 (4) If an individual fails to obey the subpoena, or obeys the  
23 subpoena but refuses to testify when required concerning any matter  
24 under examination or investigation or the subject of the hearing, the  
25 board or department shall file its written report thereof and proof  
26 of service of its subpoena, in any court of competent jurisdiction in  
27 the county where the examination, hearing, or investigation is being  
28 conducted. Thereupon, the court shall forthwith cause the individual  
29 to be brought before it and, upon being satisfied that the subpoena  
30 is within the jurisdiction of the board or department and otherwise  
31 in accordance with law, shall punish him or her as if the failure or  
32 refusal related to a subpoena from or testimony in that court.

33 (5) The department may make such rules and regulations as to the  
34 issuance of its own subpoenas as are not inconsistent with the  
35 provisions of this chapter.

36 **Sec. 1089.** RCW 70.94.143 and 1987 c 109 s 36 are each amended to  
37 read as follows:

38 Any authority exercising the powers and duties prescribed in this  
39 chapter may make application for, receive, administer, and expend any



1 federal aid, under federal legislation from any agency of the federal  
2 government, for the prevention and control of air pollution or the  
3 development and administration of programs related to air pollution  
4 control and prevention, as permitted by RCW 70.94.141(12) (as  
5 recodified by this act): PROVIDED, That any such application shall be  
6 submitted to and approved by the department. The department shall  
7 adopt rules and regulations establishing standards for such approval  
8 and shall approve any such application, if it is consistent with this  
9 chapter, and any other applicable requirements of law.

10 **Sec. 1090.** RCW 70.94.151 and 2010 c 146 s 2 are each amended to  
11 read as follows:

12 (1) The board of any activated authority or the department, may  
13 classify air contaminant sources, by ordinance, resolution, rule or  
14 regulation, which in its judgment may cause or contribute to air  
15 pollution, according to levels and types of emissions and other  
16 characteristics which cause or contribute to air pollution, and may  
17 require registration or reporting or both for any such class or  
18 classes. Classifications made pursuant to this section may be for  
19 application to the area of jurisdiction of such authority, or the  
20 state as a whole or to any designated area within the jurisdiction,  
21 and shall be made with special reference to effects on health,  
22 economic and social factors, and physical effects on property.

23 (2) Except as provided in subsection (3) of this section, any  
24 person operating or responsible for the operation of air contaminant  
25 sources of any class for which the ordinances, resolutions, rules or  
26 regulations of the department or board of the authority, require  
27 registration or reporting shall register therewith and make reports  
28 containing information as may be required by such department or board  
29 concerning location, size and height of contaminant outlets,  
30 processes employed, nature of the contaminant emission and such other  
31 information as is relevant to air pollution and available or  
32 reasonably capable of being assembled. In the case of emissions of  
33 greenhouse gases as defined in RCW 70.235.010 (as recodified by this  
34 act) the department shall adopt rules requiring reporting of those  
35 emissions. The department or board may require that such registration  
36 or reporting be accompanied by a fee, and may determine the amount of  
37 such fee for such class or classes: PROVIDED, That the amount of the  
38 fee shall only be to compensate for the costs of administering such  
39 registration or reporting program which shall be defined as initial

1 registration and annual or other periodic reports from the source  
2 owner providing information directly related to air pollution  
3 registration, on-site inspections necessary to verify compliance with  
4 registration requirements, data storage and retrieval systems  
5 necessary for support of the registration program, emission inventory  
6 reports and emission reduction credits computed from information  
7 provided by sources pursuant to registration program requirements,  
8 staff review, including engineering or other reliable analysis for  
9 accuracy and currentness, of information provided by sources pursuant  
10 to registration program requirements, clerical and other office  
11 support provided in direct furtherance of the registration program,  
12 and administrative support provided in directly carrying out the  
13 registration program: PROVIDED FURTHER, That any such registration  
14 made with either the board or the department shall preclude a further  
15 registration and reporting with any other board or the department,  
16 except that emissions of greenhouse gases as defined in RCW  
17 70.235.010 (as recodified by this act) must be reported as required  
18 under subsection (5) of this section.

19 All registration program and reporting fees collected by the  
20 department shall be deposited in the air pollution control account.  
21 All registration program fees collected by the local air authorities  
22 shall be deposited in their respective treasuries.

23 (3) If a registration or report has been filed for a grain  
24 warehouse or grain elevator as required under this section,  
25 registration, reporting, or a registration program fee shall not,  
26 after January 1, 1997, again be required under this section for the  
27 warehouse or elevator unless the capacity of the warehouse or  
28 elevator as listed as part of the license issued for the facility has  
29 been increased since the date the registration or reporting was last  
30 made. If the capacity of the warehouse or elevator listed as part of  
31 the license is increased, any registration or reporting required for  
32 the warehouse or elevator under this section must be made by the date  
33 the warehouse or elevator receives grain from the first harvest  
34 season that occurs after the increase in its capacity is listed in  
35 the license.

36 This subsection does not apply to a grain warehouse or grain  
37 elevator if the warehouse or elevator handles more than ten million  
38 bushels of grain annually.

39 (4) For the purposes of subsection (3) of this section:

1 (a) A "grain warehouse" or "grain elevator" is an establishment  
2 classified in standard industrial classification (SIC) code 5153 for  
3 wholesale trade for which a license is required and includes, but is  
4 not limited to, such a licensed facility that also conducts cleaning  
5 operations for grain;

6 (b) A "license" is a license issued by the department of  
7 agriculture licensing a facility as a grain warehouse or grain  
8 elevator under chapter 22.09 RCW or a license issued by the federal  
9 government licensing a facility as a grain warehouse or grain  
10 elevator for purposes similar to those of licensure for the facility  
11 under chapter 22.09 RCW; and

12 (c) "Grain" means a grain or a pulse.

13 (5)(a) The department shall adopt rules requiring persons to  
14 report emissions of greenhouse gases as defined in RCW 70.235.010 (as  
15 recodified by this act) where those emissions from a single facility,  
16 source, or site, or from fossil fuels sold in Washington by a single  
17 supplier meet or exceed ten thousand metric tons of carbon dioxide  
18 equivalent annually. The department may phase in the requirement to  
19 report greenhouse gas emissions until the reporting threshold in this  
20 subsection is met, which must occur by January 1, 2012. In addition,  
21 the rules must require that:

22 (i) Emissions of greenhouse gases resulting from the combustion  
23 of fossil fuels be reported separately from emissions of greenhouse  
24 gases resulting from the combustion of biomass;

25 (ii) Reporting will start in 2010 for 2009 emissions. Each annual  
26 report must include emissions data for the preceding calendar year  
27 and must be submitted to the department by October 31st of the year  
28 in which the report is due. However, starting in 2011, a person who  
29 is required to report greenhouse gas emissions to the United States  
30 environmental protection agency under 40 C.F.R. Part 98, as adopted  
31 on September 22, 2009, must submit the report required under this  
32 section to the department concurrent with the submission to the  
33 United States environmental protection agency. Except as otherwise  
34 provided in this section, the data for emissions in Washington and  
35 any corrections thereto that are reported to the United States  
36 environmental protection agency must be the emissions data reported  
37 to the department; and

38 (iii) Emissions of carbon dioxide associated with the complete  
39 combustion or oxidation of liquid motor vehicle fuel, special fuel,  
40 or aircraft fuel that is sold in Washington where the annual

1 emissions associated with that combustion or oxidation equal or  
2 exceed ten thousand metric tons be reported to the department. Each  
3 person who is required to file periodic tax reports of motor vehicle  
4 fuel sales under RCW 82.36.031 or special fuel sales under RCW  
5 82.38.150, or each distributor of aircraft fuel required to file  
6 periodic tax reports under RCW 82.42.040 must report to the  
7 department the annual emissions of carbon dioxide from the complete  
8 combustion or oxidation of the fuels listed in those reports as sold  
9 in the state of Washington. The department shall not require  
10 suppliers to use additional data to calculate greenhouse gas  
11 emissions other than the data the suppliers report to the department  
12 of licensing. The rules may allow this information to be aggregated  
13 when reported to the department. The department and the department of  
14 licensing shall enter into an interagency agreement to ensure  
15 proprietary and confidential information is protected if the  
16 departments share reported information. Any proprietary or  
17 confidential information exempt from disclosure when reported to the  
18 department of licensing is exempt from disclosure when shared by the  
19 department of licensing with the department under this provision.

20 (b) (i) Except as otherwise provided in this subsection, the rules  
21 adopted by the department under (a) of this subsection must be  
22 consistent with the regulations adopted by the United States  
23 environmental protection agency in 40 C.F.R. Part 98 on September 22,  
24 2009.

25 (ii) The department may by rule include additional gases to the  
26 definition of "greenhouse gas" in RCW 70.235.010 (as recodified by  
27 this act) only if the gas has been designated as a greenhouse gas by  
28 the United States congress or by the United States environmental  
29 protection agency. Prior to including additional gases to the  
30 definition of "greenhouse gas" in RCW 70.235.010 (as recodified by  
31 this act), the department shall notify the appropriate committees of  
32 the legislature. Decisions to amend the rule to include additional  
33 gases must be made prior to December 1st of any year and the amended  
34 rule may not take effect before the end of the regular legislative  
35 session in the next year.

36 (iii) The department may by rule exempt persons who are required  
37 to report greenhouse gas emissions to the United States environmental  
38 protection agency and who emit less than ten thousand metric tons  
39 carbon dioxide equivalent annually.

1 (iv) The department must establish a methodology for persons who  
2 are not required to report under this section to voluntarily report  
3 their greenhouse gas emissions.

4 (c) The department shall review and if necessary update its rules  
5 whenever the United States environmental protection agency adopts  
6 final amendments to 40 C.F.R. Part 98 to ensure consistency with  
7 federal reporting requirements for emissions of greenhouse gases.  
8 However, the department shall not amend its rules in a manner that  
9 conflicts with (a) of this subsection.

10 (d) The department shall share any reporting information reported  
11 to it with the local air authority in which the person reporting  
12 under the rules adopted by the department operates.

13 (e) The fee provisions in subsection (2) of this section apply to  
14 reporting of emissions of greenhouse gases. Persons required to  
15 report under (a) of this subsection who fail to report or pay the fee  
16 required in subsection (2) of this section are subject to enforcement  
17 penalties under this chapter. The department shall enforce the  
18 reporting rule requirements unless it approves a local air  
19 authority's request to enforce the requirements for persons operating  
20 within the authority's jurisdiction. However, neither the department  
21 nor a local air authority approved under this section are authorized  
22 to assess enforcement penalties on persons required to report under  
23 (a) of this subsection until six months after the department adopts  
24 its reporting rule in 2010.

25 (f) The energy facility site evaluation council shall,  
26 simultaneously with the department, adopt rules that impose  
27 greenhouse gas reporting requirements in site certifications on  
28 owners or operators of a facility permitted by the energy facility  
29 site evaluation council. The greenhouse gas reporting requirements  
30 imposed by the energy facility site evaluation council must be the  
31 same as the greenhouse gas reporting requirements imposed by the  
32 department. The department shall share any information reported to it  
33 from facilities permitted by the energy facility site evaluation  
34 council with the council, including notice of a facility that has  
35 failed to report as required. The energy facility site evaluation  
36 council shall contract with the department to monitor the reporting  
37 requirements adopted under this section.

38 (g) The inclusion or failure to include any person, source,  
39 classes of persons or sources, or types of emissions of greenhouse  
40 gases into the department's rules for reporting under this section

1 does not indicate whether such a person, source, or category is  
2 appropriate for inclusion in state, regional, or national greenhouse  
3 gas reduction programs or strategies. Furthermore, aircraft fuel  
4 purchased in the state may not be considered equivalent to aircraft  
5 fuel combusted in the state.

6 (h) (i) The definitions in RCW 70.235.010 (as recodified by this  
7 act) apply throughout this subsection (5) unless the context clearly  
8 requires otherwise.

9 (ii) For the purpose of this subsection (5), the term "supplier"  
10 includes: (A) A motor vehicle fuel supplier or a motor vehicle fuel  
11 importer, as those terms are defined in RCW 82.36.010; (B) a special  
12 fuel supplier or a special fuel importer, as those terms are defined  
13 in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those  
14 terms are defined in RCW 82.42.010.

15 (iii) For the purpose of this subsection (5), the term "person"  
16 includes: (A) An owner or operator, as those terms are defined by the  
17 United States environmental protection agency in its mandatory  
18 greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted  
19 on September 22, 2009; and (B) a supplier.

20 **Sec. 1091.** RCW 70.94.152 and 1996 c 67 s 1 and 1996 c 29 s 1 are  
21 each reenacted and amended to read as follows:

22 (1) The department of ecology or board of any authority may  
23 require notice of the establishment of any proposed new sources  
24 except single-family and duplex dwellings or de minimis new sources  
25 as defined in rules adopted under subsection (11) of this section.  
26 The department of ecology or board may require such notice to be  
27 accompanied by a fee and determine the amount of such fee: PROVIDED,  
28 That the amount of the fee may not exceed the cost of reviewing the  
29 plans, specifications, and other information and administering such  
30 notice: PROVIDED FURTHER, That any such notice given or notice of  
31 construction application submitted to either the board or to the  
32 department of ecology shall preclude a further submittal of a  
33 duplicate application to any board or to the department of ecology.

34 (2) The department shall, after opportunity for public review and  
35 comment, adopt rules that establish a workload-driven process for  
36 determination and review of the fee covering the direct and indirect  
37 costs of processing a notice of construction application and a  
38 methodology for tracking revenues and expenditures. All new source  
39 fees collected by the delegated local air authorities from sources

1 shall be deposited in the dedicated accounts of their respective  
2 treasuries. All new source fees collected by the department from  
3 sources shall be deposited in the air pollution control account.

4 (3) Within thirty days of receipt of a notice of construction  
5 application, the department of ecology or board may require, as a  
6 condition precedent to the establishment of the new source or sources  
7 covered thereby, the submission of plans, specifications, and such  
8 other information as it deems necessary to determine whether the  
9 proposed new source will be in accord with applicable rules and  
10 regulations in force under this chapter. If on the basis of plans,  
11 specifications, or other information required under this section the  
12 department of ecology or board determines that the proposed new  
13 source will not be in accord with this chapter or the applicable  
14 ordinances, resolutions, rules, and regulations adopted under this  
15 chapter, it shall issue an order denying permission to establish the  
16 new source. If on the basis of plans, specifications, or other  
17 information required under this section, the department of ecology or  
18 board determines that the proposed new source will be in accord with  
19 this chapter, and the applicable rules and regulations adopted under  
20 this chapter, it shall issue an order of approval for the  
21 establishment of the new source or sources, which order may provide  
22 such conditions as are reasonably necessary to assure the maintenance  
23 of compliance with this chapter and the applicable rules and  
24 regulations adopted under this chapter. Every order of approval under  
25 this chapter must be reviewed prior to issuance by a professional  
26 engineer or staff under the supervision of a professional engineer in  
27 the employ of the department of ecology or board.

28 (4) The determination required under subsection (3) of this  
29 section shall include a determination of whether the operation of the  
30 new air contaminant source at the location proposed will cause any  
31 ambient air quality standard to be exceeded.

32 (5) New source review of a modification shall be limited to the  
33 emission unit or units proposed to be modified and the air  
34 contaminants whose emissions would increase as a result of the  
35 modification.

36 (6) Nothing in this section shall be construed to authorize the  
37 department of ecology or board to require the use of emission control  
38 equipment or other equipment, machinery, or devices of any particular  
39 type, from any particular supplier, or produced by any particular  
40 manufacturer.

1 (7) Any features, machines, and devices constituting parts of or  
2 called for by plans, specifications, or other information submitted  
3 pursuant to subsection (1) or (3) of this section shall be maintained  
4 and operate in good working order.

5 (8) The absence of an ordinance, resolution, rule, or regulation,  
6 or the failure to issue an order pursuant to this section shall not  
7 relieve any person from his or her obligation to comply with  
8 applicable emission control requirements or with any other provision  
9 of law.

10 (9) Within thirty days of receipt of a notice of construction  
11 application the department of ecology or board shall either notify  
12 the applicant in writing that the application is complete or notify  
13 the applicant in writing of all additional information necessary to  
14 complete the application. Within sixty days of receipt of a complete  
15 application the department or board shall either (a) issue a final  
16 decision on the application, or (b) for those projects subject to  
17 public notice, initiate notice and comment on a proposed decision,  
18 followed as promptly as possible by a final decision. A person  
19 seeking approval to construct or modify a source that requires an  
20 operating permit may elect to integrate review of the operating  
21 permit application or amendment required by RCW 70.94.161 (as  
22 recodified by this act) and the notice of construction application  
23 required by this section. A notice of construction application  
24 designated for integrated review shall be processed in accordance  
25 with operating permit program procedures and deadlines.

26 (10) A notice of construction approval required under subsection  
27 (3) of this section shall include a determination that the new source  
28 will achieve best available control technology. If more stringent  
29 controls are required under federal law, the notice of construction  
30 shall include a determination that the new source will achieve the  
31 more stringent federal requirements. Nothing in this subsection is  
32 intended to diminish other state authorities under this chapter.

33 (11) No person is required to submit a notice of construction or  
34 receive approval for a new source that is deemed by the department of  
35 ecology or board to have de minimis impact on air quality. The  
36 department of ecology shall adopt and periodically update rules  
37 identifying categories of de minimis new sources. The department of  
38 ecology may identify de minimis new sources by category, size, or  
39 emission thresholds.



1 (12) For purposes of this section, "de minimis new sources" means  
2 new sources with trivial levels of emissions that do not pose a  
3 threat to human health or the environment.

4 **Sec. 1092.** RCW 70.94.153 and 1991 c 199 s 303 are each amended  
5 to read as follows:

6 Any person proposing to replace or substantially alter the  
7 emission control technology installed on an existing stationary  
8 source emission unit shall file a notice of construction application  
9 with the jurisdictional permitting authority. For projects not  
10 otherwise reviewable under RCW 70.94.152 (as recodified by this act),  
11 the permitting authority may (1) require that the owner or operator  
12 employ reasonably available control technology for the affected  
13 emission unit and (2) may prescribe reasonable operation and  
14 maintenance conditions for the control equipment. Within thirty days  
15 of receipt of an application for notice of construction under this  
16 section the permitting authority shall either notify the applicant in  
17 writing that the application is complete or notify the applicant in  
18 writing of all additional information necessary to complete the  
19 application. Within thirty days of receipt of a complete application  
20 the permitting authority shall either issue an order of approval or a  
21 proposed RACT determination for the proposed project. Construction  
22 shall not commence on a project subject to review under this section  
23 until the permitting authority issues a final order of approval.  
24 However, any notice of construction application filed under this  
25 section shall be deemed to be approved without conditions if the  
26 permitting authority takes no action within thirty days of receipt of  
27 a complete application for a notice of construction.

28 **Sec. 1093.** RCW 70.94.154 and 1996 c 29 s 2 are each amended to  
29 read as follows:

30 (1) RACT as defined in RCW 70.94.030 (as recodified by this act)  
31 is required for existing sources except as otherwise provided in RCW  
32 70.94.331(9) (as recodified by this act).

33 (2) RACT for each source category containing three or more  
34 sources shall be determined by rule except as provided in subsection  
35 (3) of this section.

36 (3) Source-specific RACT determinations may be performed under  
37 any of the following circumstances:

38 (a) As authorized by RCW 70.94.153 (as recodified by this act);

1 (b) When required by the federal clean air act;

2 (c) For sources in source categories containing fewer than three  
3 sources;

4 (d) When an air quality problem, for which the source is a  
5 contributor, justifies a source-specific RACT determination prior to  
6 development of a categorical RACT rule; or

7 (e) When a source-specific RACT determination is needed to  
8 address either specific air quality problems for which the source is  
9 a significant contributor or source-specific economic concerns.

10 (4) By January 1, 1994, ecology shall develop a list of sources  
11 and source categories requiring RACT review and a schedule for  
12 conducting that review. Ecology shall review the list and schedule  
13 within six months of receiving the initial operating permit  
14 applications and at least once every five years thereafter. In  
15 developing the list to determine the schedule of RACT review, ecology  
16 shall consider emission reductions achievable through the use of new  
17 available technologies and the impacts of those incremental  
18 reductions on air quality, the remaining useful life of previously  
19 installed control equipment, the impact of the source or source  
20 category on air quality, the number of years since the last BACT,  
21 RACT, or LAER determination for that source and other relevant  
22 factors. Prior to finalizing the list and schedule, ecology shall  
23 consult with local air authorities, the regulated community,  
24 environmental groups, and other interested individuals and  
25 organizations. The department and local authorities shall revise RACT  
26 requirements, as needed, based on the review conducted under this  
27 subsection.

28 (5) In determining RACT, ecology and local authorities shall  
29 utilize the factors set forth in RCW 70.94.030 (as recodified by this  
30 act) and shall consider RACT determinations and guidance made by the  
31 federal environmental protection agency, other states and local  
32 authorities for similar sources, and other relevant factors. In  
33 establishing or revising RACT requirements, ecology and local  
34 authorities shall address, where practicable, all air contaminants  
35 deemed to be of concern for that source or source category.

36 (6) Emission standards and other requirements contained in rules  
37 or regulatory orders in effect at the time of operating permit  
38 issuance or renewal shall be considered RACT for purposes of permit  
39 issuance or renewal. RACT determinations under subsections (2) and  
40 (3) of this section shall be incorporated into operating permits as

1 provided in RCW 70.94.161 (as recodified by this act) and rules  
2 implementing that section.

3 (7) The department and local air authorities are authorized to  
4 assess and collect a fee to cover the costs of developing,  
5 establishing, or reviewing categorical or case-by-case RACT  
6 requirements. The fee shall apply to determinations of RACT  
7 requirements as defined under this section and RCW 70.94.331(9) (as  
8 recodified by this act). The amount of the fee may not exceed the  
9 direct and indirect costs of establishing the requirement for the  
10 particular source or the pro rata portion of the direct and indirect  
11 costs of establishing the requirement for the relevant source  
12 category. The department shall, after opportunity for public review  
13 and comment, adopt rules that establish a workload-driven process for  
14 determination and review of the fee covering the direct and indirect  
15 costs of its RACT determinations and a methodology for tracking  
16 revenues and expenditures. All such RACT determination fees collected  
17 by the delegated local air authorities from sources shall be  
18 deposited in the dedicated accounts of their respective treasuries.  
19 All such RACT fees collected by the department from sources shall be  
20 deposited in the air pollution control account.

21 **Sec. 1094.** RCW 70.94.161 and 2008 c 14 s 6 are each amended to  
22 read as follows:

23 The department of ecology, or board of an authority, shall  
24 require renewable permits for the operation of air contaminant  
25 sources subject to the following conditions and limitations:

26 (1) Permits shall be issued for a term of five years. A permit  
27 may be modified or amended during its term at the request of the  
28 permittee, or for any reason allowed by the federal clean air act.  
29 The rules adopted pursuant to subsection (2) of this section shall  
30 include rules for permit amendments and modifications. The terms and  
31 conditions of a permit shall remain in effect after the permit itself  
32 expires if the permittee submits a timely and complete application  
33 for permit renewal.

34 (2)(a) Rules establishing the elements for a statewide operating  
35 permit program and the process for permit application and renewal  
36 consistent with federal requirements shall be established by the  
37 department by January 1, 1993. The rules shall provide that every  
38 proposed permit must be reviewed prior to issuance by a professional  
39 engineer or staff under the direct supervision of a professional

1 engineer in the employ of the permitting authority. The permit  
2 program established by these rules shall be administered by the  
3 department and delegated local air authorities. Rules developed under  
4 this subsection shall not preclude a delegated local air authority  
5 from including in a permit its own more stringent emission standards  
6 and operating restrictions.

7 (b) The board of any local air pollution control authority may  
8 apply to the department of ecology for a delegation order authorizing  
9 the local authority to administer the operating permit program for  
10 sources under that authority's jurisdiction. The department shall, by  
11 order, approve such delegation, if the department finds that the  
12 local authority has the technical and financial resources, to  
13 discharge the responsibilities of a permitting authority under the  
14 federal clean air act. A delegation request shall include adequate  
15 information about the local authority's resources to enable the  
16 department to make the findings required by this subsection. However,  
17 any delegation order issued under this subsection shall take effect  
18 ninety days after the environmental protection agency authorizes the  
19 local authority to issue operating permits under the federal clean  
20 air act.

21 (c) Except for the authority granted the energy facility site  
22 evaluation council to issue permits for the new construction,  
23 reconstruction, or enlargement or operation of new energy facilities  
24 under chapter 80.50 RCW, the department may exercise the authority,  
25 as delegated by the environmental protection agency, to administer  
26 Title IV of the federal clean air act as amended and to delegate such  
27 administration to local authorities as applicable pursuant to (b) of  
28 this subsection.

29 (3) In establishing technical standards, defined in RCW 70.94.030  
30 (as recodified by this act), the permitting authority shall consider  
31 and, if found to be appropriate, give credit for waste reduction  
32 within the process.

33 (4) Operating permits shall apply to all sources (a) where  
34 required by the federal clean air act, and (b) for any source that  
35 may cause or contribute to air pollution in such quantity as to  
36 create a threat to the public health or welfare. Subsection (b) of  
37 this subsection is not intended to apply to small businesses except  
38 when both of the following limitations are satisfied: (i) The source  
39 is in an area exceeding or threatening to exceed federal or state air  
40 quality standards; and (ii) the department provides a reasonable

1 justification that requiring a source to have a permit is necessary  
2 to meet a federal or state air quality standard, or to prevent  
3 exceeding a standard in an area threatening to exceed the standard.  
4 For purposes of this subsection "areas threatening to exceed air  
5 quality standards" shall mean areas projected by the department to  
6 exceed such standards within five years. Prior to identifying  
7 threatened areas the department shall hold a public hearing or  
8 hearings within the proposed areas.

9 (5) Sources operated by government agencies are not exempt under  
10 this section.

11 (6) Within one hundred eighty days after the United States  
12 environmental protection agency approves the state operating permit  
13 program, a person required to have a permit shall submit to the  
14 permitting authority a compliance plan and permit application, signed  
15 by a responsible official, certifying the accuracy of the information  
16 submitted. Until permits are issued, existing sources shall be  
17 allowed to operate under presently applicable standards and  
18 conditions provided that such sources submit complete and timely  
19 permit applications.

20 (7) All draft permits shall be subject to public notice and  
21 comment. The rules adopted pursuant to subsection (2) of this section  
22 shall specify procedures for public notice and comment. Such  
23 procedures shall provide the permitting agency with an opportunity to  
24 respond to comments received from interested parties prior to the  
25 time that the proposed permit is submitted to the environmental  
26 protection agency for review pursuant to section 505(a) of the  
27 federal clean air act. In the event that the environmental protection  
28 agency objects to a proposed permit pursuant to section 505(b) of the  
29 federal clean air act, the permitting authority shall not issue the  
30 permit, unless the permittee consents to the changes required by the  
31 environmental protection agency.

32 (8) The procedures contained in chapter 43.21B RCW shall apply to  
33 permit appeals. The pollution control hearings board may stay the  
34 effectiveness of any permit issued under this section during the  
35 pendency of an appeal filed by the permittee, if the permittee  
36 demonstrates that compliance with the permit during the pendency of  
37 the appeal would require significant expenditures that would not be  
38 necessary in the event that the permittee prevailed on the merits of  
39 the appeal.

1 (9) After the effective date of any permit program promulgated  
2 under this section, it shall be unlawful for any person to: (a)  
3 Operate a permitted source in violation of any requirement of a  
4 permit issued under this section; or (b) fail to submit a permit  
5 application at the time required by rules adopted under subsection  
6 (2) of this section.

7 (10) Each air operating permit shall state the origin of and  
8 specific legal authority for each requirement included therein. Every  
9 requirement in an operating permit shall be based upon the most  
10 stringent of the following requirements:

11 (a) The federal clean air act and rules implementing that act,  
12 including provision of the approved state implementation plan;

13 (b) This chapter and rules adopted thereunder;

14 (c) In permits issued by a local air pollution control authority,  
15 the requirements of any order or regulation adopted by that  
16 authority;

17 (d) Chapter 70.98 RCW (as recodified by this act) and rules  
18 adopted thereunder; and

19 (e) Chapter 80.50 RCW and rules adopted thereunder.

20 (11) Consistent with the provisions of the federal clean air act,  
21 the permitting authority may issue general permits covering  
22 categories of permitted sources, and temporary permits authorizing  
23 emissions from similar operations at multiple temporary locations.

24 (12) Permit program sources within the territorial jurisdiction  
25 of an authority delegated the operating permit program shall file  
26 their permit applications with that authority, except that permit  
27 applications for sources regulated on a statewide basis pursuant to  
28 RCW 70.94.395 (as recodified by this act) shall be filed with the  
29 department. Permit program sources outside the territorial  
30 jurisdiction of a delegated authority shall file their applications  
31 with the department. Permit program sources subject to chapter 80.50  
32 RCW shall, irrespective of their location, file their applications  
33 with the energy facility site evaluation council.

34 (13) When issuing operating permits to coal-fired electric  
35 generating plants, the permitting authority shall establish  
36 requirements consistent with Title IV of the federal clean air act.

37 (14) (a) The department and the local air authorities are  
38 authorized to assess and to collect, and each source emitting one  
39 hundred tons or more per year of a regulated pollutant shall pay an

1 interim assessment to fund the development of the operating permit  
2 program during fiscal year 1994.

3 (b) The department shall conduct a workload analysis and prepare  
4 an operating permit program development budget for fiscal year 1994.  
5 The department shall allocate among all sources emitting one hundred  
6 tons or more per year of a regulated pollutant during calendar year  
7 1992 the costs identified in its program development budget according  
8 to a three-tiered model, with each of the three tiers being equally  
9 weighted, based upon:

10 (i) The number of sources;

11 (ii) The complexity of sources; and

12 (iii) The size of sources, as measured by the quantity of each  
13 regulated pollutant emitted by the source.

14 (c) Each local authority and the department shall collect from  
15 sources under their respective jurisdictions the interim fee  
16 determined by the department and shall remit the fee to the  
17 department.

18 (d) Each local authority may, in addition, allocate its fiscal  
19 year 1994 operating permit program development costs among the  
20 sources under its jurisdiction emitting one hundred tons or more per  
21 year of a regulated pollutant during calendar year 1992 and may  
22 collect an interim fee from these sources. A fee assessed pursuant to  
23 this subsection (14)(d) shall be collected at the same time as the  
24 fee assessed pursuant to (c) of this subsection.

25 (e) The fees assessed to a source under this subsection shall be  
26 limited to the first seven thousand five hundred tons for each  
27 regulated pollutant per year.

28 (15)(a) The department shall determine the persons liable for the  
29 fee imposed by subsection (14) of this section, compute the fee, and  
30 provide by November 1, 1993, the identity of the fee payer with the  
31 computation of the fee to each local authority and to the department  
32 of revenue for collection. The department of revenue shall collect  
33 the fee computed by the department from the fee payers under the  
34 jurisdiction of the department. The administrative, collection, and  
35 penalty provisions of chapter 82.32 RCW shall apply to the collection  
36 of the fee by the department of revenue. The department shall provide  
37 technical assistance to the department of revenue for decisions made  
38 by the department of revenue pursuant to RCW 82.32.160 and 82.32.170.  
39 All interim fees collected by the department of revenue on behalf of  
40 the department and all interim fees collected by local authorities on

1 behalf of the department shall be deposited in the air operating  
2 permit account. The interim fees collected by the local air  
3 authorities to cover their permit program development costs under  
4 subsection (14)(d) of this section shall be deposited in the  
5 dedicated accounts of their respective treasuries.

6 (b) All fees identified in this section shall be due and payable  
7 on March 1, 1994, except that the local air pollution control  
8 authorities may adopt by rule an earlier date on which fees are to be  
9 due and payable. The section 5, chapter 252, Laws of 1993 amendments  
10 to RCW 70.94.161 (as recodified by this act) do not have the effect  
11 of terminating, or in any way modifying, any liability, civil or  
12 criminal, incurred pursuant to the provisions of RCW 70.94.161 (15)  
13 and (17) (as recodified by this act) as they existed prior to July  
14 25, 1993.

15 (16) For sources or source categories not required to obtain  
16 permits under subsection (4) of this section, the department or local  
17 authority may establish by rule control technology requirements. If  
18 control technology rule revisions are made by the department or local  
19 authority under this subsection, the department or local authority  
20 shall consider the remaining useful life of control equipment  
21 previously installed on existing sources before requiring technology  
22 changes. The department or any local air authority may issue a  
23 general permit, as authorized under the federal clean air act, for  
24 such sources.

25 (17) Emissions of greenhouse gases as defined in RCW 70.235.010  
26 (as recodified by this act) must be reported as required by RCW  
27 70.94.151 (as recodified by this act). The reporting provisions of  
28 RCW 70.94.151 (as recodified by this act) shall not apply to any  
29 other emissions from any permit program source after the effective  
30 date of United States environmental protection agency approval of the  
31 state operating permit program.

32 **Sec. 1095.** RCW 70.94.162 and 2014 c 76 s 5 are each amended to  
33 read as follows:

34 (1) The department and delegated local air authorities are  
35 authorized to determine, assess, and collect, and each permit program  
36 source shall pay, annual fees sufficient to cover the direct and  
37 indirect costs of implementing a state operating permit program  
38 approved by the United States environmental protection agency under  
39 the federal clean air act. However, a source that receives its



1 operating permit from the United States environmental protection  
2 agency shall not be considered a permit program source so long as the  
3 environmental protection agency continues to act as the permitting  
4 authority for that source. Each permitting authority shall develop by  
5 rule a fee schedule allocating among its permit program sources the  
6 costs of the operating permit program, and may, by rule, establish a  
7 payment schedule whereby periodic installments of the annual fee are  
8 due and payable more frequently. All operating permit program fees  
9 collected by the department shall be deposited in the air operating  
10 permit account. All operating permit program fees collected by the  
11 delegated local air authorities shall be deposited in their  
12 respective air operating permit accounts or other accounts dedicated  
13 exclusively to support of the operating permit program. The fees  
14 assessed under this subsection shall first be due not less than  
15 forty-five days after the United States environmental protection  
16 agency delegates to the department the authority to administer the  
17 operating permit program and then annually thereafter.

18 The department shall establish, by rule, procedures for  
19 administrative appeals to the department regarding the fee assessed  
20 pursuant to this subsection.

21 (2) The fee schedule developed by each permitting authority shall  
22 fully cover and not exceed both its permit administration costs and  
23 the permitting authority's share of statewide program development and  
24 oversight costs.

25 (a) Permit administration costs are those incurred by each  
26 permitting authority, including the department, in administering and  
27 enforcing the operating permit program with respect to sources under  
28 its jurisdiction. Costs associated with the following activities are  
29 fee eligible as these activities relate to the operating permit  
30 program and to the sources permitted by a permitting authority,  
31 including, where applicable, sources subject to a general permit:

32 (i) Preapplication assistance and review of an application and  
33 proposed compliance plan for a permit, permit revision, or renewal;

34 (ii) Source inspections, testing, and other data-gathering  
35 activities necessary for the development of a permit, permit  
36 revision, or renewal;

37 (iii) Acting on an application for a permit, permit revision, or  
38 renewal, including the costs of developing an applicable requirement  
39 as part of the processing of a permit, permit revision, or renewal,  
40 preparing a draft permit and fact sheet, and preparing a final

1 permit, but excluding the costs of developing BACT, LAER, BART, or  
2 RACT requirements for criteria and toxic air pollutants;

3 (iv) Notifying and soliciting, reviewing and responding to  
4 comment from the public and contiguous states and tribes, conducting  
5 public hearings regarding the issuance of a draft permit and other  
6 costs of providing information to the public regarding operating  
7 permits and the permit issuance process;

8 (v) Modeling necessary to establish permit limits or to determine  
9 compliance with permit limits;

10 (vi) Reviewing compliance certifications and emissions reports  
11 and conducting related compilation and reporting activities;

12 (vii) Conducting compliance inspections, complaint  
13 investigations, and other activities necessary to ensure that a  
14 source is complying with permit conditions;

15 (viii) Administrative enforcement activities and penalty  
16 assessment, excluding the costs of proceedings before the pollution  
17 control hearings board and all costs of judicial enforcement;

18 (ix) The share attributable to permitted sources of the  
19 development and maintenance of emissions inventories;

20 (x) The share attributable to permitted sources of ambient air  
21 quality monitoring and associated recording and reporting activities;

22 (xi) Training for permit administration and enforcement;

23 (xii) Fee determination, assessment, and collection, including  
24 the costs of necessary administrative dispute resolution and penalty  
25 collection;

26 (xiii) Required fiscal audits, periodic performance audits, and  
27 reporting activities;

28 (xiv) Tracking of time, revenues and expenditures, and accounting  
29 activities;

30 (xv) Administering the permit program including the costs of  
31 clerical support, supervision, and management;

32 (xvi) Provision of assistance to small businesses under the  
33 jurisdiction of the permitting authority as required under section  
34 507 of the federal clean air act; and

35 (xvii) Other activities required by operating permit regulations  
36 issued by the United States environmental protection agency under the  
37 federal clean air act.

38 (b) Development and oversight costs are those incurred by the  
39 department in developing and administering the state operating permit  
40 program, and in overseeing the administration of the program by the

1 delegated local permitting authorities. Costs associated with the  
2 following activities are fee eligible as these activities relate to  
3 the operating permit program:

4 (i) Review and determinations necessary for delegation of  
5 authority to administer and enforce a permit program to a local air  
6 authority under RCW 70.94.161(2) and 70.94.860 (as recodified by this  
7 act);

8 (ii) Conducting fiscal audits and periodic performance audits of  
9 delegated local authorities, and other oversight functions required  
10 by the operating permit program;

11 (iii) Administrative enforcement actions taken by the department  
12 on behalf of a permitting authority, including those actions taken by  
13 the department under RCW 70.94.785 (as recodified by this act), but  
14 excluding the costs of proceedings before the pollution control  
15 hearings board and all costs of judicial enforcement;

16 (iv) Determination and assessment with respect to each permitting  
17 authority of the fees covering its share of the costs of development  
18 and oversight;

19 (v) Training and assistance for permit program administration and  
20 oversight, including training and assistance regarding technical,  
21 administrative, and data management issues;

22 (vi) Development of generally applicable regulations or guidance  
23 regarding the permit program or its implementation or enforcement;

24 (vii) State codification of federal rules or standards for  
25 inclusion in operating permits;

26 (viii) Preparation of delegation package and other activities  
27 associated with submittal of the state permit program to the United  
28 States environmental protection agency for approval, including  
29 ongoing coordination activities;

30 (ix) General administration and coordination of the state permit  
31 program, related support activities, and other agency indirect costs,  
32 including necessary data management and quality assurance;

33 (x) Required fiscal audits and periodic performance audits of the  
34 department, and reporting activities;

35 (xi) Tracking of time, revenues and expenditures, and accounting  
36 activities;

37 (xii) Public education and outreach related to the operating  
38 permit program, including the maintenance of a permit register;

39 (xiii) The share attributable to permitted sources of compiling  
40 and maintaining emissions inventories;

1 (xiv) The share attributable to permitted sources of ambient air  
2 quality monitoring, related technical support, and associated  
3 recording activities;

4 (xv) The share attributable to permitted sources of modeling  
5 activities;

6 (xvi) Provision of assistance to small business as required under  
7 section 507 of the federal clean air act as it exists on July 25,  
8 1993, or its later enactment as adopted by reference by the director  
9 by rule;

10 (xvii) Provision of services by the department of revenue and the  
11 office of the state attorney general and other state agencies in  
12 support of permit program administration;

13 (xviii) A one-time revision to the state implementation plan to  
14 make those administrative changes necessary to ensure coordination of  
15 the state implementation plan and the operating permit program; and

16 (xix) Other activities required by operating permit regulations  
17 issued by the United States environmental protection agency under the  
18 federal clean air act.

19 (3) The responsibility for operating permit fee determination,  
20 assessment, and collection is to be shared by the department and  
21 delegated local air authorities as follows:

22 (a) Each permitting authority, including the department, acting  
23 in its capacity as a permitting authority, shall develop a fee  
24 schedule and mechanism for collecting fees from the permit program  
25 sources under its jurisdiction; the fees collected by each authority  
26 shall be sufficient to cover its costs of permit administration and  
27 its share of the department's costs of development and oversight.  
28 Each delegated local authority shall remit to the department its  
29 share of the department's development and oversight costs.

30 (b) Only those local air authorities to whom the department has  
31 delegated the authority to administer the program pursuant to RCW  
32 70.94.161(2) (b) and (c) and 70.94.860 (as recodified by this act)  
33 shall have the authority to administer and collect operating permit  
34 fees. The department shall retain the authority to administer and  
35 collect such fees with respect to the sources within the jurisdiction  
36 of a local air authority until the effective date of program  
37 delegation to that air authority.

38 (c) The department shall allocate its development and oversight  
39 costs among all permitting authorities, including the department, in  
40 proportion to the number of permit program sources under the

1 jurisdiction of each authority, except that extraordinary costs or  
2 other costs readily attributable to a specific permitting authority  
3 may be assessed that authority. For purposes of this subsection, all  
4 sources covered by a single general permit shall be treated as one  
5 source.

6 (4) The department and each delegated local air authority shall  
7 adopt by rule a general permit fee schedule for sources under their  
8 respective jurisdictions after such time as the department adopts  
9 provisions for general permit issuance. Within ninety days of the  
10 time that the department adopts a general permit fee schedule, the  
11 department shall report to the relevant standing committees of the  
12 legislature regarding the general permit fee schedules adopted by the  
13 department and by the delegated local air authorities. The permit  
14 administration costs of each general permit shall be allocated  
15 equitably among only those sources subject to that general permit.  
16 The share of development and oversight costs attributable to each  
17 general permit shall be determined pursuant to subsection (3)(c) of  
18 this section.

19 (5) The fee schedule developed by the department shall allocate  
20 among the sources for whom the department acts as a permitting  
21 authority, other than sources subject to a general permit, those  
22 portions of the department's permit administration costs and the  
23 department's share of the development and oversight costs which the  
24 department does not plan to recover under its general permit fee  
25 schedule or schedules as follows:

26 (a) The department shall allocate its permit administration costs  
27 and its share of the development and oversight costs not recovered  
28 through general permit fees according to a three-tiered model based  
29 upon:

- 30 (i) The number of permit program sources under its jurisdiction;  
31 (ii) The complexity of permit program sources under its  
32 jurisdiction; and  
33 (iii) The size of permit program sources under its jurisdiction,  
34 as measured by the quantity of each regulated pollutant emitted by  
35 the source.

36 (b) Each of the three tiers shall be equally weighted.

37 (c) The department may, in addition, allocate activities-based  
38 costs readily attributable to a specific source to that source under  
39 RCW 70.94.152(1) and 70.94.154(7) (as recodified by this act).

1 The quantity of each regulated pollutant emitted by a source  
2 shall be determined based on the annual emissions during the most  
3 recent calendar year for which data is available.

4 (6) The department shall, after opportunity for public review and  
5 comment, adopt rules that establish a process for development and  
6 review of its operating permit program fee schedule, a methodology  
7 for tracking program revenues and expenditures, and, for both the  
8 department and the delegated local air authorities, a system of  
9 fiscal audits, reports, and periodic performance audits.

10 (a) The fee schedule development and review process shall include  
11 the following:

12 (i) The department shall conduct a biennial workload analysis.  
13 The department shall provide the opportunity for public review of and  
14 comment on the workload analysis. The department shall review and  
15 update its workload analysis during each biennial budget cycle,  
16 taking into account information gathered by tracking previous  
17 revenues, time, and expenditures and other information obtained  
18 through fiscal audits and performance audits.

19 (ii) The department shall prepare a biennial budget based upon  
20 the resource requirements identified in the workload analysis for  
21 that biennium. In preparing the budget, the department shall take  
22 into account the projected operating permit account balance at the  
23 start of the biennium. The department shall provide the opportunity  
24 for public review of and comment on the proposed budget. The  
25 department shall review and update its budget each biennium.

26 (iii) The department shall develop a fee schedule allocating the  
27 department's permit administration costs and its share of the  
28 development and oversight costs among the department's permit program  
29 sources using the methodology described in subsection (5) of this  
30 section. The department shall provide the opportunity for public  
31 review of and comment on the allocation methodology and fee schedule.  
32 The department shall provide procedures for administrative resolution  
33 of disputes regarding the source data on which allocation  
34 determinations are based; these procedures shall be designed such  
35 that resolution occurs prior to the completion of the allocation  
36 process. The department shall review and update its fee schedule  
37 annually.

38 (b) The methodology for tracking revenues and expenditures shall  
39 include the following:

1 (i) The department shall develop a system for tracking revenues  
2 and expenditures that provides the maximum practicable information.  
3 At a minimum, revenues from fees collected under the operating permit  
4 program shall be tracked on a source-specific basis and time and  
5 expenditures required to administer the program shall be tracked on  
6 the basis of source categories and functional categories. Each  
7 general permit will be treated as a separate source category for  
8 tracking and accounting purposes.

9 (ii) The department shall use the information obtained from  
10 tracking revenues, time, and expenditures to modify the workload  
11 analysis required in subsection (6)(a) of this section.

12 (iii) The information obtained from tracking revenues, time, and  
13 expenditures shall not provide a basis for challenge to the amount of  
14 an individual source's fee.

15 (c) The system of fiscal audits, reports, and periodic  
16 performance audits shall include the following:

17 (i) The department and the delegated local air authorities shall  
18 periodically report information about the air operating permit  
19 program on the department's web site.

20 (ii) The department shall arrange for fiscal audits and routine  
21 performance audits and for periodic intensive performance audits of  
22 each permitting authority and of the department.

23 (7) Each local air authority requesting delegation shall, after  
24 opportunity for public review and comment, publish regulations which  
25 establish a process for development and review of its operating  
26 permit program fee schedule, and a methodology for tracking its  
27 revenues and expenditures. These regulations shall be submitted to  
28 the department for review and approval as part of the local  
29 authority's delegation request.

30 (8) As used in this section and in RCW 70.94.161(14) (as  
31 recodified by this act), "regulated pollutant" shall have the same  
32 meaning as defined in section 502(b) of the federal clean air act as  
33 it exists on July 25, 1993, or its later enactment as adopted by  
34 reference by the director by rule.

35 (9) Fee structures as authorized under this section shall remain  
36 in effect until such time as the legislature authorizes an  
37 alternative structure following receipt of the report required by  
38 this subsection.

1       **Sec. 1096.** RCW 70.94.163 and 1991 c 199 s 304 are each amended  
2 to read as follows:

3       The department shall prepare recommendations to reduce air  
4 emissions for source categories not generally required to have a  
5 permit under RCW 70.94.161 (as recodified by this act). Such  
6 recommendations shall not require any action by the owner or operator  
7 of a source and shall be consistent with rules adopted under chapter  
8 70.95C RCW (as recodified by this act). The recommendations shall  
9 include but not be limited to: Process changes, product substitution,  
10 equipment modifications, hazardous substance use reduction,  
11 recycling, and energy efficiency.

12       **Sec. 1097.** RCW 70.94.165 and 1996 c 294 s 1 are each amended to  
13 read as follows:

14       (1) A gasoline vapor recovery device that captures vapors during  
15 vehicle fueling may only be required at a service station, or any  
16 other gasoline dispensing facility supplying fuel to the general  
17 public, in any of the following circumstances:

18       (a) The facility sells in excess of six hundred thousand gallons  
19 of gasoline per year and is located in a county, any part of which is  
20 designated as nonattainment for ozone under the federal clean air  
21 act, 42 U.S.C. Sec. 7407; or

22       (b) The facility sells in excess of six hundred thousand gallons  
23 of gasoline per year and is located in a county where a maintenance  
24 plan has been adopted by a local air pollution control authority or  
25 the department of ecology that includes gasoline vapor recovery  
26 devices as a control strategy; or

27       (c) From March 30, 1996, until December 31, 1998, in any facility  
28 that sells in excess of one million two hundred thousand gallons of  
29 gasoline per year and is located in an ozone-contributing county. For  
30 purposes of this section, an ozone-contributing county means a county  
31 in which the emissions have contributed to the formation of ozone in  
32 any county where violations of federal ozone standards have been  
33 measured, and includes: Cowlitz, Island, Kitsap, Lewis, Skagit,  
34 Thurston, Wahkiakum, and Whatcom counties; or

35       (d) After December 31, 1998, in any facility that sells in excess  
36 of eight hundred forty thousand gallons of gasoline per year and is  
37 located in any county, no part of which is designated as  
38 nonattainment for ozone under the federal clean air act, 42 U.S.C.  
39 Sec. 7407, provided that the department of ecology determines by



1 December 31, 1997, that the use of gasoline vapor control devices in  
2 the county is important to achieving or maintaining attainment status  
3 in any other county.

4 (2) This section does not preclude the department of ecology or  
5 any local air pollution authority from requiring a gasoline vapor  
6 recovery device that captures vapors during vehicle refueling as part  
7 of the regulation of sources as provided in RCW 70.94.152, 70.94.331,  
8 or 70.94.141 (as recodified by this act) or where required under 42  
9 U.S.C. Sec. 7412.

10 **Sec. 1098.** RCW 70.94.181 and 1991 c 199 s 306 are each amended  
11 to read as follows:

12 (1) Any person who owns or is in control of any plant, building,  
13 structure, establishment, process or equipment may apply to the  
14 department of ecology or appropriate local authority board for a  
15 variance from rules or regulations governing the quality, nature,  
16 duration or extent of discharges of air contaminants. The application  
17 shall be accompanied by such information and data as the department  
18 of ecology or board may require. The department of ecology or board  
19 may grant such variance, provided that variances to state rules shall  
20 require the department's approval prior to being issued by a local  
21 authority board. The total time period for a variance and renewal of  
22 such variance shall not exceed one year. Variances may be issued by  
23 either the department or a local board but only after public hearing  
24 or due notice, if the department or board finds that:

25 (a) The emissions occurring or proposed to occur do not endanger  
26 public health or safety or the environment; and

27 (b) Compliance with the rules or regulations from which variance  
28 is sought would produce serious hardship without equal or greater  
29 benefits to the public.

30 (2) No variance shall be granted pursuant to this section until  
31 the department of ecology or board has considered the relative  
32 interests of the applicant, other owners of property likely to be  
33 affected by the discharges, and the general public.

34 (3) Any variance or renewal thereof shall be granted within the  
35 requirements of subsection (1) of this section and under conditions  
36 consistent with the reasons therefor, and within the following  
37 limitations:

38 (a) If the variance is granted on the ground that there is no  
39 practicable means known or available for the adequate prevention,

1 abatement or control of the pollution involved, it shall be only  
2 until the necessary means for prevention, abatement or control become  
3 known and available, and subject to the taking of any substitute or  
4 alternate measures that the department of ecology or board may  
5 prescribe.

6 (b) If the variance is granted on the ground that compliance with  
7 the particular requirement or requirements from which variance is  
8 sought will require the taking of measures which, because of their  
9 extent or cost, must be spread over a considerable period of time, it  
10 shall be for a period not to exceed such reasonable time as, in the  
11 view of the department of ecology or board is requisite for the  
12 taking of the necessary measures. A variance granted on the ground  
13 specified herein shall contain a timetable for the taking of action  
14 in an expeditious manner and shall be conditioned on adherence to  
15 such timetable.

16 (c) If the variance is granted on the ground that it is justified  
17 to relieve or prevent hardship of a kind other than that provided for  
18 in (a) and (b) of this subsection, it shall be for not more than one  
19 year.

20 (4) Any variance granted pursuant to this section may be renewed  
21 on terms and conditions and for periods which would be appropriate on  
22 initial granting of a variance. If complaint is made to the  
23 department of ecology or board on account of the variance, no renewal  
24 thereof shall be granted unless following a public hearing on the  
25 complaint on due notice the department or board finds that renewal is  
26 justified. No renewal shall be granted except on application  
27 therefor. Any such application shall be made at least sixty days  
28 prior to the expiration of the variance. Immediately upon receipt of  
29 an application for renewal, the department of ecology or board shall  
30 give public notice of such application in accordance with rules of  
31 the department of ecology or board.

32 (5) A variance or renewal shall not be a right of the applicant  
33 or holder thereof but shall be granted at the discretion of the  
34 department of ecology or board. However, any applicant adversely  
35 affected by the denial or the terms and conditions of the granting of  
36 an application for a variance or renewal of a variance by the  
37 department of ecology or board may obtain judicial review thereof  
38 under the provisions of chapter 34.05 RCW as now or hereafter  
39 amended.

1 (6) Nothing in this section and no variance or renewal granted  
2 pursuant hereto shall be construed to prevent or limit the  
3 application of the emergency provisions and procedures of RCW  
4 70.94.710 through 70.94.730 (as recodified by this act) to any person  
5 or his or her property.

6 (7) An application for a variance, or for the renewal thereof,  
7 submitted to the department of ecology or board pursuant to this  
8 section shall be approved or disapproved by the department or board  
9 within sixty-five days of receipt unless the applicant and the  
10 department of ecology or board agree to a continuance.

11 (8) Variances approved under this section shall not be included  
12 in orders or permits provided for in RCW 70.94.161 or 70.94.152 (as  
13 recodified by this act) until such time as the variance has been  
14 accepted by the United States environmental protection agency as part  
15 of an approved state implementation plan.

16 **Sec. 1099.** RCW 70.94.211 and 1991 c 199 s 309 are each amended  
17 to read as follows:

18 At least thirty days prior to the commencement of any formal  
19 enforcement action under RCW 70.94.430 or 70.94.431 (as recodified by  
20 this act) a local air authority shall cause written notice to be  
21 served upon the alleged violator or violators. The notice shall  
22 specify the provision of this chapter or the rule or regulation  
23 alleged to be violated, and the facts alleged to constitute a  
24 violation thereof, and may include an order directing that necessary  
25 corrective action be taken within a reasonable time. In lieu of an  
26 order, the board or the control officer may require that the alleged  
27 violator or violators appear before the board for a hearing. Every  
28 notice of violation shall offer to the alleged violator an  
29 opportunity to meet with the local air authority prior to the  
30 commencement of enforcement action.

31 **Sec. 1100.** RCW 70.94.231 and 1991 c 199 s 708 are each amended  
32 to read as follows:

33 Upon the date that an authority begins to exercise its powers and  
34 functions, all rules and regulations in force on such date shall  
35 remain in effect until superseded by the rules and regulations of the  
36 authority as provided in RCW 70.94.230 (as recodified by this act).

1       **Sec. 1101.** RCW 70.94.262 and 1991 c 125 s 2 are each amended to  
2 read as follows:

3       (1) Any county that is part of a multicounty authority, pursuant  
4 to RCW 70.94.053 (as recodified by this act), may withdraw from the  
5 multicounty authority after January 1, 1992, if the county wishes to  
6 provide for air quality protection and regulation by an alternate air  
7 quality authority. A withdrawing county shall:

8       (a) Create its own single county authority;

9       (b) Join another existing multicounty authority with which its  
10 boundaries are contiguous;

11       (c) Join with one or more contiguous inactive authorities to  
12 operate as a new multicounty authority; or

13       (d) Become an inactive authority and subject to regulation by the  
14 department of ecology.

15       (2) In order to withdraw from an existing multicounty authority,  
16 a county shall make arrangements, by interlocal agreement, for  
17 division of assets and liabilities and the appropriate release of any  
18 and all interest in assets of the multicounty authority.

19       (3) In order to effectuate any of the alternate arrangements in  
20 subsection (1) of this section, the procedures of this chapter to  
21 create an air pollution control authority shall be met and the  
22 actions must be taken at least six months prior to the effective date  
23 of withdrawal. The rules of the original multicounty authority shall  
24 continue in force for the withdrawing county until such time as all  
25 conditions to create an air pollution control authority have been  
26 met.

27       (4) At the effective date of a county's withdrawal, the remaining  
28 counties shall reorganize and reconstitute the legislative authority  
29 pursuant to this chapter. The air pollution control regulations of  
30 the existing multicounty authority shall remain in force and effect  
31 after the reorganization.

32       (5) If a county elects to withdraw from an existing multicounty  
33 authority, the air pollution control regulations shall remain in  
34 effect for the withdrawing county until suspended by the adoption of  
35 rules, regulations, or ordinances adopted under one of the  
36 alternatives of subsection (1) of this section. A county shall  
37 initiate proceedings to adopt such rules, regulations, or ordinances  
38 on or before the effective date of the county's withdrawal.

1       **Sec. 1102.** RCW 70.94.302 and 2012 c 238 s 1 are each amended to  
2 read as follows:

3       (1) A generator operating at an electric generating project with  
4 an installed generator capacity of at least seven hundred fifty  
5 kilowatts but not exceeding one thousand kilowatts, that is in  
6 operation on June 7, 2012, and began operating after 2008, and that  
7 is located on agricultural lands of long-term commercial significance  
8 pursuant to chapter 36.70A RCW, is granted an extended compliance  
9 period for permit provisions related to the emissions limit for  
10 sulfur established by the department or a local air authority until  
11 December 31, 2016, if it is fueled by biogas that is produced by an  
12 anaerobic digester that qualifies for the solid waste permitting  
13 exemption specified in RCW 70.95.330 (as recodified by this act).

14       (2) A generator that meets the requirements in subsection (1) of  
15 this section may not be located in a federally designated  
16 nonattainment or maintenance area.

17       (3) Upon request, the department or a local air authority must  
18 provide technical assistance to a generator meeting the requirements  
19 in subsection (1) of this section to assist the generator in reducing  
20 its emissions in order to meet the requirements in this chapter.

21       (4) The definitions in this subsection apply throughout this  
22 section unless the context clearly requires otherwise.

23       (a) "Anaerobic digester" means a vessel that processes organic  
24 material into biogas and digestate using microorganisms in a  
25 decomposition process within a closed, oxygen-free container.

26       (b) "Generator" means an internal combustion engine that converts  
27 biogas into electricity, and includes any backup combustion device to  
28 burn biogas when an engine is idled for maintenance.

29       **Sec. 1103.** RCW 70.94.331 and 1991 c 199 s 710 are each amended  
30 to read as follows:

31       (1) The department shall have all the powers as provided in RCW  
32 70.94.141 (as recodified by this act).

33       (2) The department, in addition to any other powers vested in it  
34 by law after consideration at a public hearing held in accordance  
35 with chapters 42.30 and 34.05 RCW shall:

36       (a) Adopt rules establishing air quality objectives and air  
37 quality standards;

38       (b) Adopt emission standards which shall constitute minimum  
39 emission standards throughout the state. An authority may enact more

1 stringent emission standards, except for emission performance  
2 standards for new woodstoves and opacity levels for residential solid  
3 fuel burning devices which shall be statewide, but in no event may  
4 less stringent standards be enacted by an authority without the prior  
5 approval of the department after public hearing and due notice to  
6 interested parties;

7 (c) Adopt by rule air quality standards and emission standards  
8 for the control or prohibition of emissions to the outdoor atmosphere  
9 of radionuclides, dust, fumes, mist, smoke, other particulate matter,  
10 vapor, gas, odorous substances, or any combination thereof. Such  
11 requirements may be based upon a system of classification by types of  
12 emissions or types of sources of emissions, or combinations thereof,  
13 which it determines most feasible for the purposes of this chapter.  
14 However, an industry, or the air pollution control authority having  
15 jurisdiction, can choose, subject to the submittal of appropriate  
16 data that the industry has quantified, to have any limit on the  
17 opacity of emissions from a source whose emission standard is stated  
18 in terms of a weight of particulate per unit volume of air (e.g.,  
19 grains per dry standard cubic foot) be based on the applicable  
20 particulate emission standard for that source, such that any  
21 violation of the opacity limit accurately indicates a violation of  
22 the applicable particulate emission standard. Any alternative opacity  
23 limit provided by this section that would result in increasing air  
24 contaminants emissions in any nonattainment area shall only be  
25 granted if equal or greater emission reductions are provided for by  
26 the same source obtaining the revised opacity limit. A reasonable fee  
27 may be assessed to the industry to which the alternate opacity  
28 standard would apply. The fee shall cover only those costs to the air  
29 pollution control authority which are directly related to the  
30 determination on the acceptability of the alternate opacity standard,  
31 including testing, oversight and review of data.

32 (3) The air quality standards and emission standards may be for  
33 the state as a whole or may vary from area to area or source to  
34 source, except that emission performance standards for new woodstoves  
35 and opacity levels for residential solid fuel burning devices shall  
36 be statewide, as may be appropriate to facilitate the accomplishment  
37 of the objectives of this chapter and to take necessary or desirable  
38 account of varying local conditions of population concentration, the  
39 existence of actual or reasonably foreseeable air pollution,

1 topographic and meteorologic conditions and other pertinent  
2 variables.

3 (4) The department is directed to cooperate with the appropriate  
4 agencies of the United States or other states or any interstate  
5 agencies or international agencies with respect to the control of air  
6 pollution and air contamination, or for the formulation for the  
7 submission to the legislature of interstate air pollution control  
8 compacts or agreements.

9 (5) The department is directed to conduct or cause to be  
10 conducted a continuous surveillance program to monitor the quality of  
11 the ambient atmosphere as to concentrations and movements of air  
12 contaminants and conduct or cause to be conducted a program to  
13 determine the quantity of emissions to the atmosphere.

14 (6) The department shall enforce the air quality standards and  
15 emission standards throughout the state except where a local  
16 authority is enforcing the state regulations or its own regulations  
17 which are more stringent than those of the state.

18 (7) The department shall encourage local units of government to  
19 handle air pollution problems within their respective jurisdictions;  
20 and, on a cooperative basis provide technical and consultative  
21 assistance therefor.

22 (8) The department shall have the power to require the addition  
23 to or deletion of a county or counties from an existing authority in  
24 order to carry out the purposes of this chapter. No such addition or  
25 deletion shall be made without the concurrence of any existing  
26 authority involved. Such action shall only be taken after a public  
27 hearing held pursuant to the provisions of chapter 34.05 RCW.

28 (9) The department shall establish rules requiring sources or  
29 source categories to apply reasonable and available control methods.  
30 Such rules shall apply to those sources or source categories that  
31 individually or collectively contribute the majority of statewide air  
32 emissions of each regulated pollutant. The department shall review,  
33 and if necessary, update its rules every five years to ensure  
34 consistency with current reasonable and available control methods.  
35 The department shall have adopted rules required under this  
36 subsection for all sources by July 1, 1996.

37 For the purposes of this section, "reasonable and available  
38 control methods" shall include but not be limited to, changes in  
39 technology, processes, or other control strategies.

1       **Sec. 1104.** RCW 70.94.332 and 1991 c 199 s 711 are each amended  
2 to read as follows:

3       At least thirty days prior to the commencement of any formal  
4 enforcement action under RCW 70.94.430 and 70.94.431 (as recodified  
5 by this act), the department of ecology shall cause written notice to  
6 be served upon the alleged violator or violators. The notice shall  
7 specify the provision of this chapter or the rule or regulation  
8 alleged to be violated, and the facts alleged to constitute a  
9 violation thereof, and may include an order that necessary corrective  
10 action be taken within a reasonable time. In lieu of an order, the  
11 department may require that the alleged violator or violators appear  
12 before it for the purpose of providing the department information  
13 pertaining to the violation or the charges complained of. Every  
14 notice of violation shall offer to the alleged violator an  
15 opportunity to meet with the department prior to the commencement of  
16 enforcement action.

17       **Sec. 1105.** RCW 70.94.335 and 1994 c 257 s 15 are each amended to  
18 read as follows:

19       The procedural requirements of this chapter shall not apply to  
20 any person conducting a remedial action at a facility pursuant to a  
21 consent decree, order, or agreed order issued pursuant to chapter  
22 70.105D RCW (as recodified by this act), or to the department of  
23 ecology when it conducts a remedial action under chapter 70.105D RCW  
24 (as recodified by this act). The department of ecology shall ensure  
25 compliance with the substantive requirements of this chapter through  
26 the consent decree, order, or agreed order issued pursuant to chapter  
27 70.105D RCW (as recodified by this act), or during the department-  
28 conducted remedial action, through the procedures developed by the  
29 department pursuant to RCW 70.105D.090 (as recodified by this act).

30       **Sec. 1106.** RCW 70.94.385 and 1991 c 199 s 712 are each amended  
31 to read as follows:

32       (1) Any authority may apply to the department for state financial  
33 aid. The department shall annually establish the amount of state  
34 funds available for the local authorities taking into consideration  
35 available federal and state funds. The establishment of funding  
36 amounts shall be consistent with federal requirements and local  
37 maintenance of effort necessary to carry out the provisions of this  
38 chapter. Any such aid shall be expended from the general fund or from



1 other appropriations as the legislature may provide for this purpose:  
2 PROVIDED, That federal funds shall be utilized to the maximum unless  
3 otherwise approved by the department: PROVIDED FURTHER, That the  
4 amount of state funds provided to local authorities during the  
5 previous year shall not be reduced without a public notice or public  
6 hearing held by the department if requested by the affected local  
7 authority, unless such changes are the direct result of a reduction  
8 in the available federal funds for air pollution control programs.

9 (2) Before any such application is approved and financial aid is  
10 given or approved by the department, the authority shall demonstrate  
11 to the satisfaction of the department that it is fulfilling the  
12 requirements of this chapter. If the department has not adopted  
13 ambient air quality standards and objectives as permitted by RCW  
14 70.94.331 (as recodified by this act), the authority shall  
15 demonstrate to the satisfaction of the department that it is acting  
16 in good faith and doing all that is possible and reasonable to  
17 control and prevent air pollution within its jurisdictional  
18 boundaries and to carry out the purposes of this chapter.

19 (3) The department shall adopt rules requiring the submission of  
20 such information by each authority including the submission of its  
21 proposed budget and a description of its program in support of the  
22 application for state financial aid as necessary to enable the  
23 department to determine the need for state aid.

24 **Sec. 1107.** RCW 70.94.390 and 2012 c 117 s 408 are each amended  
25 to read as follows:

26 The department may, at any time and on its own motion, hold a  
27 hearing to determine if the activation of an authority is necessary  
28 for the prevention, abatement, and control of air pollution which  
29 exists or is likely to exist in any area of the state. Notice of such  
30 hearing shall be conducted in accordance with chapter 42.30 RCW and  
31 chapter 34.05 RCW. If at such hearing the department finds that air  
32 pollution exists or is likely to occur in a particular area, and that  
33 the purposes of this chapter and the public interest will be best  
34 served by the activation of an authority it shall designate the  
35 boundaries of such area and set forth in a report to the appropriate  
36 county or counties recommendations for the activation of an  
37 authority: PROVIDED, That if at such hearing the department  
38 determines that the activation of an authority is not practical or  
39 feasible for the reason that a local or regional air pollution

1 control program cannot be successfully established or operated due to  
2 unusual circumstances and conditions, but that the control and/or  
3 prevention of air pollution is necessary for the purposes of this  
4 chapter and the public interest, it may assume jurisdiction and so  
5 declare by order. Such order shall designate the geographic area in  
6 which, and the effective date upon which, the department will  
7 exercise jurisdiction for the control and/or prevention of air  
8 pollution. The department shall exercise its powers and duties in the  
9 same manner as if it had assumed authority under RCW 70.94.410 (as  
10 recodified by this act).

11 All expenses incurred by the department in the control and  
12 prevention of air pollution in any county pursuant to the provisions  
13 of RCW 70.94.390 and 70.94.410 (as recodified by this act) shall  
14 constitute a claim against such county. The department shall certify  
15 the expenses to the auditor of the county, who promptly shall issue  
16 his or her warrant on the county treasurer payable out of the current  
17 expense fund of the county. In the event that the amount in the  
18 current expense fund of the county is not adequate to meet the  
19 expenses incurred by the department, the department shall certify to  
20 the state treasurer that it has a prior claim on any money in the  
21 "liquor excise tax fund" that is to be apportioned to that county by  
22 the state treasurer as provided in RCW 82.08.170. In the event that  
23 the amount in the "liquor excise tax fund" that is to be apportioned  
24 to that county by the state treasurer is not adequate to meet the  
25 expenses incurred by the department, the department shall certify to  
26 the state treasurer that they have a prior claim on any excess funds  
27 from the liquor revolving fund that are to be distributed to that  
28 county as provided in RCW 66.08.190 through 66.08.220. All moneys  
29 that are collected as provided in this section shall be placed in the  
30 general fund in the account of the office of air programs of the  
31 department.

32 **Sec. 1108.** RCW 70.94.400 and 1987 c 109 s 44 are each amended to  
33 read as follows:

34 If, at the end of ninety days after the department issues a  
35 report as provided for in RCW 70.94.390 (as recodified by this act),  
36 to appropriate county or counties recommending the activation of an  
37 authority such county or counties have not performed those actions  
38 recommended by the department, and the department is still of the  
39 opinion that the activation of an authority is necessary for the

1 prevention, abatement and control of air pollution which exists or is  
2 likely to exist, then the department may, at its discretion, issue an  
3 order activating an authority. Such order, a certified copy of which  
4 shall be filed with the secretary of state, shall specify the  
5 participating county or counties and the effective date by which the  
6 authority shall begin to function and exercise its powers. Any  
7 authority activated by order of the department shall choose the  
8 members of its board as provided in RCW 70.94.100 (as recodified by  
9 this act) and begin to function in the same manner as if it had been  
10 activated by resolutions of the county or counties included within  
11 its boundaries. The department may, upon due notice to all interested  
12 parties, conduct a hearing in accordance with chapter 42.30 RCW and  
13 chapter 34.05 RCW within six months after the order was issued to  
14 review such order and to ascertain if such order is being carried out  
15 in good faith. At such time the department may amend any such order  
16 issued if it is determined by the department that such order is being  
17 carried out in bad faith or the department may take the appropriate  
18 action as is provided in RCW 70.94.410 (as recodified by this act).

19 **Sec. 1109.** RCW 70.94.410 and 1991 c 199 s 715 are each amended  
20 to read as follows:

21 (1) If, after thirty days from the time that the department  
22 issues a report or order to an authority under RCW 70.94.400 and  
23 70.94.405 (as recodified by this act), such authority has not taken  
24 action which indicates that it is attempting in good faith to  
25 implement the recommendations or actions of the department as set  
26 forth in the report or order, the department may, by order, declare  
27 as null and void any or all ordinances, resolutions, rules or  
28 regulations of such authority relating to the control and/or  
29 prevention of air pollution, and at such time the department shall  
30 become the sole body with authority to make and enforce rules and  
31 regulations for the control and/or prevention of air pollution within  
32 the geographical area of such authority. If this occurs, the  
33 department may assume all those powers which are given to it by law  
34 to effectuate the purposes of this chapter. The department may, by  
35 order, continue in effect and enforce provisions of the ordinances,  
36 resolutions, or rules of such authority which are not less stringent  
37 than those requirements which the department may have found  
38 applicable to the area under RCW 70.94.331 (as recodified by this  
39 act), until such time as the department adopts its own rules. Any

1 rules promulgated by the department shall be subject to the  
2 provisions of chapter 34.05 RCW. Any enforcement actions shall be  
3 subject to RCW 43.21B.300 or 43.21B.310.

4 (2) No provision of this chapter is intended to prohibit any  
5 authority from reestablishing its air pollution control program which  
6 meets with the approval of the department and which complies with the  
7 purposes of this chapter and with applicable rules and orders of the  
8 department.

9 (3) Nothing in this chapter shall prevent the department from  
10 withdrawing the exercise of its jurisdiction over an authority upon  
11 its own motion if the department has found at a hearing held in  
12 accordance with chapters 42.30 and 34.05 RCW, that the air pollution  
13 prevention and control program of such authority will be carried out  
14 in good faith, that such program will do all that is possible and  
15 reasonable to control and/or prevent air pollution within the  
16 geographical area over which it has jurisdiction, and that the  
17 program complies with the provisions of this chapter. Upon the  
18 withdrawal of the department, the department shall prescribe certain  
19 recommendations as to how air pollution prevention and/or control is  
20 to be effectively accomplished and guidelines which will assist the  
21 authority in carrying out the recommendations of the department.

22 **Sec. 1110.** RCW 70.94.422 and 1993 c 252 s 7 are each amended to  
23 read as follows:

24 (1) The department of health shall have all the enforcement  
25 powers as provided in RCW 70.94.332, 70.94.425, 70.94.430, 70.94.431  
26 (1) through (7), and 70.94.435 (as recodified by this act) with  
27 respect to emissions of radionuclides. This section does not preclude  
28 the department of ecology from exercising its authority under this  
29 chapter.

30 (2) Permits for energy facilities subject to chapter 80.50 RCW  
31 shall be issued by the energy facility site evaluation council.  
32 However, the permits become effective only if the governor approves  
33 an application for certification and executes a certification  
34 agreement under chapter 80.50 RCW. The council shall have all powers  
35 necessary to administer an operating permits program pertaining to  
36 such facilities, consistent with applicable air quality standards  
37 established by the department or local air pollution control  
38 authorities, or both, and to obtain the approval of the United States  
39 environmental protection agency. The council's powers include, but

1 are not limited to, all of the enforcement powers provided in RCW  
2 70.94.332, 70.94.425, 70.94.430, 70.94.431 (1) through (7), and  
3 70.94.435 (as recodified by this act) with respect to permit program  
4 sources required to obtain certification from the council under  
5 chapter 80.50 RCW. To the extent not covered under RCW 80.50.071, the  
6 council may collect fees as granted to delegated local air  
7 authorities under RCW 70.94.152, 70.94.161 (14) and (15), 70.94.162,  
8 and 70.94.154(7) (as recodified by this act) with respect to permit  
9 program sources required to obtain certification from the council  
10 under chapter 80.50 RCW. The council and the department shall each  
11 establish procedures that provide maximum coordination and avoid  
12 duplication between the two agencies in carrying out the requirements  
13 of this chapter.

14 **Sec. 1111.** RCW 70.94.430 and 2019 c 284 s 4 are each amended to  
15 read as follows:

16 (1) Any person who knowingly violates any of the provisions of  
17 this chapter (~~(70.94)~~) or chapter 70.120 RCW (as recodified by this  
18 act), RCW 70.235.080 (as recodified by this act), or any ordinance,  
19 resolution, or regulation in force pursuant thereto is guilty of a  
20 gross misdemeanor and upon conviction thereof shall be punished by a  
21 fine of not more than ten thousand dollars, or by imprisonment in the  
22 county jail for up to three hundred sixty-four days, or by both for  
23 each separate violation.

24 (2) Any person who negligently releases into the ambient air any  
25 substance listed by the department of ecology as a hazardous air  
26 pollutant, other than in compliance with the terms of an applicable  
27 permit or emission limit, and who at the time negligently places  
28 another person in imminent danger of death or substantial bodily harm  
29 is guilty of a gross misdemeanor and shall, upon conviction, be  
30 punished by a fine of not more than ten thousand dollars, or by  
31 imprisonment for up to three hundred sixty-four days, or both.

32 (3) Any person who knowingly releases into the ambient air any  
33 substance listed by the department of ecology as a hazardous air  
34 pollutant, other than in compliance with the terms of an applicable  
35 permit or emission limit, and who knows at the time that he or she  
36 thereby places another person in imminent danger of death or  
37 substantial bodily harm, is guilty of a class C felony and shall,  
38 upon conviction, be punished by a fine of not less than fifty

1 thousand dollars, or by imprisonment for not more than five years, or  
2 both.

3 (4) Any person who knowingly fails to disclose a potential  
4 conflict of interest under RCW 70.94.100 (as recodified by this act)  
5 is guilty of a gross misdemeanor, and upon conviction thereof shall  
6 be punished by a fine of not more than five thousand dollars.

7 **Sec. 1112.** RCW 70.94.431 and 2019 c 284 s 5 are each amended to  
8 read as follows:

9 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and  
10 43.05.150, and in addition to or as an alternate to any other penalty  
11 provided by law, any person who violates any of the provisions of  
12 this chapter, chapter 70.120 or 70.310 RCW (as recodified by this  
13 act), RCW 70.235.080 (as recodified by this act), or any of the rules  
14 in force under such chapters or section may incur a civil penalty in  
15 an amount not to exceed ten thousand dollars per day for each  
16 violation. Each such violation shall be a separate and distinct  
17 offense, and in case of a continuing violation, each day's  
18 continuance shall be a separate and distinct violation.

19 (b) Any person who fails to take action as specified by an order  
20 issued pursuant to this chapter shall be liable for a civil penalty  
21 of not more than ten thousand dollars for each day of continued  
22 noncompliance.

23 (2)(a) Penalties incurred but not paid shall accrue interest,  
24 beginning on the ninety-first day following the date that the penalty  
25 becomes due and payable, at the highest rate allowed by RCW 19.52.020  
26 on the date that the penalty becomes due and payable. If violations  
27 or penalties are appealed, interest shall not begin to accrue until  
28 the thirty-first day following final resolution of the appeal.

29 (b) The maximum penalty amounts established in this section may  
30 be increased annually to account for inflation as determined by the  
31 state office of the economic and revenue forecast council.

32 (3) Each act of commission or omission which procures, aids or  
33 abets in the violation shall be considered a violation under the  
34 provisions of this section and subject to the same penalty. The  
35 penalties provided in this section shall be imposed pursuant to RCW  
36 43.21B.300.

37 (4) All penalties recovered under this section by the department  
38 shall be paid into the state treasury and credited to the air  
39 pollution control account established in RCW 70.94.015 (as recodified

1 by this act) or, if recovered by the authority, shall be paid into  
2 the treasury of the authority and credited to its funds. If a prior  
3 penalty for the same violation has been paid to a local authority,  
4 the penalty imposed by the department under subsection (1) of this  
5 section shall be reduced by the amount of the payment.

6 (5) To secure the penalty incurred under this section, the state  
7 or the authority shall have a lien on any vessel used or operated in  
8 violation of this chapter which shall be enforced as provided in RCW  
9 60.36.050.

10 (6) Public or private entities that are recipients or potential  
11 recipients of department grants, whether for air quality related  
12 activities or not, may have such grants rescinded or withheld by the  
13 department for failure to comply with provisions of this chapter.

14 (7) In addition to other penalties provided by this chapter,  
15 persons knowingly under-reporting emissions or other information used  
16 to set fees, or persons required to pay emission or permit fees who  
17 are more than ninety days late with such payments may be subject to a  
18 penalty equal to three times the amount of the original fee owed.

19 (8) The department shall develop rules for excusing excess  
20 emissions from enforcement action if such excess emissions are  
21 unavoidable. The rules shall specify the criteria and procedures for  
22 the department and local air authorities to determine whether a  
23 period of excess emissions is excusable in accordance with the state  
24 implementation plan.

25 **Sec. 1113.** RCW 70.94.435 and 1967 c 238 s 62 are each amended to  
26 read as follows:

27 As an additional means of enforcing this chapter, the governing  
28 body or board may accept an assurance of discontinuance of any act or  
29 practice deemed in violation of this chapter or of any ordinance,  
30 resolution, rule or regulation adopted pursuant hereto, from any  
31 person engaging in, or who has engaged in, such act or practice. Any  
32 such assurance shall specify a time limit during which such  
33 discontinuance is to be accomplished. Failure to perform the terms of  
34 any such assurance shall constitute prima facie proof of a violation  
35 of this chapter or the ordinances, resolutions, rules or regulations,  
36 or order issued pursuant thereto, which make the alleged act or  
37 practice unlawful for the purpose of securing any injunction or other  
38 relief from the superior court as provided in RCW 70.94.425 (as  
39 recodified by this act).

1       **Sec. 1114.** RCW 70.94.450 and 1987 c 405 s 1 are each amended to  
2 read as follows:

3       In the interest of the public health and welfare and in keeping  
4 with the objectives of RCW 70.94.011 (as recodified by this act), the  
5 legislature declares it to be the public policy of the state to  
6 control, reduce, and prevent air pollution caused by woodstove  
7 emissions. It is the state's policy to reduce woodstove emissions by  
8 encouraging the department of ecology to continue efforts to educate  
9 the public about the effects of woodstove emissions, other heating  
10 alternatives, and the desirability of achieving better emission  
11 performance and heating efficiency from woodstoves. The legislature  
12 further declares that: (1) The purchase of certified woodstoves will  
13 not solve the problem of pollution caused by woodstove emissions; and  
14 (2) the reduction of air pollution caused by woodstove emissions will  
15 only occur when woodstove users adopt proper methods of wood burning.

16       **Sec. 1115.** RCW 70.94.453 and 1987 c 405 s 2 are each amended to  
17 read as follows:

18       Unless the context clearly requires otherwise, the definitions in  
19 this section apply throughout RCW 70.94.453 through ~~((70.94.487))~~  
20 70.94.483 (as recodified by this act):

21       (1) "Department" means the department of ecology.

22       (2) "Woodstove" means a solid fuel burning device other than a  
23 fireplace not meeting the requirements of RCW 70.94.457 (as  
24 recodified by this act), including any fireplace insert, woodstove,  
25 wood burning heater, wood stick boiler, coal-fired furnace, coal  
26 stove, or similar device burning any solid fuel used for aesthetic or  
27 space-heating purposes in a private residence or commercial  
28 establishment, which has a heat input less than one million British  
29 thermal units per hour. The term "woodstove" does not include wood  
30 cook stoves.

31       (3) "Fireplace" means: (a) Any permanently installed masonry  
32 fireplace; or (b) any factory-built metal solid fuel burning device  
33 designed to be used with an open combustion chamber and without  
34 features to control the air to fuel ratio.

35       (4) "New woodstove" means: (a) A woodstove that is sold at  
36 retail, bargained, exchanged, or given away for the first time by the  
37 manufacturer, the manufacturer's dealer or agency, or a retailer; and  
38 (b) has not been so used to have become what is commonly known as  
39 "secondhand" within the ordinary meaning of that term.



1 (5) "Solid fuel burning device" means any device for burning  
2 wood, coal, or any other nongaseous and nonliquid fuel, including a  
3 woodstove and fireplace.

4 (6) "Authority" means any air pollution control agency whose  
5 jurisdictional boundaries are coextensive with the boundaries of one  
6 or more counties.

7 (7) "Opacity" means the degree to which an object seen through a  
8 plume is obscured, stated as a percentage. The methods approved by  
9 the department in accordance with RCW 70.94.331 (as recodified by  
10 this act) shall be used to establish opacity for the purposes of this  
11 chapter.

12 **Sec. 1116.** RCW 70.94.460 and 1995 c 205 s 4 are each amended to  
13 read as follows:

14 After July 1, 1988, no person shall sell, offer to sell, or  
15 knowingly advertise to sell a new woodstove in this state to a  
16 resident of this state unless the woodstove has been approved by the  
17 department under the program established under RCW 70.94.457 (as  
18 recodified by this act).

19 **Sec. 1117.** RCW 70.94.463 and 1987 c 405 s 8 are each amended to  
20 read as follows:

21 After July 1, 1988, any person who sells, offers to sell, or  
22 knowingly advertises to sell a new woodstove in this state in  
23 violation of RCW 70.94.460 (as recodified by this act) shall be  
24 subject to the penalties and enforcement actions under this chapter.

25 **Sec. 1118.** RCW 70.94.467 and 1987 c 405 s 12 are each amended to  
26 read as follows:

27 Nothing in RCW 70.94.460 or 70.94.463 (as recodified by this act)  
28 shall apply to a radio station, television station, publisher,  
29 printer, or distributor of a newspaper, magazine, billboard, or other  
30 advertising medium that accepts advertising in good faith and without  
31 knowledge of its violation of RCW 70.94.453 through ~~((70.94.487))~~  
32 70.94.483 (as recodified by this act).

33 **Sec. 1119.** RCW 70.94.473 and 2016 c 187 s 1 are each amended to  
34 read as follows:

35 (1) Any person in a residence or commercial establishment which  
36 has an adequate source of heat without burning wood shall:

1 (a) Not burn wood in any solid fuel burning device whenever the  
2 department has determined under RCW 70.94.715 (as recodified by this  
3 act) that any air pollution episode exists in that area;

4 (b) Not burn wood in any solid fuel burning device except those  
5 which are either Oregon department of environmental quality phase II  
6 or United States environmental protection agency certified or  
7 certified by the department under RCW 70.94.457(1) (as recodified by  
8 this act) or a pellet stove either certified or issued an exemption  
9 by the United States environmental protection agency in accordance  
10 with Title 40, Part 60 of the Code of Federal Regulations, in the  
11 geographical area and for the period of time that a first stage of  
12 impaired air quality has been determined, by the department or any  
13 authority, for that area.

14 (i) A first stage of impaired air quality is reached when  
15 forecasted meteorological conditions are predicted to cause fine  
16 particulate levels to exceed thirty-five micrograms per cubic meter,  
17 measured on a twenty-four hour average, within forty-eight hours,  
18 except for areas of fine particulate nonattainment or areas at risk  
19 for fine particulate nonattainment;

20 (ii) A first stage burn ban for impaired air quality may be  
21 called for a county containing fine particulate nonattainment areas  
22 or areas at risk for fine particulate nonattainment, and when  
23 feasible only for the necessary portions of the county, when  
24 forecasted meteorological conditions are predicted to cause fine  
25 particulate levels to reach or exceed thirty micrograms per cubic  
26 meter, measured on a twenty-four hour average, within seventy-two  
27 hours; and

28 (c)(i) Not burn wood in any solid fuel burning device in a  
29 geographical area and for the period of time that a second stage of  
30 impaired air quality has been determined by the department or any  
31 authority, for that area. A second stage of impaired air quality is  
32 reached when a first stage of impaired air quality has been in force  
33 and has not been sufficient to reduce the increasing fine particulate  
34 pollution trend, fine particulates are at an ambient level of twenty-  
35 five micrograms per cubic meter measured on a twenty-four hour  
36 average, and forecasted meteorological conditions are not expected to  
37 allow levels of fine particulates to decline below twenty-five  
38 micrograms per cubic meter for a period of twenty-four hours or more  
39 from the time that the fine particulates are measured at the trigger  
40 level.

1 (ii) A second stage burn ban may be called without calling a  
2 first stage burn ban only when all of the following occur and shall  
3 require the department or the local air pollution control authority  
4 calling a second stage burn ban under this subsection to comply with  
5 the requirements of subsection (3) of this section:

6 (A) Fine particulate levels have reached or exceeded twenty-five  
7 micrograms per cubic meter, measured on a twenty-four hour average;

8 (B) Meteorological conditions have caused fine particulate levels  
9 to rise rapidly;

10 (C) Meteorological conditions are predicted to cause fine  
11 particulate levels to exceed the thirty-five micrograms per cubic  
12 meter, measured on a twenty-four hour average, within twenty-four  
13 hours; and

14 (D) Meteorological conditions are highly likely to prevent  
15 sufficient dispersion of fine particulate.

16 (iii) In fine particulate nonattainment areas or areas at risk  
17 for fine particulate nonattainment, a second stage burn ban may be  
18 called for the county containing the nonattainment area or areas at  
19 risk for nonattainment, and when feasible only for the necessary  
20 portions of the county, without calling a first stage burn ban only  
21 when (c)(ii)(A), (B), and (D) of this subsection have been met and  
22 meteorological conditions are predicted to cause fine particulate  
23 levels to reach or exceed thirty micrograms per cubic meter, measured  
24 on a twenty-four hour average, within twenty-four hours.

25 (2) Actions of the department and local air pollution control  
26 authorities under this section shall preempt actions of other state  
27 agencies and local governments for the purposes of controlling air  
28 pollution from solid fuel burning devices, except where authorized by  
29 chapter 199, Laws of 1991.

30 (3)(a) The department or any local air pollution control  
31 authority that has called a second stage burn ban under the authority  
32 of subsection (1)(c)(ii) of this section shall, within ninety days,  
33 prepare a written report describing:

34 (i) The meteorological conditions that resulted in their calling  
35 the second stage burn ban;

36 (ii) Whether the agency could have taken actions to avoid calling  
37 a second stage burn ban without calling a first stage burn ban; and

38 (iii) Any changes the department or authority is making to its  
39 procedures of calling first stage and second stage burn bans to avoid

1 calling a second stage burn ban without first calling a first stage  
2 burn ban.

3 (b) After consulting with affected parties, the department shall  
4 prescribe the format of such a report and may also require additional  
5 information be included in the report. All reports shall be sent to  
6 the department and the department shall keep the reports on file for  
7 not less than five years and available for public inspection and  
8 copying in accordance with RCW 42.56.090.

9 (4) For the purposes of chapter 219, Laws of 2012, an area at  
10 risk for nonattainment means an area where the three-year average of  
11 the annual ninety-eighth percentile of twenty-four hour fine  
12 particulate values is greater than twenty-nine micrograms per cubic  
13 meter, based on the years 2008 through 2010 monitoring data.

14 (5)(a) Nothing in this section restricts a person from installing  
15 or repairing a certified solid fuel burning device approved by the  
16 department under the program established under RCW 70.94.457 (as  
17 recodified by this act) in a residence or commercial establishment or  
18 from replacing a solid fuel burning device with a certified solid  
19 fuel burning device. Nothing in this section restricts a person from  
20 burning wood in a solid fuel burning device, regardless of whether a  
21 burn ban has been called, if there is an emergency power outage. In  
22 addition, for the duration of an emergency power outage, nothing  
23 restricts the use of a solid fuel burning device or the temporary  
24 installation, repair, or replacement of a solid fuel burning device  
25 to prevent the loss of life, health, or business.

26 (b) For the purposes of this subsection, an emergency power  
27 outage includes:

28 (i) Any natural or human-caused event beyond the control of a  
29 person that (~~leave[s]~~) leaves the person's residence or commercial  
30 establishment temporarily without an adequate source of heat other  
31 than the solid fuel burning device; or

32 (ii) A natural or human-caused event for which the governor  
33 declares an emergency in an area under chapter 43.06 RCW, including a  
34 public disorder, disaster, or energy emergency under RCW  
35 43.06.010(12).

36 **Sec. 1120.** RCW 70.94.475 and 1990 c 157 s 2 are each amended to  
37 read as follows:

38 A condominium owners' association or an association formed by  
39 residents of a multiple-family dwelling are not liable for violations

1 of RCW 70.94.473 (as recodified by this act) by a resident of a  
2 condominium or multiple-family dwelling. The associations shall  
3 cooperate with local air pollution control authorities to acquaint  
4 residents with the provisions of this section.

5 **Sec. 1121.** RCW 70.94.477 and 2012 c 219 s 2 are each amended to  
6 read as follows:

7 (1) Unless allowed by rule under chapter 34.05 RCW, a person  
8 shall not cause or allow any of the following materials to be burned  
9 in any residential solid fuel burning device:

- 10 (a) Garbage;
- 11 (b) Treated wood;
- 12 (c) Plastics;
- 13 (d) Rubber products;
- 14 (e) Animals;
- 15 (f) Asphaltic products;
- 16 (g) Waste petroleum products;
- 17 (h) Paints; or
- 18 (i) Any substance, other than properly seasoned fuel wood, which  
19 normally emits dense smoke or obnoxious odors.

20 (2) To achieve and maintain attainment in areas of nonattainment  
21 for fine particulates in accordance with section 172 of the federal  
22 clean air act, a local air pollution control authority or the  
23 department may, after meeting requirements in subsection (3) of this  
24 section, prohibit the use of solid fuel burning devices, except:

25 (a) Fireplaces as defined in RCW 70.94.453(3) (as recodified by  
26 this act), except if needed to meet federal requirements as a  
27 contingency measure in a state implementation plan for a fine  
28 particulate nonattainment area;

29 (b) Woodstoves meeting the standards set forth in RCW  
30 70.94.473(1)(b) (as recodified by this act); or

31 (c) Pellet stoves.

32 (3) Prior to prohibiting the use of solid fuel burning devices  
33 under subsection (2) of this section, the department or the local air  
34 pollution control authority must:

35 (a) Seek input from any city, county, or jurisdictional health  
36 department affected by the proposal to prohibit the use of solid fuel  
37 burning devices; and

38 (b) Make written findings that:

1 (i) The area is designated as an area of nonattainment for fine  
2 particulate matter by the United States environmental protection  
3 agency, or is in maintenance status under that designation;

4 (ii) Emissions from solid fuel burning devices in the area are a  
5 major contributing factor for violating the national ambient air  
6 quality standard for fine particulates; and

7 (iii) The area has an adequately funded program to assist low-  
8 income households to secure an adequate source of heat, which may  
9 include woodstoves meeting the requirements of RCW 70.94.453(2) (as  
10 recodified by this act).

11 (4) If and only if the nonattainment area is within the  
12 jurisdiction of the department and the legislative authority of a  
13 city or county within the area of nonattainment formally expresses  
14 concerns with the department's written findings, then the department  
15 must publish on the department's web site the reasons for prohibiting  
16 the use of solid fuel burning devices under subsection (2) of this  
17 section that includes a response to the concerns expressed by the  
18 city or county legislative authority.

19 (5) When a local air pollution control authority or the  
20 department prohibits the use of solid fuel burning devices as  
21 authorized by this section, the cities, counties, and jurisdictional  
22 health departments serving the area shall cooperate with the  
23 department or local air pollution control authority as the department  
24 or the local air pollution control authority implements the  
25 prohibition. The responsibility for actual enforcement of the  
26 prohibition shall reside solely with the department or the local air  
27 pollution control authority. A city, county, or jurisdictional health  
28 department serving a fine particulate nonattainment area may agree to  
29 assist with enforcement activities.

30 (6) A prohibition issued by a local air pollution control  
31 authority or the department under this section shall not apply to:

32 (a) A person in a residence or commercial establishment that does  
33 not have an adequate source of heat without burning wood; or

34 (b) A person with a shop or garage that is detached from the main  
35 residence or commercial establishment that does not have an adequate  
36 source of heat in the detached shop or garage without burning wood.

37 (7) On June 7, 2012, and prior to January 1, 2015, the local air  
38 pollution control authority or the department shall, within available  
39 resources, provide assistance to households using solid fuel burning  
40 devices to reduce the emissions from those devices or change out to a

1 lower emission device. Prior to the effective date of a prohibition,  
2 as defined in this section, on the use of uncertified stoves, the  
3 department or local air pollution control authority shall provide  
4 public education in the nonattainment area regarding how households  
5 can reduce their emissions through cleaner burning practices, the  
6 importance of respecting burn bans, and the opportunities for  
7 assistance in obtaining a cleaner device. If the area is designated  
8 as a nonattainment area as of January 1, 2015, or if required by the  
9 United States environmental protection agency, the local air  
10 pollution control authority or the department may prohibit the use of  
11 uncertified devices.

12 (8) As used in this section:

13 (a) "Jurisdictional health department" means a city, county,  
14 city-county, or district public health department.

15 (b) "Prohibit the use" or "prohibition" may include requiring  
16 disclosure of an uncertified device, removal, or rendering  
17 inoperable, as may be approved by rule by a local air pollution  
18 control authority or the department. The effective date of such a  
19 rule may not be prior to January 1, 2015. However, except as provided  
20 in RCW 64.06.020 relating to the seller disclosure of wood burning  
21 appliances, any such prohibition may not include imposing separate  
22 time of sale obligations on the seller or buyer of real estate as  
23 part of a real estate transaction.

24 **Sec. 1122.** RCW 70.94.480 and 1990 c 128 s 6 are each amended to  
25 read as follows:

26 (1) The department of ecology shall establish a program to  
27 educate woodstove dealers and the public about:

28 (a) The effects of woodstove emissions on health and air quality;

29 (b) Methods of achieving better efficiency and emission  
30 performance from woodstoves;

31 (c) Woodstoves that have been approved by the department;

32 (d) The benefits of replacing inefficient woodstoves with stoves  
33 approved under RCW 70.94.457 (as recodified by this act).

34 (2) Persons selling new woodstoves shall distribute and verbally  
35 explain educational materials describing when a stove can and cannot  
36 be legally used to customers purchasing new woodstoves.

37 **Sec. 1123.** RCW 70.94.483 and 2003 1st sp.s. c 25 s 932 are each  
38 amended to read as follows:

1 (1) The woodstove education and enforcement account is hereby  
2 created in the state treasury. Money placed in the account shall  
3 include all money received under subsection (2) of this section and  
4 any other money appropriated by the legislature. Money in the account  
5 shall be spent for the purposes of the woodstove education program  
6 established under RCW 70.94.480 (as recodified by this act) and for  
7 enforcement of the woodstove program, and shall be subject to  
8 legislative appropriation. However, during the 2003-05 fiscal  
9 biennium, the legislature may transfer from the woodstove education  
10 and enforcement account to the air pollution control account such  
11 amounts as specified in the omnibus operating budget bill.

12 (2) The department of ecology, with the advice of the advisory  
13 committee, shall set a flat fee of thirty dollars, on the retail  
14 sale, as defined in RCW 82.04.050, of each solid fuel burning device  
15 after January 1, 1992. The fee shall be imposed upon the consumer and  
16 shall not be subject to the retail sales tax provisions of chapters  
17 82.08 and 82.12 RCW. The fee may be adjusted annually above thirty  
18 dollars to account for inflation as determined by the state office of  
19 the economic and revenue forecast council. The fee shall be collected  
20 by the department of revenue in conjunction with the retail sales tax  
21 under chapter 82.08 RCW. If the seller fails to collect the fee  
22 herein imposed or fails to remit the fee to the department of revenue  
23 in the manner prescribed in chapter 82.08 RCW, the seller shall be  
24 personally liable to the state for the amount of the fee. The  
25 collection provisions of chapter 82.32 RCW shall apply. The  
26 department of revenue shall deposit fees collected under this section  
27 in the woodstove education and enforcement account.

28 **Sec. 1124.** RCW 70.94.524 and 2006 c 329 s 1 are each amended to  
29 read as follows:

30 Unless the context clearly requires otherwise, the definitions in  
31 this section apply throughout this chapter.

32 (1) "A major employer" means a private or public employer,  
33 including state agencies, that employs one hundred or more full-time  
34 employees at a single worksite who begin their regular workday  
35 between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve  
36 continuous months during the year.

37 (2) "Major worksite" means a building or group of buildings that  
38 are on physically contiguous parcels of land or on parcels separated  
39 solely by private or public roadways or rights-of-way, and at which



1 there are one hundred or more full-time employees, who begin their  
2 regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at  
3 least twelve continuous months.

4 (3) "Major employment installation" means a military base or  
5 federal reservation, excluding tribal reservations, at which there  
6 are one hundred or more full-time employees, who begin their regular  
7 workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least  
8 twelve continuous months during the year.

9 (4) "Person hours of delay" means the daily person hours of delay  
10 per mile in the peak period of 6:00 a.m. to 9:00 a.m., as calculated  
11 using the best available methodology by the department of  
12 transportation.

13 (5) "Commute trip" means trips made from a worker's home to a  
14 worksite during the peak period of 6:00 a.m. to 9:00 a.m. on  
15 weekdays.

16 (6) "Proportion of single-occupant vehicle commute trips" means  
17 the number of commute trips made by single-occupant automobiles  
18 divided by the number of full-time employees.

19 (7) "Commute trip vehicle miles traveled per employee" means the  
20 sum of the individual vehicle commute trip lengths in miles over a  
21 set period divided by the number of full-time employees during that  
22 period.

23 (8) "Base year" means the twelve-month period commencing when a  
24 major employer is determined to be participating by the local  
25 jurisdiction, on which commute trip reduction goals shall be based.

26 (9) "Growth and transportation efficiency center" means a  
27 defined, compact, mixed-use urban area that contains jobs or housing  
28 and supports multiple modes of transportation. For the purpose of  
29 funding, a growth and transportation efficiency center must meet  
30 minimum criteria established by the commute trip reduction board  
31 under RCW 70.94.537 (as recodified by this act), and must be  
32 certified by a regional transportation planning organization as  
33 established in RCW 47.80.020.

34 (10)(a) "Affected urban growth area" means:

35 (i) An urban growth area, designated pursuant to RCW 36.70A.110,  
36 whose boundaries contain a state highway segment exceeding the one  
37 hundred person hours of delay threshold calculated by the department  
38 of transportation, and any contiguous urban growth areas; and

39 (ii) An urban growth area, designated pursuant to RCW 36.70A.110,  
40 containing a jurisdiction with a population over seventy thousand

1 that adopted a commute trip reduction ordinance before the year 2000,  
2 and any contiguous urban growth areas.

3 (b) Affected urban growth areas will be listed by the department  
4 of transportation in the rules for chapter 329, Laws of 2006 using  
5 the criteria identified in (a) of this subsection.

6 (11) "Certification" means a determination by a regional  
7 transportation planning organization that a locally designated growth  
8 and transportation efficiency center program meets the minimum  
9 criteria developed in a collaborative regional process and the rules  
10 established by the department of transportation.

11 **Sec. 1125.** RCW 70.94.527 and 2006 c 329 s 2 are each amended to  
12 read as follows:

13 (1) Each county containing an urban growth area, designated  
14 pursuant to RCW 36.70A.110, and each city within an urban growth area  
15 with a state highway segment exceeding the one hundred person hours  
16 of delay threshold calculated by the department of transportation, as  
17 well as those counties and cities located in any contiguous urban  
18 growth areas, shall adopt a commute trip reduction plan and ordinance  
19 for major employers in the affected urban growth area by a date  
20 specified by the commute trip reduction board. Jurisdictions located  
21 within an urban growth area with a population greater than seventy  
22 thousand that adopted a commute trip reduction ordinance before the  
23 year 2000, as well as any jurisdiction within contiguous urban growth  
24 areas, shall also adopt a commute trip reduction plan and ordinance  
25 for major employers in the affected urban growth area by a date  
26 specified by the commute trip reduction board. Jurisdictions  
27 containing a major employment installation in a county with an  
28 affected growth area, designated pursuant to RCW 36.70A.110, shall  
29 adopt a commute trip reduction plan and ordinance for major employers  
30 in the major employment installation by a date specified by the  
31 commute trip reduction board. The ordinance shall establish the  
32 requirements for major employers and provide an appeals process by  
33 which major employers, who as a result of special characteristics of  
34 their business or its locations would be unable to meet the  
35 requirements of the ordinance, may obtain waiver or modification of  
36 those requirements. The plan shall be designed to achieve reductions  
37 in the proportion of single-occupant vehicle commute trips and be  
38 consistent with the rules established by the department of  
39 transportation. The county, city, or town shall submit its adopted

1 plan to the regional transportation planning organization. The  
2 county, city, or town plan shall be included in the regional commute  
3 trip reduction plan for regional transportation planning purposes,  
4 consistent with the rules established by the department of  
5 transportation in RCW 70.94.537 (as recodified by this act).

6 (2) All other counties, cities, and towns may adopt and implement  
7 a commute trip reduction plan consistent with department of  
8 transportation rules established under RCW 70.94.537 (as recodified  
9 by this act). Tribal governments are encouraged to adopt a commute  
10 trip reduction plan for their lands. State investment in voluntary  
11 commute trip reduction plans shall be limited to those areas that  
12 meet criteria developed by the commute trip reduction board.

13 (3) The department of ecology may, after consultation with the  
14 department of transportation, as part of the state implementation  
15 plan for areas that do not attain the national ambient air quality  
16 standards for carbon monoxide or ozone, require municipalities other  
17 than those identified in subsection (1) of this section to adopt and  
18 implement commute trip reduction plans if the department determines  
19 that such plans are necessary for attainment of said standards.

20 (4) A commute trip reduction plan shall be consistent with the  
21 rules established under RCW 70.94.537 (as recodified by this act) and  
22 shall include but is not limited to (a) goals for reductions in the  
23 proportion of single-occupant vehicle commute trips consistent with  
24 the state goals established by the commute trip reduction board under  
25 RCW 70.94.537 (as recodified by this act) and the regional commute  
26 trip reduction plan goals established in the regional commute trip  
27 reduction plan; (b) a description of the requirements for major  
28 public and private sector employers to implement commute trip  
29 reduction programs; (c) a commute trip reduction program for  
30 employees of the county, city, or town; and (d) means, consistent  
31 with rules established by the department of transportation, for  
32 determining base year values and progress toward meeting commute trip  
33 reduction plan goals. The plan shall be developed in consultation  
34 with local transit agencies, the applicable regional transportation  
35 planning organization, major employers, and other interested parties.

36 (5) The commute trip reduction plans adopted by counties, cities,  
37 and towns under this chapter shall be consistent with and may be  
38 incorporated in applicable state or regional transportation plans and  
39 local comprehensive plans and shall be coordinated, and consistent  
40 with, the commute trip reduction plans of counties, cities, or towns

1 with which the county, city, or town has, in part, common borders or  
2 related regional issues. Such regional issues shall include assuring  
3 consistency in the treatment of employers who have worksites subject  
4 to the requirements of this chapter in more than one jurisdiction.  
5 Counties, cities, and towns adopting commute trip reduction plans may  
6 enter into agreements through the interlocal cooperation act or by  
7 resolution or ordinance as appropriate with other jurisdictions,  
8 local transit agencies, transportation management associations or  
9 other private or nonprofit providers of transportation services, or  
10 regional transportation planning organizations to coordinate the  
11 development and implementation of such plans. Transit agencies shall  
12 work with counties, cities, and towns as a part of their six-year  
13 transit development plan established in RCW 35.58.2795 to take into  
14 account the location of major employer worksites when planning and  
15 prioritizing transit service changes or the expansion of public  
16 transportation services, including rideshare services. Counties,  
17 cities, or towns adopting a commute trip reduction plan shall review  
18 it annually and revise it as necessary to be consistent with  
19 applicable plans developed under RCW 36.70A.070. Regional  
20 transportation planning organizations shall review the local commute  
21 trip reduction plans during the development and update of the  
22 regional commute trip reduction plan.

23 (6) Each affected regional transportation planning organization  
24 shall adopt a commute trip reduction plan for its region consistent  
25 with the rules and deadline established by the department of  
26 transportation under RCW 70.94.537 (as recodified by this act). The  
27 plan shall include, but is not limited to: (a) Regional program goals  
28 for commute trip reduction in urban growth areas and all designated  
29 growth and transportation efficiency centers; (b) a description of  
30 strategies for achieving the goals; (c) a sustainable financial plan  
31 describing projected revenues and expenditures to meet the goals; (d)  
32 a description of the way in which progress toward meeting the goals  
33 will be measured; and (e) minimum criteria for growth and  
34 transportation efficiency centers. (i) Regional transportation  
35 planning organizations shall review proposals from local  
36 jurisdictions to designate growth and transportation efficiency  
37 centers and shall determine whether the proposed growth and  
38 transportation efficiency center is consistent with the criteria  
39 defined in the regional commute trip reduction plan. (ii) Growth and  
40 transportation efficiency centers certified as consistent with the

1 minimum requirements by the regional transportation planning  
2 organization shall be identified in subsequent updates of the  
3 regional commute trip reduction plan. These plans shall be developed  
4 in collaboration with all affected local jurisdictions, transit  
5 agencies, and other interested parties within the region. The plan  
6 will be reviewed and approved by (~~the~~) the commute trip reduction  
7 board as established under RCW 70.94.537 (as recodified by this act).  
8 Regions without an approved regional commute trip reduction plan  
9 shall not be eligible for state commute trip reduction program funds.

10 The regional commute trip reduction plan shall be consistent with  
11 and incorporated into transportation demand management components in  
12 the regional transportation plan as required by RCW 47.80.030.

13 (7) Each regional transportation planning organization  
14 implementing a regional commute trip reduction program shall,  
15 consistent with the rules and deadline established by the department  
16 of transportation, submit its plan as well as any related local  
17 commute trip reduction plans and certified growth and transportation  
18 efficiency center programs, to the commute trip reduction board  
19 established under RCW 70.94.537 (as recodified by this act). The  
20 commute trip reduction board shall review the regional commute trip  
21 reduction plan and the local commute trip reduction plans. The  
22 regional transportation planning organization shall collaborate with  
23 the commute trip reduction board to evaluate the consistency of local  
24 commute trip reduction plans with the regional commute trip reduction  
25 plan. Local and regional plans must be approved by the commute trip  
26 reduction board in order to be eligible for state funding provided  
27 for the purposes of this chapter.

28 (8) Each regional transportation planning organization  
29 implementing a regional commute trip reduction program shall submit  
30 an annual progress report to the commute trip reduction board  
31 established under RCW 70.94.537 (as recodified by this act). The  
32 report shall be due at the end of each state fiscal year for which  
33 the program has been implemented. The report shall describe progress  
34 in attaining the applicable commute trip reduction goals and shall  
35 highlight any problems being encountered in achieving the goals. The  
36 information shall be reported in a form established by the commute  
37 trip reduction board.

38 (9) Any waivers or modifications of the requirements of a commute  
39 trip reduction plan granted by a jurisdiction shall be submitted for  
40 review to the commute trip reduction board established under RCW

1 70.94.537 (as recodified by this act). The commute trip reduction  
2 board may not deny the granting of a waiver or modification of the  
3 requirements of a commute trip reduction plan by a jurisdiction but  
4 they may notify the jurisdiction of any comments or objections.

5 (10) Plans implemented under this section shall not apply to  
6 commute trips for seasonal agricultural employees.

7 (11) Plans implemented under this section shall not apply to  
8 construction worksites when the expected duration of the construction  
9 project is less than two years.

10 (12) If an affected urban growth area has not previously  
11 implemented a commute trip reduction program and the state has funded  
12 solutions to state highway deficiencies to address the area's  
13 exceeding the person hours of delay threshold, the affected urban  
14 growth area shall be exempt from the duties of this section for a  
15 period not exceeding two years.

16 **Sec. 1126.** RCW 70.94.528 and 2006 c 329 s 4 are each amended to  
17 read as follows:

18 (1) A county, city, or town may, as part of its commute trip  
19 reduction plan, designate existing activity centers listed in its  
20 comprehensive plan or new activity centers as growth and  
21 transportation efficiency centers and establish a transportation  
22 demand management program in the designated area.

23 (a) The transportation demand management program for the growth  
24 and transportation efficiency center shall be developed in  
25 consultation with local transit agencies, the applicable regional  
26 transportation planning organization, major employers, and other  
27 interested parties.

28 (b) In order to be eligible for state funding provided for the  
29 purposes of this section, designated growth and transportation  
30 efficiency centers shall be certified by the applicable regional  
31 transportation organization to: (i) Meet the minimum land use and  
32 transportation criteria established in collaboration among local  
33 jurisdictions, transit agencies, the regional transportation planning  
34 organization, and other interested parties as part of the regional  
35 commute trip reduction plan; and (ii) have established a  
36 transportation demand management program that includes the elements  
37 identified in (c) of this subsection and is consistent with the rules  
38 established by the department of transportation in RCW 70.94.537(2)  
39 (as recodified by this act). If a designated growth and

1 transportation efficiency center is denied certification, the local  
2 jurisdiction may appeal the decision to the commute trip reduction  
3 board.

4 (c) Transportation demand management programs for growth and  
5 transportation efficiency centers shall include, but are not limited  
6 to: (i) Goals for reductions in the proportion of single-occupant  
7 vehicle trips that are more aggressive than the state program goal  
8 established by the commute trip reduction board; (ii) a sustainable  
9 financial plan demonstrating how the program can be implemented to  
10 meet state and regional trip reduction goals, indicating resources  
11 from public and private sources that are reasonably expected to be  
12 made available to carry out the plan, and recommending any innovative  
13 financing techniques consistent with chapter 47.29 RCW, including  
14 public/private partnerships, to finance needed facilities, services,  
15 and programs; (iii) a proposed organizational structure for  
16 implementing the program; (iv) a proposal to measure performance  
17 toward the goal and implementation progress; and (v) an evaluation to  
18 which local land use and transportation policies apply, including  
19 parking policies and ordinances, to determine the extent that they  
20 complement and support the trip reduction investments of major  
21 employers. Each of these program elements shall be consistent with  
22 the rules established under RCW 70.94.537 (as recodified by this  
23 act).

24 (d) A designated growth and transportation efficiency center  
25 shall be consistent with the land use and transportation elements of  
26 the local comprehensive plan.

27 (e) Transit agencies, local governments, and regional  
28 transportation planning organizations shall identify certified growth  
29 and transportation efficiency centers as priority areas for new  
30 service and facility investments in their respective investment  
31 plans.

32 (2) A county, city, or town that has established a growth and  
33 transportation efficiency center program shall support vehicle trip  
34 reduction activities in the designated area. The implementing  
35 jurisdiction shall adopt policies, ordinances, and funding strategies  
36 that will lead to attainment of program goals in those areas.

37 **Sec. 1127.** RCW 70.94.531 and 2013 c 26 s 1 are each amended to  
38 read as follows:

1 (1) State agency worksites are subject to the same requirements  
2 under this section and RCW 70.94.534 (as recodified by this act) as  
3 private employers.

4 (2) Not more than ninety days after the adoption of a  
5 jurisdiction's commute trip reduction plan, each major employer in  
6 that jurisdiction shall perform a baseline measurement consistent  
7 with the rules established by the department of transportation under  
8 RCW 70.94.537 (as recodified by this act). Not more than ninety days  
9 after receiving the results of the baseline measurement, each major  
10 employer shall develop a commute trip reduction program and shall  
11 submit a description of that program to the jurisdiction for review.  
12 The program shall be implemented not more than ninety days after  
13 approval by the jurisdiction.

14 (3) A commute trip reduction program of a major employer shall  
15 consist of, at a minimum (a) designation of a transportation  
16 coordinator and the display of the name, location, and telephone  
17 number of the coordinator in a prominent manner at each affected  
18 worksite; (b) regular distribution of information to employees  
19 regarding alternatives to single-occupant vehicle commuting; (c) a  
20 regular review of employee commuting and reporting of progress toward  
21 meeting the single-occupant vehicle reduction goals to the county,  
22 city, or town consistent with the method established in the commute  
23 trip reduction plan and the rules established by the department of  
24 transportation under RCW 70.94.537 (as recodified by this act); and  
25 (d) implementation of a set of measures designed to achieve the  
26 applicable commute trip reduction goals adopted by the jurisdiction.  
27 Such measures may include but are not limited to:

28 (i) Provision of preferential parking or reduced parking charges,  
29 or both, for high occupancy vehicles and motorcycles;

30 (ii) Instituting or increasing parking charges for single-  
31 occupant vehicles;

32 (iii) Provision of commuter ride matching services to facilitate  
33 employee ride sharing for commute trips;

34 (iv) Provision of subsidies for transit fares;

35 (v) Provision of vans for van pools;

36 (vi) Provision of subsidies for car pooling or van pooling;

37 (vii) Permitting the use of the employer's vehicles for car  
38 pooling or van pooling;

39 (viii) Permitting flexible work schedules to facilitate  
40 employees' use of transit, car pools, or van pools;



1 (ix) Cooperation with transportation providers to provide  
2 additional regular or express service to the worksite;

3 (x) Construction of special loading and unloading facilities for  
4 transit, car pool, and van pool users;

5 (xi) Provision of bicycle parking facilities, lockers, changing  
6 areas, and showers for employees who bicycle or walk to work;

7 (xii) Provision of a program of parking incentives such as a  
8 rebate for employees who do not use the parking facility;

9 (xiii) Establishment of a program to permit employees to work  
10 part or full time at home or at an alternative worksite closer to  
11 their homes;

12 (xiv) Establishment of a program of alternative work schedules  
13 such as compressed workweek schedules which reduce commuting; and

14 (xv) Implementation of other measures designed to facilitate the  
15 use of high occupancy vehicles such as on-site day care facilities  
16 and emergency taxi services.

17 (4) Employers or owners of worksites may form or utilize existing  
18 transportation management associations or other transportation-  
19 related associations authorized by RCW 35.87A.010 to assist members  
20 in developing and implementing commute trip reduction programs.

21 (5) Employers shall make a good faith effort towards achievement  
22 of the goals identified in RCW 70.94.527(4) (d) (as recodified by this  
23 act).

24 **Sec. 1128.** RCW 70.94.534 and 2006 c 329 s 6 are each amended to  
25 read as follows:

26 (1) Each jurisdiction implementing a commute trip reduction plan  
27 under this chapter or as part of a plan or ordinance developed under  
28 RCW 36.70A.070 shall review each employer's initial commute trip  
29 reduction program to determine if the program is likely to meet the  
30 applicable commute trip reduction goals. The employer shall be  
31 notified by the jurisdiction of its findings. If the jurisdiction  
32 finds that the program is not likely to meet the applicable commute  
33 trip reduction goals, the jurisdiction will work with the employer to  
34 modify the program as necessary. The jurisdiction shall complete  
35 review of each employer's initial commute trip reduction program  
36 within ninety days of receipt.

37 (2) Employers implementing commute trip reduction programs are  
38 expected to undertake good faith efforts to achieve the goals  
39 outlined in RCW 70.94.527(4) (as recodified by this act). Employers

1 are considered to be making a good faith effort if the following  
2 conditions have been met:

3 (a) The employer has met the minimum requirements identified in  
4 RCW 70.94.531 (as recodified by this act);

5 (b) The employer has notified the jurisdiction of its intent to  
6 substantially change or modify its program and has either received  
7 the approval of the jurisdiction to do so or has acknowledged that  
8 its program may not be approved without additional modifications;

9 (c) The employer has provided adequate information and  
10 documentation of implementation when requested by the jurisdiction;  
11 and

12 (d) The employer is working collaboratively with its jurisdiction  
13 to continue its existing program or is developing and implementing  
14 program modifications likely to result in improvements to the program  
15 over an agreed upon length of time.

16 (3) Each jurisdiction shall review at least once every two years  
17 each employer's progress and good faith efforts toward meeting the  
18 applicable commute trip reduction goals. If an employer makes a good  
19 faith effort, as defined in this section, but is not likely to meet  
20 the applicable commute trip reduction goals, the jurisdiction shall  
21 work collaboratively with the employer to make modifications to the  
22 commute trip reduction program. Failure of an employer to reach the  
23 applicable commute trip reduction goals is not a violation of this  
24 chapter.

25 (4) If an employer fails to make a good faith effort and fails to  
26 meet the applicable commute trip reduction goals, the jurisdiction  
27 shall work collaboratively with the employer to propose modifications  
28 to the program and shall direct the employer to revise its program  
29 within thirty days to incorporate those modifications or  
30 modifications which the jurisdiction determines to be equivalent.

31 (5) Each jurisdiction implementing a commute trip reduction plan  
32 pursuant to this chapter may impose civil penalties, in the manner  
33 provided in chapter 7.80 RCW, for failure by an employer to implement  
34 a commute trip reduction program or to modify its commute trip  
35 reduction program as required in subsection (4) of this section. No  
36 major employer may be held liable for civil penalties for failure to  
37 reach the applicable commute trip reduction goals. No major employer  
38 shall be liable for civil penalties under this chapter if failure to  
39 achieve a commute trip reduction program goal was the result of an  
40 inability to reach agreement with a certified collective bargaining

1 agent under applicable laws where the issue was raised by the  
2 employer and pursued in good faith.

3 (6) Jurisdictions shall notify major employers of the procedures  
4 for applying for goal modification or exemption from the commute trip  
5 reduction requirements based on the guidelines established by the  
6 commute trip reduction board authorized under RCW 70.94.537 (as  
7 recodified by this act).

8 **Sec. 1129.** RCW 70.94.541 and 2009 c 427 s 1 are each amended to  
9 read as follows:

10 (1) The department of transportation shall provide staff support  
11 to the commute trip reduction board in carrying out the requirements  
12 of RCW 70.94.537 (as recodified by this act).

13 (2) The department of transportation shall provide technical  
14 assistance to regional transportation planning organizations,  
15 counties, cities, towns, state agencies, as defined in RCW 40.06.010,  
16 and other employers in developing and implementing commute trip  
17 reduction plans and programs. The technical assistance shall include:  
18 (a) Guidance in single measurement methodology and practice to be  
19 used in determining progress in attaining plan goals; (b) developing  
20 model plans and programs appropriate to different situations; and (c)  
21 providing consistent training and informational materials for the  
22 implementation of commute trip reduction programs. Model plans and  
23 programs, training, and informational materials shall be developed in  
24 cooperation with representatives of regional transportation planning  
25 organizations, local governments, transit agencies, and employers.

26 (3) In carrying out this section the department of transportation  
27 may contract with statewide associations representing cities, towns,  
28 and counties to assist cities, towns, and counties in implementing  
29 commute trip reduction plans and programs.

30 **Sec. 1130.** RCW 70.94.544 and 2006 c 329 s 9 are each amended to  
31 read as follows:

32 A portion of the funds made available for the purposes of this  
33 chapter shall be used to fund the commute trip reduction board in  
34 carrying out the responsibilities of RCW 70.94.537 (as recodified by  
35 this act), and the department of transportation, including the  
36 activities authorized under RCW 70.94.541(2) (as recodified by this  
37 act), and to assist regional transportation planning organizations,  
38 counties, cities, and towns implementing commute trip reduction

1 plans. The commute trip reduction board shall determine the  
2 allocation of program funds made available for the purposes of this  
3 chapter to regional transportation planning organizations, counties,  
4 cities, and towns implementing commute trip reduction plans. If state  
5 funds for the purposes of this chapter are provided to those  
6 jurisdictions implementing voluntary commute trip reduction plans,  
7 the funds shall be disbursed based on criteria established by the  
8 commute trip reduction board under RCW 70.94.537 (as recodified by  
9 this act).

10 **Sec. 1131.** RCW 70.94.551 and 2015 c 225 s 105 are each amended  
11 to read as follows:

12 (1) The secretary of the department of transportation may  
13 coordinate an interagency board or other interested parties for the  
14 purpose of developing policies or guidelines that promote consistency  
15 among state agency commute trip reduction programs required by RCW  
16 70.94.527 and 70.94.531 (as recodified by this act) or developed  
17 under the joint comprehensive commute trip reduction plan described  
18 in this section. The board shall include representatives of the  
19 departments of transportation, enterprise services, ecology, and  
20 commerce and such other departments and interested groups as the  
21 secretary of the department of transportation determines to be  
22 necessary. Policies and guidelines shall be applicable to all state  
23 agencies including but not limited to policies and guidelines  
24 regarding parking and parking charges, employee incentives for  
25 commuting by other than single-occupant automobiles, flexible and  
26 alternative work schedules, alternative worksites, and the use of  
27 state-owned vehicles for car and van pools and guaranteed rides home.  
28 The policies and guidelines shall also consider the costs and  
29 benefits to state agencies of achieving commute trip reductions and  
30 consider mechanisms for funding state agency commute trip reduction  
31 programs.

32 (2) State agencies sharing a common location in affected urban  
33 growth areas where the total number of state employees is one hundred  
34 or more shall, with assistance from the department of transportation,  
35 develop and implement a joint commute trip reduction program. The  
36 worksite must be treated as specified in RCW 70.94.531 and 70.94.534  
37 (as recodified by this act).

38 (3) The department of transportation shall develop a joint  
39 comprehensive commute trip reduction plan for all state agencies,

1 including institutions of higher education, located in the Olympia,  
2 Lacey, and Tumwater urban growth areas.

3 (a) In developing the joint comprehensive commute trip reduction  
4 plan, the department of transportation shall work with applicable  
5 state agencies, including institutions of higher education, and shall  
6 collaborate with the following entities: Local jurisdictions;  
7 regional transportation planning organizations as described in  
8 chapter 47.80 RCW; transit agencies, including regional transit  
9 authorities as described in chapter 81.112 RCW and transit agencies  
10 that serve areas within twenty-five miles of the Olympia, Lacey, or  
11 Tumwater urban growth areas; and the capitol campus design advisory  
12 committee established in RCW 43.34.080.

13 (b) The joint comprehensive commute trip reduction plan must  
14 build on existing commute trip reduction programs and policies. At a  
15 minimum, the joint comprehensive commute trip reduction plan must  
16 include strategies for telework and flexible work schedules, parking  
17 management, and consideration of the impacts of worksite location and  
18 design on multimodal transportation options.

19 (c) The joint comprehensive commute trip reduction plan must  
20 include performance measures and reporting methods and requirements.

21 (d) The joint comprehensive commute trip reduction plan may  
22 include strategies to accommodate differences in worksite size and  
23 location.

24 (e) The joint comprehensive commute trip reduction plan must be  
25 consistent with jurisdictional and regional transportation, land use,  
26 and commute trip reduction plans, the state six-year facilities plan,  
27 and the master plan for the capitol of the state of Washington.

28 (f) Not more than ninety days after the adoption of the joint  
29 comprehensive commute trip reduction plan, state agencies within the  
30 three urban growth areas must implement a commute trip reduction  
31 program consistent with the objectives and strategies of the joint  
32 comprehensive commute trip reduction plan.

33 (4) The department of transportation shall review the initial  
34 commute trip reduction program of each state agency subject to the  
35 commute trip reduction plan for state agencies to determine if the  
36 program is likely to meet the applicable commute trip reduction goals  
37 and notify the agency of any deficiencies. If it is found that the  
38 program is not likely to meet the applicable commute trip reduction  
39 goals, the department of transportation will work with the agency to  
40 modify the program as necessary.

1 (5) Each state agency implementing a commute trip reduction plan  
2 shall report at least once per year to its agency director on the  
3 performance of the agency's commute trip reduction program as part of  
4 the agency's quality management, accountability, and performance  
5 system as defined by RCW 43.17.385. The reports shall assess the  
6 performance of the program, progress toward state goals established  
7 under RCW 70.94.537 (as recodified by this act), and recommendations  
8 for improving the program.

9 (6) The department of transportation shall review the agency  
10 performance reports defined in subsection (5) of this section and  
11 submit a biennial report for state agencies subject to this chapter  
12 to the governor and incorporate the report in the commute trip  
13 reduction board report to the legislature as directed in RCW  
14 70.94.537(6) (as recodified by this act). The report shall include,  
15 but is not limited to, an evaluation of the most recent measurement  
16 results, progress toward state goals established under RCW 70.94.537  
17 (as recodified by this act), and recommendations for improving the  
18 performance of state agency commute trip reduction programs. The  
19 information shall be reported in a form established by the commute  
20 trip reduction board.

21 **Sec. 1132.** RCW 70.94.640 and 2017 c 217 s 1 are each amended to  
22 read as follows:

23 (1) Odors or fugitive dust caused by agricultural activity  
24 consistent with good agricultural practices on agricultural land are  
25 exempt from the requirements of this chapter unless they have a  
26 substantial adverse effect on public health. In determining whether  
27 agricultural activity is consistent with good agricultural practices,  
28 the department of ecology or board of any authority shall consult  
29 with a recognized third-party expert in the activity prior to issuing  
30 any notice of violation.

31 (2) Any notice of violation issued under this chapter pertaining  
32 to odors or fugitive dust caused by agricultural activity shall  
33 include a detailed statement with evidence as to why the activity is  
34 inconsistent with good agricultural practices, or a detailed  
35 statement with evidence that the odors or fugitive dust have  
36 substantial adverse effect on public health.

37 (3) In any appeal to the pollution control hearings board or any  
38 judicial appeal, the agency issuing a final order pertaining to odors  
39 or fugitive dust caused by agricultural activity shall prove the

1 activity is inconsistent with good agricultural practices or that the  
2 odors or fugitive dust have a substantial adverse impact on public  
3 health.

4 (4) If a person engaged in agricultural activity on a contiguous  
5 piece of agricultural land sells or has sold a portion of that land  
6 for residential purposes, the exemption of this section shall not  
7 apply.

8 (5) As used in this section:

9 (a) "Agricultural activity" means the growing, raising, or  
10 production of horticultural or viticultural crops, berries, poultry,  
11 livestock, shellfish, grain, mint, hay, and dairy products.  
12 "Agricultural activity" also includes the growing, raising, or  
13 production of cattle at cattle feedlots.

14 (b) "Good agricultural practices" means economically feasible  
15 practices which are customary among or appropriate to farms and  
16 ranches of a similar nature in the local area and for cattle feedlots  
17 means implementing best management practices pursuant to a fugitive  
18 dust control plan that conforms to the fugitive dust control  
19 guidelines for beef cattle feedlots, best management practices, and  
20 plan development and approval procedures that were approved by the  
21 department of ecology in December 1995 or in updates to those  
22 guidelines that are mutually agreed to by the department of ecology  
23 and by the Washington cattle feeders association or a successor  
24 organization on behalf of cattle feedlots.

25 (c) "Agricultural land" means at least five acres of land devoted  
26 primarily to the commercial production of livestock, agricultural  
27 commodities, or cultured aquatic products.

28 (d) "Fugitive dust" means a particulate emission made airborne by  
29 human activity, forces of wind, or both, and which do not pass  
30 through a stack, chimney, vent, or other functionally equivalent  
31 opening.

32 (6) The exemption for fugitive dust provided in subsection (1) of  
33 this section does not apply to facilities subject to RCW 70.94.151 as  
34 specified in WAC 173-400-100 as of July 24, 2005, 70.94.152, or  
35 70.94.161 (as recodified by this act). The exemption for fugitive  
36 dust provided in subsection (1) of this section applies to cattle  
37 feedlots with operational facilities which have an inventory of one  
38 thousand or more cattle in operation between June 1st and October  
39 1st, where vegetation forage growth is not sustained over the  
40 majority of the lot during the normal growing season; except that the

1 cattle feedlots must comply with applicable requirements included in  
2 the approved state implementation plan for air quality as of July 23,  
3 2017; and except if an area in which a cattle feedlot is located is  
4 at any time in the future designated nonattainment for a national  
5 ambient air quality standard for particulate matter, additional  
6 control measures may be required for cattle feedlots as part of a  
7 state implementation plan's control strategy for that area and as  
8 necessary to ensure the area returns to attainment.

9 **Sec. 1133.** RCW 70.94.6512 and 2009 c 118 s 102 are each amended  
10 to read as follows:

11 Except as provided in RCW 70.94.6546 (as recodified by this act),  
12 no person shall cause or allow any outdoor fire:

13 (1) Containing garbage, dead animals, asphalt, petroleum  
14 products, paints, rubber products, plastics, or any substance other  
15 than natural vegetation that normally emits dense smoke or obnoxious  
16 odors. Agricultural heating devices that otherwise meet the  
17 requirements of this chapter shall not be considered outdoor fires  
18 under this section;

19 (2) During a forecast, alert, warning or emergency condition as  
20 defined in RCW 70.94.715 (as recodified by this act) or impaired air  
21 quality condition as defined in RCW 70.94.473 (as recodified by this  
22 act).

23 **Sec. 1134.** RCW 70.94.6514 and 2019 c 305 s 3 are each amended to  
24 read as follows:

25 (1) Consistent with the policy of the state to reduce outdoor  
26 burning to the greatest extent practical, outdoor burning shall not  
27 be allowed in:

28 (a) Any area of the state where federal or state ambient air  
29 quality standards are exceeded for pollutants emitted by outdoor  
30 burning; or

31 (b) Any urban growth area as defined by RCW 36.70A.030, or any  
32 city of the state having a population greater than ten thousand  
33 people if such cities are threatened to exceed state or federal air  
34 quality standards, and alternative disposal practices consistent with  
35 good solid waste management are reasonably available or practices  
36 eliminating production of organic refuse are reasonably available.

37 (2) Notwithstanding any other provision of this section, outdoor  
38 burning may be allowed for the exclusive purpose of managing storm or



1 flood-related debris. The decision to allow burning shall be made by  
2 the entity with permitting jurisdiction as determined under RCW  
3 70.94.6534 or 70.94.6518 (as recodified by this act). If outdoor  
4 burning is allowed in areas subject to subsection (1)(a) or (b) of  
5 this section, a permit shall be required, and a fee may be collected  
6 to cover the expenses of administering and enforcing the permit. All  
7 conditions and restrictions pursuant to RCW 70.94.6526(1) and  
8 70.94.6512 (as recodified by this act) apply to outdoor burning  
9 allowed under this section.

10 (3)(a) Outdoor burning that is normal, necessary, and customary  
11 to ongoing agricultural activities, that is consistent with  
12 agricultural burning authorized under RCW 70.94.6528 and 70.94.6532  
13 (as recodified by this act), is allowed within the urban growth area  
14 in accordance with RCW 70.94.6528(8)(a) (as recodified by this act).

15 (b) Outdoor burning of cultivated orchard trees shall be allowed  
16 as an ongoing agricultural activity under this section in accordance  
17 with RCW 70.94.6528(8)(b) (as recodified by this act).

18 (4) This section shall not apply to silvicultural burning used to  
19 improve or maintain fire dependent ecosystems for rare plants or  
20 animals within state, federal, and private natural area preserves,  
21 natural resource conservation areas, parks, and other wildlife areas.

22 (5) Notwithstanding any other provisions of this section, outdoor  
23 burning that reduces the risk of a wildfire, or is normal, necessary,  
24 and customary to ongoing silvicultural activities consistent with  
25 silvicultural burning authorized under RCW 70.94.6534(1) (as  
26 recodified by this act), is allowed within the urban growth area in  
27 accordance with RCW 70.94.6534 (as recodified by this act). Before  
28 issuing a burn permit within the urban growth area for any burn that  
29 exceeds one hundred tons of material, the department of natural  
30 resources shall consult with department of ecology and condition the  
31 issuance and use of such permits to comply with air quality standards  
32 established by the department of ecology.

33 **Sec. 1135.** RCW 70.94.6516 and 1991 c 199 s 411 are each amended  
34 to read as follows:

35 In addition to any other powers granted to them by law, the fire  
36 protection agency, county, or conservation district issuing burning  
37 permits shall regulate or prohibit outdoor burning as necessary to  
38 prevent or abate the nuisances caused by such burning. No fire  
39 protection agency, county, or conservation district may issue a

1 burning permit in an area where the department or local board has  
2 declared any stage of impaired air quality per RCW 70.94.473 (as  
3 recodified by this act) or any stage of an air pollution episode. All  
4 burning permits issued shall be subject to all applicable fee,  
5 permitting, penalty, and enforcement provisions of this chapter. The  
6 permitted burning shall not cause damage to public health or the  
7 environment.

8 Any entity issuing a permit under this section may charge a fee  
9 at the level necessary to recover the costs of administering and  
10 enforcing the permit program.

11 **Sec. 1136.** RCW 70.94.6518 and 2009 c 118 s 201 are each amended  
12 to read as follows:

13 Each activated air pollution control authority, and the  
14 department of ecology in those areas outside the jurisdictional  
15 boundaries of an activated air pollution control authority, shall  
16 establish, through regulations, ordinances, or policy, a program  
17 implementing the limited burning policy authorized by RCW 70.94.6514,  
18 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, and 70.94.6526 (as  
19 recodified by this act).

20 **Sec. 1137.** RCW 70.94.6520 and 2009 c 118 s 202 are each amended  
21 to read as follows:

22 Nothing contained in RCW 70.94.6514, 70.94.6518, 70.94.6520,  
23 70.94.6522, 70.94.6524, and 70.94.6526 (as recodified by this act) is  
24 intended to alter or change the provisions of RCW 70.94.6534 (as  
25 recodified by this act), 70.94.710 through 70.94.730 (as recodified  
26 by this act), and 76.04.205.

27 **Sec. 1138.** RCW 70.94.6522 and 2009 c 118 s 203 are each amended  
28 to read as follows:

29 Nothing in RCW 70.94.6514, 70.94.6518, 70.94.6520, 70.94.6522,  
30 70.94.6524, and 70.94.6526 (as recodified by this act) shall be  
31 construed as prohibiting a local air pollution control authority or  
32 the department of ecology in those areas outside the jurisdictional  
33 boundaries of an activated pollution control authority from allowing  
34 the burning of outdoor fires.

35 **Sec. 1139.** RCW 70.94.6524 and 2019 c 305 s 4 are each amended to  
36 read as follows:

1 (1) It shall be the responsibility and duty of the department of  
2 natural resources, department of ecology, department of agriculture,  
3 county fire marshals in consultation with fire districts, and local  
4 air pollution control authorities to establish, through regulations,  
5 ordinances, or policy, a limited burning permit program.

6 (2) The permit program shall apply to residential and land  
7 clearing burning in the following areas:

8 (a) In the nonurban areas of any county with an unincorporated  
9 population of greater than fifty thousand; and

10 (b) In any city and urban growth area that is not otherwise  
11 prohibited from burning pursuant to RCW 70.94.6514 (as recodified by  
12 this act).

13 (3) The permit program shall apply only to land clearing burning  
14 in the nonurban areas of any county with an unincorporated population  
15 of less than fifty thousand.

16 (4) The permit program may be limited to a general permit by  
17 rule, or by verbal, written, or electronic approval by the permitting  
18 entity.

19 (5) Notwithstanding any other provision of this section, neither  
20 a permit nor the payment of a fee shall be required for outdoor  
21 burning for the purpose of disposal of tumbleweeds blown by wind.  
22 Such burning shall not be conducted during an air pollution episode  
23 or any stage of impaired air quality declared under RCW 70.94.715 (as  
24 recodified by this act). This subsection (5) shall only apply within  
25 counties with a population less than two hundred fifty thousand.

26 (6) Burning shall be prohibited in an area when an alternate  
27 technology or method of disposing of the organic refuse is available,  
28 reasonably economical, and less harmful to the environment. It is the  
29 policy of this state to foster and encourage development of alternate  
30 methods or technology for disposing of or reducing the amount of  
31 organic refuse.

32 (7) Incidental agricultural burning must be allowed without  
33 applying for any permit and without the payment of any fee if:

34 (a) The burning is incidental to commercial agricultural  
35 activities;

36 (b) The operator notifies the local fire department within the  
37 area where the burning is to be conducted;

38 (c) The burning does not occur during an air pollution episode or  
39 any stage of impaired air quality declared under RCW 70.94.715 (as  
40 recodified by this act); and

1 (d) Only the following items are burned:

2 (i) Orchard prunings;

3 (ii) Organic debris along fence lines or irrigation or drainage  
4 ditches; or

5 (iii) Organic debris blown by wind.

6 (8) As used in this section, "nonurban areas" are unincorporated  
7 areas within a county that are not designated as urban growth areas  
8 under chapter 36.70A RCW.

9 (9) Nothing in this section shall require fire districts to  
10 enforce air quality requirements related to outdoor burning, unless  
11 the fire district enters into an agreement with the department of  
12 ecology, department of natural resources, a local air pollution  
13 control authority, or other appropriate entity to provide such  
14 enforcement.

15 **Sec. 1140.** RCW 70.94.6528 and 2010 c 70 s 1 are each amended to  
16 read as follows:

17 (1) Any person who proposes to set fires in the course of  
18 agricultural activities shall obtain a permit from an air pollution  
19 control authority, the department of ecology, or a local entity  
20 delegated permitting authority under RCW 70.94.6530 (as recodified by  
21 this act). General permit criteria of statewide applicability shall  
22 be established by the department, by rule, after consultation with  
23 the various air pollution control authorities.

24 (a) Permits shall be issued under this section based on seasonal  
25 operations or by individual operations, or both.

26 (b) Incidental agricultural burning consistent with provisions  
27 established in RCW 70.94.6524 (as recodified by this act) is allowed  
28 without applying for any permit and without the payment of any fee.

29 (2) The department of ecology, local air authorities, or a local  
30 entity with delegated permit authority shall:

31 (a) Condition all permits to ensure that the public interest in  
32 air, water, and land pollution and safety to life and property is  
33 fully considered;

34 (b) Condition all burning permits to minimize air pollution  
35 insofar as practical;

36 (c) Act upon, within seven days from the date an application is  
37 filed under this section, an application for a permit to set fires in  
38 the course of agricultural burning for controlling diseases, insects,

1 weed abatement, or development of physiological conditions conducive  
2 to increased crop yield;

3 (d) Provide convenient methods for issuance and oversight of  
4 agricultural burning permits; and

5 (e) Work, through agreement, with counties and cities to provide  
6 convenient methods for granting permission for agricultural burning,  
7 including telephone, facsimile transmission, issuance from local city  
8 or county offices, or other methods.

9 (3) A local air authority administering the permit program under  
10 subsection (2) of this section shall not limit the number of days of  
11 allowable agricultural burning, but may consider the time of year,  
12 meteorological conditions, and other criteria specified in rules  
13 adopted by the department to implement subsection (2) of this  
14 section.

15 (4) In addition to following any other requirements established  
16 by the department to protect air quality pursuant to other laws,  
17 applicants for permits must show that the setting of fires as  
18 requested is the most reasonable procedure to follow in safeguarding  
19 life or property under all circumstances or is otherwise reasonably  
20 necessary to successfully carry out the enterprise in which the  
21 applicant is engaged, or both. Nothing in this section relieves the  
22 applicant from obtaining permits, licenses, or other approvals  
23 required by any other law.

24 (5) The department of ecology, the appropriate local air  
25 authority, or a local entity with delegated permitting authority  
26 pursuant to RCW 70.94.6530 (as recodified by this act) at the time  
27 the permit is issued shall assess and collect permit fees for burning  
28 under this section. All fees collected shall be deposited in the air  
29 pollution control account created in RCW 70.94.015 (as recodified by  
30 this act), except for that portion of the fee necessary to cover  
31 local costs of administering a permit issued under this section. Fees  
32 shall be set by rule by the permitting agency at the level determined  
33 by the task force created by subsection (6) of this section, but fees  
34 for field burning shall not exceed three dollars and seventy-five  
35 cents per acre to be burned, or in the case of pile burning shall not  
36 exceed one dollar per ton of material burned.

37 (6) An agricultural burning practices and research task force  
38 shall be established under the direction of the department. The task  
39 force shall be composed of a representative from the department who  
40 shall serve as chair; one representative of eastern Washington local

1 air authorities; three representatives of the agricultural community  
2 from different agricultural pursuits; one representative of the  
3 department of agriculture; two representatives from universities or  
4 colleges knowledgeable in agricultural issues; one representative of  
5 the public health or medical community; and one representative of the  
6 conservation districts. The task force shall:

7 (a) Identify best management practices for reducing air  
8 contaminant emissions from agricultural activities and provide such  
9 information to the department and local air authorities;

10 (b) Determine the level of fees to be assessed by the permitting  
11 agency pursuant to subsection (5) of this section, based upon the  
12 level necessary to cover the costs of administering and enforcing the  
13 permit programs, to provide funds for research into alternative  
14 methods to reduce emissions from such burning, and to the extent  
15 possible be consistent with fees charged for such burning permits in  
16 neighboring states. The fee level shall provide, to the extent  
17 possible, for lesser fees for permittees who use best management  
18 practices to minimize air contaminant emissions;

19 (c) Identify research needs related to minimizing emissions from  
20 agricultural burning and alternatives to such burning; and

21 (d) Make recommendations to the department on priorities for  
22 spending funds provided through this chapter for research into  
23 alternative methods to reduce emissions from agricultural burning.

24 (7) Conservation districts and the Washington State University  
25 agricultural extension program in conjunction with the department  
26 shall develop public education material for the agricultural  
27 community identifying the health and environmental effects of  
28 agricultural outdoor burning and providing technical assistance in  
29 alternatives to agricultural outdoor burning.

30 (8)(a) Outdoor burning that is normal, necessary, and customary  
31 to ongoing agricultural activities, that is consistent with  
32 agricultural burning authorized under this section and RCW 70.94.6532  
33 (as recodified by this act), is allowed within the urban growth area  
34 as described in RCW 70.94.6514 (as recodified by this act) if the  
35 burning is not conducted during air quality episodes, or where a  
36 determination of impaired air quality has been made as provided in  
37 RCW 70.94.473 (as recodified by this act), and the agricultural  
38 activities preceded the designation as an urban growth area.

39 (b) Outdoor burning of cultivated orchard trees, whether or not  
40 agricultural crops will be replanted on the land, shall be allowed as

1 an ongoing agricultural activity under this section if a local  
2 horticultural pest and disease board formed under chapter 15.09 RCW,  
3 an extension office agent with Washington State University that has  
4 horticultural experience, or an entomologist employed by the  
5 department of agriculture, has determined in writing that burning is  
6 an appropriate method to prevent or control the spread of  
7 horticultural pests or diseases.

8 **Sec. 1141.** RCW 70.94.6530 and 2009 c 118 s 402 are each amended  
9 to read as follows:

10 Whenever an air pollution control authority, or the department of  
11 ecology for areas outside the jurisdictional boundaries of an  
12 activated air pollution control authority, shall find that any fire  
13 protection agency, county, or conservation district is capable of  
14 effectively administering the issuance and enforcement of permits for  
15 any or all of the kinds of burning identified in RCW 70.94.6528,  
16 70.94.6546, and 70.94.6552 (as recodified by this act) and desirous  
17 of doing so, the authority or the department of ecology, as  
18 appropriate, may delegate powers necessary for the issuance or  
19 enforcement, or both, of permits for any or all of the kinds of  
20 burning to the fire protection agency, county, or conservation  
21 district. Such delegation may be withdrawn by the authority or the  
22 department of ecology upon finding that the fire protection agency,  
23 county, or conservation district is not effectively administering the  
24 permit program.

25 **Sec. 1142.** RCW 70.94.6532 and 2012 c 198 s 1 are each amended to  
26 read as follows:

27 It is hereby declared to be the policy of this state that strong  
28 efforts should be made to minimize adverse effects on air quality  
29 from the open burning of field and turf grasses grown for seed. To  
30 such end this section is intended to promote the development of  
31 economical and practical alternate agricultural practices to such  
32 burning, and to provide for interim regulation of such burning until  
33 practical alternates are found.

34 (1) The department shall approve of a study or studies for the  
35 exploration and identification of economical and practical alternate  
36 agricultural practices to the open burning of field and turf grasses  
37 grown for seed. Any study conducted pursuant to this section shall be  
38 conducted by Washington State University. The university may not

1 charge more than eight percent for administrative overhead. Prior to  
2 the issuance of any permit for such burning under RCW 70.94.6528 (as  
3 recodified by this act), there shall be collected a fee not to exceed  
4 one dollar per acre of crop to be burned. Any such fees received by  
5 any authority shall be transferred to the department of ecology. The  
6 department of ecology shall deposit all such acreage fees in the  
7 general fund.

8 (2) The department shall allocate moneys annually for the support  
9 of any approved study or studies as provided for in subsection (1) of  
10 this section. The fee collected under subsection (1) of this section  
11 shall constitute the research portion of fees required under RCW  
12 70.94.6528 (as recodified by this act) for open burning of grass  
13 grown for seed.

14 (3) Whenever on the basis of information available to it, the  
15 department after public hearings have been conducted wherein  
16 testimony will be received and considered from interested parties  
17 wishing to testify shall conclude that any procedure, program,  
18 technique, or device constitutes a practical alternate agricultural  
19 practice to the open burning of field or turf grasses grown for seed,  
20 the department shall, by order, certify approval of such alternate.  
21 Thereafter, in any case which any such approved alternate is  
22 reasonably available, the open burning of field and turf grasses  
23 grown for seed shall be disallowed and no permit shall issue  
24 therefor.

25 (4) Until approved alternates become available, the department or  
26 the authority may limit the number of acres on a pro rata basis among  
27 those affected for which permits to burn will be issued in order to  
28 effectively control emissions from this source.

29 (5) Permits issued for burning of field and turf grasses may be  
30 conditioned to minimize emissions insofar as practical, including  
31 denial of permission to burn during periods of adverse meteorological  
32 conditions.

33 (6) Every two years until grass seed burning is prohibited,  
34 Washington State University may prepare a brief report assessing the  
35 potential of the university's research to result in economical and  
36 practical alternatives to grass seed burning.

37 **Sec. 1143.** RCW 70.94.6534 and 2019 c 305 s 5 are each amended to  
38 read as follows:



1 (1) The department of natural resources is responsible for  
2 issuing and regulating burning permits required by it relating to the  
3 following activities for the protection of life or property and for  
4 the public health, safety, and welfare:

5 (a) Abating or prevention of a forest fire hazard;

6 (b) Reducing the risk of a wildfire under RCW 70.94.6514(5) (as  
7 recodified by this act);

8 (c) Instruction of public officials in methods of forest  
9 firefighting;

10 (d) Any silvicultural operation to improve the forestlands of the  
11 state, including but not limited to forest health and resiliency,  
12 decreasing forest insect or disease susceptibility, maintaining or  
13 restoring native vegetation, or otherwise enhancing resiliency to  
14 fire; and

15 (e) Silvicultural burning used to improve or maintain fire  
16 dependent ecosystems for rare plants or animals within state,  
17 federal, and private natural area preserves, natural resource  
18 conservation areas, parks, and other wildlife areas.

19 (2) The department of natural resources shall not retain such  
20 authority, but it shall be the responsibility of the appropriate fire  
21 protection agency for permitting and regulating outdoor burning on  
22 lands where the department of natural resources does not have fire  
23 protection responsibility, except for the issuance of permits for  
24 reducing the risk of wildfire under RCW 70.94.6514(5) (as recodified  
25 by this act). The department of natural resources may enter into  
26 cooperative agreements with local fire protection agencies to issue  
27 permits for reducing wildfire risk under RCW 70.94.6514(5) (as  
28 recodified by this act).

29 (3) Permit fees shall be assessed for wildfire risk reduction and  
30 for silvicultural burning under the jurisdiction of the department of  
31 natural resources and collected by the department of natural  
32 resources as provided for in this section. All fees shall be  
33 deposited in the air pollution control account, created in RCW  
34 70.94.015 (as recodified by this act). The legislature shall  
35 appropriate to the department of natural resources funds from the air  
36 pollution control account to enforce and administer the program under  
37 this section and RCW 70.94.6536, 70.94.6538, and 70.94.6540 (as  
38 recodified by this act). Fees shall be set by rule by the department  
39 of natural resources at the level necessary to cover the costs of the  
40 program after receiving recommendations on such fees from the public.

1       **Sec. 1144.** RCW 70.94.6538 and 2019 c 305 s 7 are each amended to  
2 read as follows:

3       The department of natural resources, in granting burning permits  
4 for fires for the purposes set forth in RCW 70.94.6534 (as recodified  
5 by this act), shall condition the issuance and use of such permits to  
6 comply to the extent feasible with air quality standards established  
7 by the department of ecology. Such burning shall not cause the state  
8 air quality standards to be exceeded in the ambient air up to two  
9 thousand feet above ground level over critical areas designated by  
10 the department of ecology, otherwise subject to air pollution from  
11 other sources. Air quality standards shall be established and  
12 published by the department of ecology which shall also establish a  
13 procedure for advising the department of natural resources when and  
14 where air contaminant levels exceed or threaten to exceed the ambient  
15 air standards over such critical areas. The air quality shall be  
16 quantitatively measured by the department of ecology or the  
17 appropriate local air pollution control authority at established  
18 monitoring stations over such designated areas. Further, such  
19 permitted burning shall not cause damage to public health or the  
20 environment. All permits issued under this section shall be subject  
21 to all applicable fees, permitting, penalty, and enforcement  
22 provisions of this chapter. The department of natural resources shall  
23 set forth smoke dispersal objectives designed consistent with this  
24 section to minimize any air pollution from such burning and the  
25 procedures necessary to meet those objectives.

26       The department of natural resources shall encourage more intense  
27 utilization in logging and alternative silviculture practices to  
28 reduce the need for burning. The department of natural resources  
29 shall, whenever practical, encourage landowners to develop and use  
30 alternative acceptable disposal methods subject to the following  
31 priorities: (1) Slash production minimization, (2) slash utilization,  
32 (3) nonburning disposal, (4) silvicultural burning. Such alternative  
33 methods shall be evaluated as to the relative impact on air, water,  
34 and land pollution, public health, and their financial feasibility.

35       The department of natural resources shall not issue burning  
36 permits and shall revoke previously issued permits at any time in any  
37 area where the department of ecology or local board has declared a  
38 stage of impaired air quality as defined in RCW 70.94.473 (as  
39 recodified by this act).

1       **Sec. 1145.** RCW 70.94.6540 and 2009 c 118 s 503 are each amended  
2 to read as follows:

3       In the regulation of outdoor burning not included in RCW  
4 70.94.6534 (as recodified by this act) requiring permits from the  
5 department of natural resources, said department and the state,  
6 local, or regional air pollution control authorities will cooperate  
7 in regulating such burning so as to minimize insofar as possible  
8 duplicate inspections and separate permits while still accomplishing  
9 the objectives and responsibilities of the respective agencies. The  
10 department of natural resources shall include any local authority's  
11 burning regulations with permits issued where applicable pursuant to  
12 RCW 70.94.6512, 70.94.6514, 70.94.6518, 70.94.6520, 70.94.6522,  
13 70.94.6524, and 70.94.6526 (as recodified by this act). The  
14 department shall develop agreements with all local authorities to  
15 coordinate regulations.

16       Permits shall be withheld by the department of natural resources  
17 when so requested by the department of ecology if a forecast, alert,  
18 warning, or emergency condition exists as defined in the episode  
19 criteria of the department of ecology.

20       **Sec. 1146.** RCW 70.94.6542 and 2009 c 118 s 504 are each amended  
21 to read as follows:

22       The department of natural resources and the department of ecology  
23 may adopt rules necessary to implement their respective  
24 responsibilities under the provisions of RCW 70.94.6528, 70.94.6530,  
25 70.94.6532, 70.94.6534, 70.94.6536, 70.94.6538, 70.94.6540,  
26 70.94.6542, and 70.94.6544 (as recodified by this act).

27       **Sec. 1147.** RCW 70.94.6546 and 2009 c 118 s 601 are each amended  
28 to read as follows:

29       (1) Aircraft crash rescue fire training activities meeting the  
30 following conditions do not require a permit under this section, or  
31 under RCW 70.94.6512, 70.94.6514, 70.94.6516, 70.94.6518, 70.94.6520,  
32 70.94.6522, 70.94.6524, and 70.94.6526 (as recodified by this act),  
33 from an air pollution control authority, the department, or any local  
34 entity with delegated permit authority:

35       (a) Firefighters participating in the training fires must be  
36 limited to those who provide firefighting support to an airport that  
37 is either certified by the federal aviation administration or  
38 operated in support of military or governmental activities;

1 (b) The fire training may not be conducted during an air  
2 pollution episode or any stage of impaired air quality declared under  
3 RCW 70.94.715 (as recodified by this act) for the area where training  
4 is to be conducted;

5 (c) The number of training fires allowed per year without a  
6 permit shall be the minimum number necessary to meet federal aviation  
7 administration or other federal safety requirements;

8 (d) The facility shall use current technology and be operated in  
9 a manner that will minimize, to the extent possible, the air  
10 contaminants generated during operation; and

11 (e) The organization conducting training shall notify both the:  
12 (i) Local fire district or fire department; and (ii) air pollution  
13 control authority, department of ecology, or local entity delegated  
14 permitting authority under RCW 70.94.6530 (as recodified by this  
15 act), having jurisdiction within the area where training is to be  
16 conducted before the commencement of aircraft fire training. Written  
17 approval from the department or a local air pollution control  
18 authority shall be obtained prior to the initial operation of  
19 aircraft crash rescue fire training. Such approval will be granted to  
20 fire training activities meeting the conditions in this subsection.

21 (2) Aircraft crash rescue fire training activities conducted in  
22 compliance with subsection (1) of this section are not subject to the  
23 prohibition, in RCW 70.94.6512(1) (as recodified by this act), of  
24 outdoor fires containing petroleum products and are not considered  
25 outdoor burning under RCW 70.94.6512, 70.94.6514, 70.94.6516,  
26 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, and 70.94.6526 (as  
27 recodified by this act).

28 (3) Training to fight structural fires located outside urban  
29 growth areas in counties that plan under the requirements of RCW  
30 36.70A.040 and outside of any city with a population of ten thousand  
31 or more in all other counties does not need a permit under this  
32 section from an air pollution control authority or the department of  
33 ecology, but must be conducted in accordance with RCW 52.12.150.

34 (4) Training to fight forest fires does not require a permit from  
35 an air pollution control authority or the department of ecology.

36 (5) To provide for firefighting instruction in instances not  
37 governed by subsections (1) through (3) of this section, or other  
38 actions to protect public health and safety, the department or a  
39 local air pollution control authority may issue permits that allow

1 limited burning of prohibited materials listed in RCW 70.94.6512(1)  
2 (as recodified by this act).

3 **Sec. 1148.** RCW 70.94.6548 and 2009 c 118 s 701 are each amended  
4 to read as follows:

5 Consistent with RCW 70.94.6514 (as recodified by this act),  
6 outdoor burning may be allowed anywhere in the state for the  
7 exclusive purpose of managing storm or flood-related debris.

8 **Sec. 1149.** RCW 70.94.6552 and 2009 c 118 s 704 are each amended  
9 to read as follows:

10 Any person who proposes to set fires in the course of weed  
11 abatement shall obtain a permit from an air pollution control  
12 authority, the department of ecology, or a local entity delegated  
13 permitting authority under RCW 70.94.6530 (as recodified by this  
14 act). General permit criteria of statewide applicability shall be  
15 established by the department, by rule, after consultation with the  
16 various air pollution control authorities. Permits shall be issued  
17 under this section based on seasonal operations or by individual  
18 operations, or both. All permits shall be conditioned to insure that  
19 the public interest in air, water, and land pollution and safety to  
20 life and property is fully considered. In addition to any other  
21 requirements established by the department to protect air quality  
22 pursuant to other laws, applicants for permits must show that the  
23 setting of fires as requested is the most reasonable procedure to  
24 follow in safeguarding life or property under all circumstances or is  
25 otherwise reasonably necessary to successfully carry out the  
26 enterprise in which the applicant is engaged, or both. All burning  
27 permits will be designed to minimize air pollution insofar as  
28 practical. Nothing in this section relieves the applicant from  
29 obtaining permits, licenses, or other approvals required by any other  
30 law. An application for a permit to set fires in the course of weed  
31 abatement shall be acted upon within seven days from the date such  
32 application is filed.

33 **Sec. 1150.** RCW 70.94.6554 and 2009 c 118 s 705 are each amended  
34 to read as follows:

35 Consistent with RCW 70.94.6524 (as recodified by this act),  
36 neither a permit nor the payment of a fee shall be required for  
37 outdoor burning for the purpose of disposal of tumbleweeds blown by

1 wind. Such burning shall not be conducted during an air pollution  
2 episode or any stage of impaired air quality declared under RCW  
3 70.94.715 (as recodified by this act). This section shall only apply  
4 within counties with a population less than two hundred fifty  
5 thousand.

6 **Sec. 1151.** RCW 70.94.6556 and 2018 c 147 s 1 are each amended to  
7 read as follows:

8 (1) A city or town that is located partially inside a quarantine  
9 area for apple maggot (*Rhagoletis pomonella*) established by the  
10 Washington state department of agriculture may apply for a permit  
11 pursuant to RCW 70.94.6528 (as recodified by this act) for the  
12 burning of brush and yard waste generated within the city or town,  
13 provided that the city or town satisfies the following requirements:

14 (a) Burning must be conducted by city or town employees, by  
15 contractors under the supervision of city or town employees, or by  
16 the city or town fire department or other local fire officials;

17 (b) Burning must be conducted under the supervision of the city  
18 or town fire department or other local fire officials and in  
19 consultation with the department of agriculture and the department of  
20 ecology or an air pollution control authority, as applicable;

21 (c) Burning must not be conducted more than four times per  
22 calendar year; and

23 (d) The city or town must issue a media advisory announcing any  
24 burning conducted under this section prior to engaging in any such  
25 burning.

26 (2) The department and the department of agriculture are directed  
27 to submit to the appropriate policy committees of the legislature no  
28 later than November 1, 2018, a report that addresses the available  
29 options for the processing and disposal of municipal yard waste  
30 generated in areas subject to the apple maggot quarantine, including:

31 (a) Techniques that neutralize any apple maggot larvae that may  
32 be contained within such yard waste;

33 (b) Identification of facilities that are capable of receiving  
34 such yard waste;

35 (c) Alternatives to outdoor burning, such as composting,  
36 chipping, biochar production, and biomass electrical generation; and

37 (d) A comparison of the costs of such alternatives.

38 (3) This section expires July 1, 2020.

1       **Sec. 1152.** RCW 70.94.715 and 2012 c 117 s 409 are each amended  
2 to read as follows:

3       The department of ecology is hereby authorized to develop an  
4 episode avoidance plan providing for the phased reduction of  
5 emissions wherever and whenever an air pollution episode is forecast.  
6 Such an episode avoidance plan shall conform with any applicable  
7 federal standards and shall be effective statewide. The episode  
8 avoidance plan may be implemented on an area basis in accordance with  
9 the occurrence of air pollution episodes in any given area.

10       The department of ecology may delegate authority to adopt source  
11 emission reduction plans and authority to implement all stages of  
12 occurrence up to and including the warning stage, and all  
13 intermediate stages up to the warning stage, in any area of the  
14 state, to the air pollution control authority with jurisdiction  
15 therein.

16       The episode avoidance plan, which shall be established by  
17 regulation in accordance with chapter 34.05 RCW, shall include, but  
18 not be limited to, the following:

19       (1) The designation of episode criteria and stages, the  
20 occurrence of which will require the carrying out of preplanned  
21 episode avoidance procedures. The stages of occurrence shall be (a)  
22 forecast, (b) alert, (c) warning, (d) emergency, and such  
23 intermediate stages as the department shall designate. "Forecast"  
24 means the presence of meteorological conditions that are conducive to  
25 accumulation of air contaminants and is the first stage of an  
26 episode. The department shall not call a forecast episode prior to  
27 the department or an authority calling a first stage impaired air  
28 quality condition as provided by RCW 70.94.473(1)(b) (as recodified  
29 by this act) or calling a single-stage impaired air quality condition  
30 as provided by RCW 70.94.473(~~(+2)~~) (as recodified by this act).  
31 "Alert" means concentration of air contaminants at levels at which  
32 short-term health effects may occur, and is the second stage of an  
33 episode. "Warning" means concentrations are continuing to degrade,  
34 contaminant concentrations have reached a level which, if maintained,  
35 can result in damage to health, and additional control actions are  
36 needed and is the third level of an episode. "Emergency" means the  
37 air quality is posing an imminent and substantial endangerment to  
38 public health and is the fourth level of an episode;

39       (2) The requirement that persons responsible for the operation of  
40 air contaminant sources prepare and obtain approval from the director

1 of source emission reduction plans, consistent with good operating  
2 practice and safe operating procedures, for reducing emissions during  
3 designated episode stages;

4 (3) Provision for the director of the department of ecology or  
5 his or her authorized representative, or the air pollution control  
6 officer if implementation has been delegated, on the satisfaction of  
7 applicable criteria, to declare and terminate the forecast, alert,  
8 warning and all intermediate stages, up to the warning episode stage,  
9 such declarations constituting orders for action in accordance with  
10 applicable source emission reduction plans;

11 (4) Provision for the governor to declare and terminate the  
12 emergency stage and all intermediate stages above the warning episode  
13 stage, such declarations constituting orders in accordance with  
14 applicable source emission reduction plans;

15 (5) Provisions for enforcement by state and local police,  
16 personnel of the departments of ecology and social and health  
17 services, and personnel of local air pollution control agencies; and

18 (6) Provisions for reduction or discontinuance of emissions  
19 immediately, consistent with good operating practice and safe  
20 operating procedures, under an air pollution emergency as provided in  
21 RCW 70.94.720 (as recodified by this act).

22 Source emission reduction plans shall be considered orders of the  
23 department and shall be subject to appeal to the pollution control  
24 hearings board according to the procedure in chapter 43.21B RCW.

25 **Sec. 1153.** RCW 70.94.725 and 1971 ex.s. c 194 s 4 are each  
26 amended to read as follows:

27 Whenever any order has been issued pursuant to RCW 70.94.710  
28 through 70.94.730 (as recodified by this act), the attorney general,  
29 upon request from the governor, the director of the department of  
30 ecology, an authorized representative of either, or the attorney for  
31 a local air pollution control authority upon request of the control  
32 officer, shall petition the superior court of the county in which is  
33 located the air contaminant source for which such order was issued  
34 for a temporary restraining order requiring the immediate reduction  
35 or discontinuance of emissions from such source.

36 Upon request of the party to whom a temporary restraining order  
37 is directed, the court shall schedule a hearing thereon at its  
38 earliest convenience, at which time the court may withdraw the



1 restraining order or grant such temporary injunction as is reasonably  
2 necessary to prevent injury to the public health or safety.

3 **Sec. 1154.** RCW 70.94.730 and 1971 ex.s. c 194 s 5 are each  
4 amended to read as follows:

5 Orders issued to declare any stage of an air pollution episode  
6 avoidance plan under RCW 70.94.715 (as recodified by this act), and  
7 to declare an air pollution emergency, under RCW 70.94.720 (as  
8 recodified by this act), and orders to persons responsible for the  
9 operation of an air contaminant source to reduce or discontinue  
10 emissions, according to RCW 70.94.715 and 70.94.720 (as recodified by  
11 this act) shall be effective immediately and shall not be stayed  
12 pending completion of review.

13 **Sec. 1155.** RCW 70.94.785 and 1973 1st ex.s. c 193 s 11 are each  
14 amended to read as follows:

15 Notwithstanding any provision of the law to the contrary, except  
16 RCW (~~(70.94.660 through 70.94.690)~~) 70.94.6534 through 70.94.6540 (as  
17 recodified by this act), the department of ecology, upon its approval  
18 of any plan (or part thereof) required or permitted under the federal  
19 clean air act, shall have the authority to enforce all regulatory  
20 provisions within such plan (or part thereof): PROVIDED, That  
21 departmental enforcement of any such provision which is within the  
22 power of an activated authority to enforce shall be initiated only,  
23 when with respect to any source, the authority is not enforcing the  
24 provisions and then only after written notice is given the authority.

25 **Sec. 1156.** RCW 70.94.805 and 1985 c 456 s 2 are each amended to  
26 read as follows:

27 As used in RCW 70.94.800 through (~~(70.94.825)~~) 70.94.820 (as  
28 recodified by this act), the following terms have the following  
29 meanings.

30 (1) "Acid deposition" means wet or dry deposition from the  
31 atmosphere of chemical compounds with a pH of less than 5.6.

32 (2) "Critical level of acid deposition and lake, stream, and soil  
33 acidification" means the level at which irreparable damage may occur  
34 unless corrective action is taken.

35 **Sec. 1157.** RCW 70.94.850 and 1984 c 164 s 1 are each amended to  
36 read as follows:

1       The department of ecology and the local boards may implement an  
2 emission credits banking program. For the purposes of this section,  
3 an emission credits banking program means a program whereby an air  
4 contaminant source which reduces emissions of a given air contaminant  
5 by an amount greater than that required by applicable law,  
6 regulation, or order is granted credit for a given amount, which  
7 credit shall be administered by a credit bank operated by the  
8 appropriate agency. The amount of the credit shall be determined by  
9 the department or local board with jurisdiction, but it shall be less  
10 than the amount of the emissions reduction. The credit may be used,  
11 traded, sold, or otherwise expended for purposes established by  
12 regulation of state or local agencies consistent with the provisions  
13 of the prevention of significant deterioration program under RCW  
14 70.94.860 (as recodified by this act), the bubble program under RCW  
15 70.94.155 (as recodified by this act), and the new source review  
16 program under RCW 70.94.152 (as recodified by this act), if there  
17 will be no net adverse impact on air quality.

18       **Sec. 1158.** RCW 70.94.892 and 2004 c 224 s 8 are each amended to  
19 read as follows:

20       (1) For fossil-fueled electric generation facilities having more  
21 than twenty-five thousand kilowatts station generating capability but  
22 less than three hundred fifty thousand kilowatts station generation  
23 capability, except for fossil-fueled floating thermal electric  
24 generation facilities under the jurisdiction of the energy facility  
25 site evaluation council pursuant to RCW 80.50.010, the department or  
26 authority shall implement a carbon dioxide mitigation program  
27 consistent with the requirements of chapter 80.70 RCW.

28       (2) For mitigation projects conducted directly by or under the  
29 control of the applicant, the department or local air authority shall  
30 approve or deny the mitigation plans, as part of its action to  
31 approve or deny an application submitted under RCW 70.94.152 (as  
32 recodified by this act) based upon whether or not the mitigation plan  
33 is consistent with the requirements of chapter 80.70 RCW.

34       (3) The department or authority may determine, assess, and  
35 collect fees sufficient to cover the costs to review and approve or  
36 deny the carbon dioxide mitigation plan components of an order of  
37 approval issued under RCW 70.94.152 (as recodified by this act). The  
38 department or authority may also collect fees sufficient to cover its  
39 additional costs to monitor conformance with the carbon dioxide

1 mitigation plan components of the registration and air operating  
2 permit programs authorized in RCW 70.94.151 and 70.94.161 (as  
3 recodified by this act). The department or authority shall track its  
4 costs related to review, approval, and monitoring conformance with  
5 carbon dioxide mitigation plans.

6 **Sec. 1159.** RCW 70.94.960 and 1996 c 186 s 517 are each amended  
7 to read as follows:

8 The department may disburse matching grants from funds provided  
9 by the legislature from the air pollution control account, created in  
10 RCW 70.94.015 (as recodified by this act), to units of local  
11 government to partially offset the additional cost of purchasing  
12 "clean fuel" and/or operating "clean-fuel vehicles" provided that  
13 such vehicles are used for public transit. Publicly owned school  
14 buses are considered public transit for the purposes of this section.  
15 The department may also disburse grants to vocational-technical  
16 institutes for the purpose of establishing programs to certify clean-  
17 fuel vehicle mechanics. The department may also distribute grants to  
18 Washington State University for the purpose of furthering the  
19 establishment of clean fuel refueling infrastructure.

20 **Sec. 1160.** RCW 70.94.990 and 1991 c 199 s 604 are each amended  
21 to read as follows:

22 The department shall adopt rules to implement RCW 70.94.970 and  
23 70.94.980 (as recodified by this act). Rules shall include but not be  
24 limited to minimum performance specifications for refrigerant  
25 extraction equipment, as well as procedures for enforcing RCW  
26 70.94.970 and 70.94.980 (as recodified by this act).

27 Enforcement provisions adopted by the department shall not  
28 include penalties or fines in areas where equipment to collect or  
29 recycle regulated refrigerants is not readily available.

30 **Sec. 1161.** RCW 70.95.030 and 2010 1st sp.s. c 7 s 86 are each  
31 amended to read as follows:

32 As used in this chapter, unless the context indicates otherwise:

33 (1) "City" means every incorporated city and town.

34 (2) "Commission" means the utilities and transportation  
35 commission.

36 (3) "Composted material" means organic solid waste that has been  
37 subjected to controlled aerobic degradation at a solid waste facility

1 in compliance with the requirements of this chapter. Natural decay of  
2 organic solid waste under uncontrolled conditions does not result in  
3 composted material.

4 (4) "Department" means the department of ecology.

5 (5) "Director" means the director of the department of ecology.

6 (6) "Disposal site" means the location where any final treatment,  
7 utilization, processing, or deposit of solid waste occurs.

8 (7) "Energy recovery" means a process operating under federal and  
9 state environmental laws and regulations for converting solid waste  
10 into usable energy and for reducing the volume of solid waste.

11 (8) "Functional standards" means criteria for solid waste  
12 handling expressed in terms of expected performance or solid waste  
13 handling functions.

14 (9) "Incineration" means a process of reducing the volume of  
15 solid waste operating under federal and state environmental laws and  
16 regulations by use of an enclosed device using controlled flame  
17 combustion.

18 (10) "Inert waste landfill" means a landfill that receives only  
19 inert waste, as determined under RCW 70.95.065 (as recodified by this  
20 act), and includes facilities that use inert wastes as a component of  
21 fill.

22 (11) "Jurisdictional health department" means city, county, city-  
23 county, or district public health department.

24 (12) "Landfill" means a disposal facility or part of a facility  
25 at which solid waste is placed in or on land and which is not a land  
26 treatment facility.

27 (13) "Local government" means a city, town, or county.

28 (14) "Modify" means to substantially change the design or  
29 operational plans including, but not limited to, removal of a design  
30 element previously set forth in a permit application or the addition  
31 of a disposal or processing activity that is not approved in the  
32 permit.

33 (15) "Multiple-family residence" means any structure housing two  
34 or more dwelling units.

35 (16) "Person" means individual, firm, association, copartnership,  
36 political subdivision, government agency, municipality, industry,  
37 public or private corporation, or any other entity whatsoever.

38 (17) "Recyclable materials" means those solid wastes that are  
39 separated for recycling or reuse, such as papers, metals, and glass,  
40 that are identified as recyclable material pursuant to a local

1 comprehensive solid waste plan. Prior to the adoption of the local  
2 comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2)  
3 (as recodified by this act), local governments may identify  
4 recyclable materials by ordinance from July 23, 1989.

5 (18) "Recycling" means transforming or remanufacturing waste  
6 materials into usable or marketable materials for use other than  
7 landfill disposal or incineration.

8 (19) "Residence" means the regular dwelling place of an  
9 individual or individuals.

10 (20) "Sewage sludge" means a semisolid substance consisting of  
11 settled sewage solids combined with varying amounts of water and  
12 dissolved materials, generated from a wastewater treatment system,  
13 that does not meet the requirements of chapter 70.95J RCW (as  
14 recodified by this act).

15 (21) "Soil amendment" means any substance that is intended to  
16 improve the physical characteristics of the soil, except composted  
17 material, commercial fertilizers, agricultural liming agents,  
18 unmanipulated animal manures, unmanipulated vegetable manures, food  
19 wastes, food processing wastes, and materials exempted by rule of the  
20 department, such as biosolids as defined in chapter 70.95J RCW (as  
21 recodified by this act) and wastewater as regulated in chapter 90.48  
22 RCW.

23 (22) "Solid waste" or "wastes" means all putrescible and  
24 nonputrescible solid and semisolid wastes including, but not limited  
25 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,  
26 demolition and construction wastes, abandoned vehicles or parts  
27 thereof, and recyclable materials.

28 (23) "Solid waste handling" means the management, storage,  
29 collection, transportation, treatment, utilization, processing, and  
30 final disposal of solid wastes, including the recovery and recycling  
31 of materials from solid wastes, the recovery of energy resources from  
32 solid wastes or the conversion of the energy in solid wastes to more  
33 useful forms or combinations thereof.

34 (24) "Source separation" means the separation of different kinds  
35 of solid waste at the place where the waste originates.

36 (25) "Vehicle" includes every device physically capable of being  
37 moved upon a public or private highway, road, street, or watercourse  
38 and in, upon, or by which any person or property is or may be  
39 transported or drawn upon a public or private highway, road, street,

1 or watercourse, except devices moved by human or animal power or used  
2 exclusively upon stationary rails or tracks.

3 (26) "Waste-derived soil amendment" means any soil amendment as  
4 defined in this chapter that is derived from solid waste as defined  
5 in this section, but does not include biosolids or biosolids products  
6 regulated under chapter 70.95J RCW (as recodified by this act) or  
7 wastewaters regulated under chapter 90.48 RCW.

8 (27) "Waste reduction" means reducing the amount or toxicity of  
9 waste generated or reusing materials.

10 (28) "Yard debris" means plant material commonly created in the  
11 course of maintaining yards and gardens, and through horticulture,  
12 gardening, landscaping, or similar activities. Yard debris includes  
13 but is not limited to grass clippings, leaves, branches, brush,  
14 weeds, flowers, roots, windfall fruit, vegetable garden debris,  
15 holiday trees, and tree prunings four inches or less in diameter.

16 **Sec. 1162.** RCW 70.95.065 and 2004 c 101 s 2 are each amended to  
17 read as follows:

18 (1) The department shall, as part of the minimum functional  
19 standards for solid waste handling required under RCW 70.95.060 (as  
20 recodified by this act), develop specific criteria for the types of  
21 solid wastes that are allowed to be received by inert waste landfills  
22 that seek to continue operation after February 10, 2003.

23 (2) The criteria for inert waste developed under this section  
24 must, at a minimum, contain a list of substances that an inert waste  
25 landfill located in a county with fewer than forty-five thousand  
26 residents is permitted to receive if it was operational before  
27 February 10, 2003, and is located at a site with a five-year annual  
28 rainfall of twenty-five inches or less. The substances permitted for  
29 the inert waste landfills satisfying the criteria listed in this  
30 subsection must include the following types of solid waste if the  
31 waste has not been tainted, through exposure from chemical, physical,  
32 biological, or radiological substances, such that it presents a  
33 threat to human health or the environment greater than that inherent  
34 to the material:

35 (a) Cured concrete, including any embedded steel reinforcing and  
36 wood;

37 (b) Asphaltic materials, including road construction asphalt;

38 (c) Brick and masonry;

39 (d) Ceramic materials produced from fired clay or porcelain;

- 1 (e) Glass;
  - 2 (f) Stainless steel and aluminum; and
  - 3 (g) Other materials as defined in chapter 173-350 WAC.
- 4 (3) The department shall work with the owner or operators of
- 5 landfills that do not meet the minimum functional standards for inert
- 6 waste landfills to explore and implement appropriate means of
- 7 transition into a limited purpose landfill that is able to accept
- 8 additional materials as specified in WAC 173-350-400.

9 **Sec. 1163.** RCW 70.95.090 and 2019 c 255 s 4 and 2019 c 166 s 6  
10 are each reenacted and amended to read as follows:

11 Each county and city comprehensive solid waste management plan  
12 shall include the following:

13 (1) A detailed inventory and description of all existing solid  
14 waste handling facilities including an inventory of any deficiencies  
15 in meeting current solid waste handling needs.

16 (2) The estimated long-range needs for solid waste handling  
17 facilities projected twenty years into the future.

18 (3) A program for the orderly development of solid waste handling  
19 facilities in a manner consistent with the plans for the entire  
20 county which shall:

21 (a) Meet the minimum functional standards for solid waste  
22 handling adopted by the department and all laws and regulations  
23 relating to air and water pollution, fire prevention, flood control,  
24 and protection of public health;

25 (b) Take into account the comprehensive land use plan of each  
26 jurisdiction;

27 (c) Contain a six year construction and capital acquisition  
28 program for solid waste handling facilities; and

29 (d) Contain a plan for financing both capital costs and  
30 operational expenditures of the proposed solid waste management  
31 system.

32 (4) A program for surveillance and control.

33 (5) A current inventory and description of solid waste collection  
34 needs and operations within each respective jurisdiction which shall  
35 include:

36 (a) Any franchise for solid waste collection granted by the  
37 utilities and transportation commission in the respective  
38 jurisdictions including the name of the holder of the franchise and

1 the address of his or her place of business and the area covered by  
2 the franchise;

3 (b) Any city solid waste operation within the county and the  
4 boundaries of such operation;

5 (c) The population density of each area serviced by a city  
6 operation or by a franchised operation within the respective  
7 jurisdictions;

8 (d) The projected solid waste collection needs for the respective  
9 jurisdictions for the next six years.

10 (6) A comprehensive waste reduction and recycling element that,  
11 in accordance with the priorities established in RCW 70.95.010 (as  
12 recodified by this act), provides programs that (a) reduce the amount  
13 of waste generated, (b) provide incentives and mechanisms for source  
14 separation, and (c) establish recycling opportunities for the source  
15 separated waste.

16 (7) The waste reduction and recycling element shall include the  
17 following:

18 (a) Waste reduction strategies, which may include strategies to  
19 reduce wasted food and food waste that are designed to achieve the  
20 goals established in RCW 70.95.815(1) (as recodified by this act) and  
21 that are consistent with the plan developed in RCW 70.95.815(3) (as  
22 recodified by this act);

23 (b) Source separation strategies, including:

24 (i) Programs for the collection of source separated materials  
25 from residences in urban and rural areas. In urban areas, these  
26 programs shall include collection of source separated recyclable  
27 materials from single and multiple-family residences, unless the  
28 department approves an alternative program, according to the criteria  
29 in the planning guidelines. Such criteria shall include: Anticipated  
30 recovery rates and levels of public participation, availability of  
31 environmentally sound disposal capacity, access to markets for  
32 recyclable materials, unreasonable cost impacts on the ratepayer over  
33 the six-year planning period, utilization of environmentally sound  
34 waste reduction and recycling technologies, and other factors as  
35 appropriate. In rural areas, these programs shall include but not be  
36 limited to drop-off boxes, buy-back centers, or a combination of  
37 both, at each solid waste transfer, processing, or disposal site, or  
38 at locations convenient to the residents of the county. The drop-off  
39 boxes and buy-back centers may be owned or operated by public,  
40 nonprofit, or private persons;



1 (ii) Programs to monitor the collection of source separated waste  
2 at nonresidential sites where there is sufficient density to sustain  
3 a program;

4 (iii) Programs to collect yard waste and food waste, if the  
5 county or city submitting the plan finds that there are adequate  
6 markets or capacity for composted yard waste and food waste within or  
7 near the service area to consume the majority of the material  
8 collected; and

9 (iv) Programs to educate and promote the concepts of waste  
10 reduction and recycling;

11 (c) Recycling strategies, including a description of markets for  
12 recyclables, a review of waste generation trends, a description of  
13 waste composition, a discussion and description of existing programs  
14 and any additional programs needed to assist public and private  
15 sector recycling, and an implementation schedule for the designation  
16 of specific materials to be collected for recycling, and for the  
17 provision of recycling collection services;

18 (d) Other information the county or city submitting the plan  
19 determines is necessary.

20 (8) An assessment of the plan's impact on the costs of solid  
21 waste collection. The assessment shall be prepared in conformance  
22 with guidelines established by the utilities and transportation  
23 commission. The commission shall cooperate with the Washington state  
24 association of counties and the association of Washington cities in  
25 establishing such guidelines.

26 (9) A review of potential areas that meet the criteria as  
27 outlined in RCW 70.95.165 (as recodified by this act).

28 (10) A contamination reduction and outreach plan. The  
29 contamination reduction and outreach plan must address reducing  
30 contamination in recycling. Except for counties with a population of  
31 twenty-five thousand or fewer, by July 1, 2021, a contamination  
32 reduction and outreach plan must be included in each solid waste  
33 management plan by a plan amendment or included when revising or  
34 updating a solid waste management plan developed under this chapter.  
35 Jurisdictions may adopt the state's contamination reduction and  
36 outreach plan as developed under RCW 70.95.100 (as recodified by this  
37 act) in lieu of creating their own plan. A recycling contamination  
38 reduction and outreach plan must include the following:

39 (a) A list of actions for reducing contamination in recycling  
40 programs for single-family and multiple-family residences, commercial

1 locations, and drop boxes depending on the jurisdictions system  
2 components;

3 (b) A list of key contaminants identified by the jurisdiction or  
4 identified by the department;

5 (c) A discussion of problem contaminants and the contaminants'  
6 impact on the collection system;

7 (d) An analysis of the costs and other impacts associated with  
8 contaminants to the recycling system; and

9 (e) An implementation schedule and details of how outreach is to  
10 be conducted. Contamination reduction education methods may include  
11 sharing community-wide messaging through newsletters, articles,  
12 mailers, social media, web sites, or community events, informing  
13 recycling drop box customers about contamination, and improving  
14 signage.

15 **Sec. 1164.** RCW 70.95.092 and 1989 c 431 s 4 are each amended to  
16 read as follows:

17 Levels of service shall be defined in the waste reduction and  
18 recycling element of each local comprehensive solid waste management  
19 plan and shall include the services set forth in RCW 70.95.090 (as  
20 recodified by this act). In determining which service level is  
21 provided to residential and nonresidential waste generators in each  
22 community, counties and cities shall develop clear criteria for  
23 designating areas as urban or rural. In designating urban areas,  
24 local governments shall consider the planning guidelines adopted by  
25 the department, total population, population density, and any  
26 applicable land use or utility service plans.

27 **Sec. 1165.** RCW 70.95.095 and 2016 c 119 s 3 are each amended to  
28 read as follows:

29 Upon receipt by the department of a preliminary draft plan as  
30 provided in RCW 70.95.094 (as recodified by this act), the department  
31 shall immediately provide a copy of the preliminary draft plan to the  
32 department of agriculture. Within forty-five days after receiving the  
33 preliminary draft plan, the department of agriculture shall review  
34 the preliminary draft plan for compliance with chapter 17.24 RCW and  
35 the rules adopted under that chapter. The department of agriculture  
36 shall advise the local government submitting the preliminary draft  
37 plan and the department of the result of the review.

1       **Sec. 1166.** RCW 70.95.100 and 2019 c 166 s 7 are each amended to  
2 read as follows:

3       (1) The department or the commission, as appropriate, shall  
4 provide to counties and cities technical assistance including, but  
5 not limited to, planning guidelines, in the preparation, review, and  
6 revision of solid waste management plans required by this chapter.  
7 Guidelines prepared under this section shall be consistent with the  
8 provisions of this chapter. Guidelines for the preparation of the  
9 waste reduction and recycling element of the comprehensive solid  
10 waste management plan shall be completed by the department by March  
11 15, 1990. These guidelines shall provide recommendations to local  
12 government on materials to be considered for designation as  
13 recyclable materials. The state solid waste management plan prepared  
14 pursuant to RCW 70.95.260 (as recodified by this act) shall be  
15 consistent with these guidelines.

16       (2) The department shall be responsible for development and  
17 implementation of a comprehensive statewide public information  
18 program designed to encourage waste reduction, source separation, and  
19 recycling by the public. The department shall operate a toll free  
20 hotline to provide the public information on waste reduction and  
21 recycling.

22       (3) The department shall provide technical assistance to local  
23 governments in the development and dissemination of informational  
24 materials and related activities to assure recognition of unique  
25 local waste reduction and recycling programs.

26       (4)(a) The department must create and implement a statewide  
27 recycling contamination reduction and outreach plan based on best  
28 management practices for recycling, developed with stakeholder input  
29 by July 1, 2020. Jurisdictions may use the statewide plan in lieu of  
30 developing their own plan.

31       (b) The department must provide technical assistance and create  
32 guidance to help local jurisdictions determine the extent of  
33 contamination in their regional recycling and to develop  
34 contamination reduction and outreach plans. Contamination means any  
35 material not included on the local jurisdiction's acceptance list.

36       (c) Contamination reduction education methods may include sharing  
37 community-wide messaging through newsletters, articles, mailers,  
38 social media, web sites, or community events, informing recycling  
39 drop box customers about contamination, and improving signage.

1 (d) The department must cite the sources of information that it  
2 relied upon, including any peer-reviewed science, in the development  
3 of the best management practices for recycling under (a) of this  
4 subsection and the guidance developed under (b) of this subsection.

5 (5) Local governments shall make all materials and information  
6 developed with the assistance grants provided under RCW 70.95.130 (as  
7 recodified by this act) available to the department for potential use  
8 in other areas of the state.

9 **Sec. 1167.** RCW 70.95.110 and 1991 c 298 s 4 are each amended to  
10 read as follows:

11 (1) The comprehensive county solid waste management plans and any  
12 comprehensive city solid waste management plans prepared in  
13 accordance with RCW 70.95.080 (as recodified by this act) shall be  
14 maintained in a current condition and reviewed and revised  
15 periodically by counties and cities as may be required by the  
16 department. Upon each review such plans shall be extended to show  
17 long-range needs for solid waste handling facilities for twenty years  
18 in the future, and a revised construction and capital acquisition  
19 program for six years in the future. Each revised solid waste  
20 management plan shall be submitted to the department.

21 Each plan shall be reviewed and revised within five years of July  
22 1, 1984, and thereafter shall be reviewed, and revised if necessary  
23 according to the schedule provided in subsection (2) of this section.

24 (2) Cities and counties preparing solid waste management plans  
25 shall submit the waste reduction and recycling element required in  
26 RCW 70.95.090 (as recodified by this act) and any revisions to other  
27 elements of its comprehensive solid waste management plan to the  
28 department no later than:

29 (a) July 1, 1991, for class one areas: PROVIDED, That portions  
30 relating to multiple-family residences shall be submitted no later  
31 than July 1, 1992;

32 (b) July 1, 1992, for class two areas; and

33 (c) July 1, 1994, for class three areas.

34 Thereafter, each plan shall be reviewed and revised, if  
35 necessary, at least every five years. Nothing in chapter 431, Laws of  
36 1989 shall prohibit local governments from submitting a plan prior to  
37 the dates listed in this subsection.

38 (3) The classes of areas are defined as follows:

1 (a) Class one areas are the counties of Spokane, Snohomish, King,  
2 Pierce, and Kitsap and all the cities therein.

3 (b) Class two areas are all other counties located west of the  
4 crest of the Cascade mountains and all the cities therein.

5 (c) Class three areas are the counties east of the crest of the  
6 Cascade mountains and all the cities therein, except for Spokane  
7 county.

8 (4) Cities and counties shall begin implementing the programs to  
9 collect source separated materials no later than one year following  
10 the adoption and approval of the waste reduction and recycling  
11 element and these programs shall be fully implemented within two  
12 years of approval.

13 **Sec. 1168.** RCW 70.95.130 and 2019 c 166 s 8 are each amended to  
14 read as follows:

15 Any county may apply to the department on a form prescribed  
16 thereby for financial aid for the preparation and implementation of  
17 the comprehensive county plan for solid waste management required by  
18 RCW 70.95.080 (as recodified by this act), including contamination  
19 reduction and outreach plans. Any city electing to prepare an  
20 independent city plan, a joint city plan, or a joint county-city plan  
21 for solid waste management for inclusion in the county comprehensive  
22 plan may apply for financial aid for such purpose through the county.  
23 Every city application for financial aid for planning shall be filed  
24 with the county auditor and shall be included as a part of the  
25 county's application for financial aid. Any city preparing an  
26 independent plan shall provide for disposal sites wholly within its  
27 jurisdiction.

28 The department shall allocate to the counties and cities applying  
29 for financial aid for planning and implementation, including  
30 contamination reduction and outreach plan development and  
31 implementation, such funds as may be available pursuant to  
32 legislative appropriations or from any federal grants for such  
33 purpose.

34 The department shall determine priorities and allocate available  
35 funds among the counties and cities applying for aid according to  
36 criteria established by regulations of the department considering  
37 population, urban development, environmental effects of waste  
38 disposal, existing waste handling practices, and the local  
39 justification of their proposed expenditures.

1       **Sec. 1169.** RCW 70.95.150 and 1969 ex.s. c 134 s 15 are each  
2 amended to read as follows:

3       Upon the allocation of planning funds as provided in RCW  
4 70.95.130 (as recodified by this act), the department shall enter  
5 into a contract with each county receiving a planning grant. The  
6 contract shall include such provisions as the director may deem  
7 necessary to assure the proper expenditure of such funds including  
8 allocations made to cities. The sum allocated to a county shall be  
9 paid to the treasurer of such county.

10       **Sec. 1170.** RCW 70.95.160 and 1989 c 431 s 10 are each amended to  
11 read as follows:

12       Each county, or any city, or jurisdictional board of health shall  
13 adopt regulations or ordinances governing solid waste handling  
14 implementing the comprehensive solid waste management plan covering  
15 storage, collection, transportation, treatment, utilization,  
16 processing and final disposal including but not limited to the  
17 issuance of permits and the establishment of minimum levels and types  
18 of service for any aspect of solid waste handling. County regulations  
19 or ordinances adopted regarding levels and types of service shall not  
20 apply within the limits of any city where the city has by local  
21 ordinance determined that the county shall not exercise such powers  
22 within the corporate limits of the city. Such regulations or  
23 ordinances shall assure that solid waste storage and disposal  
24 facilities are located, maintained, and operated in a manner so as  
25 properly to protect the public health, prevent air and water  
26 pollution, are consistent with the priorities established in RCW  
27 70.95.010 (as recodified by this act), and avoid the creation of  
28 nuisances. Such regulations or ordinances may be more stringent than  
29 the minimum functional standards adopted by the department.  
30 Regulations or ordinances adopted by counties, cities, or  
31 jurisdictional boards of health shall be filed with the department.

32       Nothing in this section shall be construed to authorize the  
33 operation of a solid waste collection system by counties.

34       **Sec. 1171.** RCW 70.95.167 and 1991 c 319 s 402 are each amended  
35 to read as follows:

36       (1) Each local solid waste advisory committee shall conduct one  
37 or more meetings for the purpose of determining how local private  
38 recycling and solid waste collection businesses may participate in

1 the development and implementation of programs to collect source  
2 separated materials from residences, and to process and market  
3 materials collected for recycling. The meetings shall include local  
4 private recycling businesses, private solid waste collection  
5 companies operating within the jurisdiction, and the local solid  
6 waste planning agencies. The meetings shall be held during the  
7 development of the waste reduction and recycling element or no later  
8 than one year prior to the date that a jurisdiction is required  
9 (~~{to}~~) to submit the element under RCW 70.95.110(2) (as recodified  
10 by this act).

11 (2) The meeting requirement under subsection (1) of this section  
12 shall apply whenever a city or county develops or amends the waste  
13 reduction and recycling element required under this chapter.  
14 Jurisdictions having approved waste reduction and recycling elements  
15 or having initiated a process for the selection of a service provider  
16 as of May 21, 1991, do not have to comply with the requirements of  
17 subsection (1) of this section until the next revisions to the waste  
18 reduction and recycling element are made or required.

19 (3) After the waste reduction and recycling element is approved  
20 by the local legislative authority but before it is submitted to the  
21 department for approval, the local solid waste advisory committee  
22 shall hold at least one additional meeting to review the element.

23 (4) For the purpose of this section, "private recycling business"  
24 means any private for-profit or private not-for-profit business that  
25 engages in the processing and marketing of recyclable materials.

26 **Sec. 1172.** RCW 70.95.170 and 2009 c 178 s 4 are each amended to  
27 read as follows:

28 Except as provided otherwise in RCW 70.95.300, 70.95.305,  
29 70.95.306, 70.95.310, or 70.95.330 (as recodified by this act), after  
30 approval of the comprehensive solid waste plan by the department no  
31 solid waste handling facility or facilities shall be maintained,  
32 established, or modified until the county, city, or other person  
33 operating such site has obtained a permit pursuant to RCW 70.95.180  
34 or 70.95.190 (as recodified by this act).

35 **Sec. 1173.** RCW 70.95.185 and 1984 c 123 s 8 are each amended to  
36 read as follows:

37 Every permit issued by a jurisdictional health department under  
38 RCW 70.95.180 (as recodified by this act) shall be reviewed by the

1 department to ensure that the proposed site or facility conforms  
2 with:

3 (1) All applicable laws and regulations including the minimal  
4 functional standards for solid waste handling; and

5 (2) The approved comprehensive solid waste management plan.

6 The department shall review the permit within thirty days after  
7 the issuance of the permit by the jurisdictional health department.  
8 The department may appeal the issuance of the permit by the  
9 jurisdictional health department to the pollution control hearings  
10 board, as described in chapter 43.21B RCW, for noncompliance with  
11 subsection (1) or (2) of this section.

12 No permit issued pursuant to RCW 70.95.180 (as recodified by this  
13 act) after June 7, 1984, shall be considered valid unless it has been  
14 reviewed by the department.

15 **Sec. 1174.** RCW 70.95.190 and 1998 c 156 s 4 are each amended to  
16 read as follows:

17 (1) Every permit for an existing solid waste handling facility  
18 issued pursuant to RCW 70.95.180 (as recodified by this act) shall be  
19 renewed at least every five years on a date established by the  
20 jurisdictional health department having jurisdiction of the site and  
21 as specified in the permit. If a permit is to be renewed for longer  
22 than one year, the local jurisdictional health department may hold a  
23 public hearing before making such a decision. Prior to renewing a  
24 permit, the health department shall conduct a review as it deems  
25 necessary to assure that the solid waste handling facility or  
26 facilities located on the site continues to meet minimum functional  
27 standards of the department, applicable local regulations, and are  
28 not in conflict with the approved solid waste management plan. A  
29 jurisdictional health department shall approve or disapprove a permit  
30 renewal within forty-five days of conducting its review. The  
31 department shall review and may appeal the renewal as set forth for  
32 the approval of permits in RCW 70.95.185 (as recodified by this act).

33 (2) The jurisdictional board of health may establish reasonable  
34 fees for permits reviewed under this section. All permit fees  
35 collected by the health department shall be deposited in the treasury  
36 and to the account from which the health department's operating  
37 expenses are paid.



1       **Sec. 1175.** RCW 70.95.205 and 2016 c 119 s 7 are each amended to  
2 read as follows:

3       (1) Waste-derived soil amendments that meet the standards and  
4 criteria in this section may apply for exemption from solid waste  
5 permitting as required under RCW 70.95.170 (as recodified by this  
6 act). The application shall be submitted to the department in a  
7 format determined by the department or an equivalent format. The  
8 application shall include:

9       (a) Analytical data showing that the waste-derived soil  
10 amendments meet standards established under RCW 15.54.800; and

11       (b) Other information deemed appropriate by the department to  
12 protect human health and the environment.

13       (2) After receipt of an application, the department shall review  
14 it to determine whether the application is complete, and forward a  
15 copy of the complete application to all interested jurisdictional  
16 health departments and the department of agriculture for review and  
17 comment. Within forty-five days, the jurisdictional health  
18 departments and the department of agriculture shall forward their  
19 comments and any other information they deem relevant to the  
20 department, which shall then give final approval or disapproval of  
21 the application. The department of agriculture's comments must be  
22 limited to addressing whether approving the application risks  
23 spreading disease, plant pathogens, or pests to areas that are not  
24 under a quarantine, as defined in RCW 17.24.007. Every complete  
25 application shall be approved or disapproved by the department within  
26 ninety days after receipt.

27       (3) The department, after providing opportunity for comments from  
28 the jurisdictional health departments and the department of  
29 agriculture, may at any time revoke an exemption granted under this  
30 section if the quality or use of the waste-derived soil amendment  
31 changes or the management, storage, or end use of the waste-derived  
32 soil amendment constitutes a threat to human health or the  
33 environment.

34       (4) Any aggrieved party may appeal the determination by the  
35 department in subsection (2) or (3) of this section to the pollution  
36 control hearings board.

37       **Sec. 1176.** RCW 70.95.207 and 2018 c 196 s 24 are each amended to  
38 read as follows:

1 An authorized collector regulated under chapter 69.48 RCW is not  
2 required to obtain a permit under RCW 70.95.170 (as recodified by  
3 this act) unless the authorized collector is required to obtain a  
4 permit under RCW 70.95.170 (as recodified by this act) as a  
5 consequence of activities that are not directly associated with the  
6 collection facility's activities under chapter 69.48 RCW.

7 **Sec. 1177.** RCW 70.95.218 and 1993 c 286 s 2 are each amended to  
8 read as follows:

9 (1) At least sixty days prior to receiving solid waste generated  
10 from outside of the state, the operator of a solid waste disposal  
11 site facility shall report to the department the types and quantities  
12 of waste to be received from an out-of-state source. The department  
13 shall develop guidelines for reporting this information. The  
14 guidelines shall provide for less than sixty days notice for  
15 shipments of waste made on a short-term or emergency basis. The  
16 requirements of this subsection shall take effect upon completion of  
17 the guidelines.

18 (2) Upon notice under subsection (1) of this section, the  
19 department shall identify all activities and costs necessary to  
20 ensure that solid waste generated out-of-state meets standards  
21 relating to solid waste reduction, recycling, and management  
22 substantially equivalent to those required of solid waste generated  
23 within the state. The department may assess a fee on the out-of-state  
24 waste sufficient to recover the actual costs incurred in ensuring  
25 that the out-of-state waste meets equivalent state standards. The  
26 department may delegate, to a local health department, authority to  
27 implement the activities identified by the department under this  
28 subsection. All money received from fees imposed under this  
29 subsection shall be deposited into the ~~((solid waste management))~~  
30 ~~account ((created by RCW 70.95.800))~~ used to fund the activities  
31 required by this section, and shall be used solely for the activities  
32 required by this section.

33 (3) The department may prohibit in-state disposal of solid waste  
34 generated from outside of the state, unless the generators of the  
35 waste meet: (a) Waste reduction and recycling requirements  
36 substantially equivalent to those applicable in Washington state; and  
37 (b) solid waste handling standards substantially equivalent to those  
38 applicable in Washington state.

39 (4) The department may adopt rules to implement this section.

1       **Sec. 1178.** RCW 70.95.240 and 2011 c 279 s 1 are each amended to  
2 read as follows:

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

11       (2) This section does not:

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

16       (b) Apply to a person using a waste-derived soil amendment that  
17 has been approved by the department under RCW 70.95.205 (as  
18 recodified by this act); or

19       (c) Apply to the application of commercial fertilizer that has  
20 been registered with the department of agriculture as provided in RCW  
21 15.54.325, and that is applied in accordance with the standards  
22 established in RCW 15.54.800(3).

23       (3)(a) It is a class 3 civil infraction as defined in RCW  
24 7.80.120 for a person to litter in an amount less than or equal to  
25 one cubic foot.

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

28       (ii) A person found to have littered in an amount greater than  
29 one cubic foot, but less than one cubic yard, shall also pay a litter  
30 cleanup restitution payment. This payment must be the greater of  
31 twice the actual cost of removing and properly disposing of the  
32 litter, or fifty dollars per 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 (c)(i) It is a gross misdemeanor for a person to litter in an  
22 amount of one cubic yard or more.

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

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

37 (iv) A jurisdictional health department receiving all or a  
38 portion of a litter cleanup restitution payment must use the payment  
39 as follows:

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

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

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

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

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

26 **Sec. 1179.** RCW 70.95.250 and 1969 ex.s. c 134 s 25 are each  
27 amended to read as follows:

28 Whenever solid wastes dumped in violation of RCW 70.95.240 (as  
29 recodified by this act) contain three or more items bearing the name  
30 of one individual, there shall be a rebuttable presumption that the  
31 individual whose name appears on such items committed the unlawful  
32 act of dumping.

33 **Sec. 1180.** RCW 70.95.270 and 1994 c 257 s 16 are each amended to  
34 read as follows:

35 The procedural requirements of this chapter shall not apply to  
36 any person conducting a remedial action at a facility pursuant to a  
37 consent decree, order, or agreed order issued pursuant to chapter  
38 70.105D RCW (as recodified by this act), or to the department of

1 ecology when it conducts a remedial action under chapter 70.105D RCW  
2 (as recodified by this act). The department of ecology shall ensure  
3 compliance with the substantive requirements of this chapter through  
4 the consent decree, order, or agreed order issued pursuant to chapter  
5 70.105D RCW (as recodified by this act), or during the department-  
6 conducted remedial action, through the procedures developed by the  
7 department pursuant to RCW 70.105D.090 (as recodified by this act).

8 **Sec. 1181.** RCW 70.95.280 and 1989 c 431 s 13 are each amended to  
9 read as follows:

10 The department of ecology shall determine the best management  
11 practices for categories of solid waste in accordance with the  
12 priority solid waste management methods established in RCW 70.95.010  
13 (as recodified by this act). In order to make this determination, the  
14 department shall conduct a comprehensive solid waste stream analysis  
15 and evaluation. Following establishment of baseline data resulting  
16 from an initial in-depth analysis of the waste stream, the department  
17 shall develop a less intensive method of monitoring the disposed  
18 waste stream including, but not limited to, changes in the amount of  
19 waste generated and waste type. The department shall monitor curbside  
20 collection programs and other waste segregation and disposal  
21 technologies to determine, to the extent possible, the effectiveness  
22 of these programs in terms of cost and participation, their  
23 applicability to other locations, and their implications regarding  
24 rules adopted under this chapter. Persons who collect solid waste  
25 shall annually report to the department the types and quantities of  
26 solid waste that are collected and where it is delivered. The  
27 department shall adopt guidelines for reporting and for keeping  
28 proprietary information confidential.

29 **Sec. 1182.** RCW 70.95.285 and 1988 c 184 s 2 are each amended to  
30 read as follows:

31 The comprehensive, statewide solid waste stream analysis under  
32 RCW 70.95.280 (as recodified by this act) shall be based on  
33 representative solid waste generation areas and solid waste  
34 generation sources within the state. The following information and  
35 evaluations shall be included:

- 36 (1) Solid waste generation rates for each category;  
37 (2) The rate of recycling being achieved within the state for  
38 each category of solid waste;

1 (3) The current and potential rates of solid waste reduction  
2 within the state;

3 (4) A technological assessment of current solid waste reduction  
4 and recycling methods and systems, including cost/benefit analyses;

5 (5) An assessment of the feasibility of segregating solid waste  
6 at: (a) The original source, (b) transfer stations, and (c) the point  
7 of final disposal;

8 (6) A review of methods that will increase the rate of solid  
9 waste reduction; and

10 (7) An assessment of new and existing technologies that are  
11 available for solid waste management including an analysis of the  
12 associated environmental risks and costs.

13 The data required by the analysis under this section shall be  
14 kept current and shall be available to local governments and the  
15 waste management industry.

16 **Sec. 1183.** RCW 70.95.290 and 1988 c 184 s 3 are each amended to  
17 read as follows:

18 (1) The evaluation of the solid waste stream required in RCW  
19 70.95.280 (as recodified by this act) shall include the following  
20 elements:

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

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

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

32 (2) The department shall give priority to evaluating categories  
33 of solid waste that, in relation to other categories of solid waste,  
34 comprise a large volume of the solid waste stream or present a high  
35 potential of harm to human health. At a minimum the following  
36 categories of waste shall be evaluated:

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

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

3 **Sec. 1184.** RCW 70.95.295 and 1988 c 184 s 4 are each amended to  
4 read as follows:

5 The department shall incorporate the information from the  
6 analysis and evaluation conducted under RCW 70.95.280 through  
7 70.95.290 (as recodified by this act) to the state solid waste  
8 management plan under RCW 70.95.260 (as recodified by this act). The  
9 plan shall be revised periodically as the evaluation and analysis is  
10 updated.

11 **Sec. 1185.** RCW 70.95.315 and 2016 c 119 s 8 are each amended to  
12 read as follows:

13 (1) The department may assess a civil penalty in an amount not to  
14 exceed one thousand dollars per day per violation to any person  
15 exempt from solid waste permitting in accordance with RCW 70.95.205,  
16 70.95.300, 70.95.305, 70.95.306, or 70.95.330 (as recodified by this  
17 act) who fails to comply with the terms and conditions of the  
18 exemption. Each such violation shall be a separate and distinct  
19 offense, and in the case of a continuing violation, each day's  
20 continuance shall be a separate and distinct violation. The penalty  
21 provided in this section shall be imposed pursuant to RCW 43.21B.300.

22 (2) If a person violates a provision of any of the sections  
23 referenced in subsection (1) of this section, the department may  
24 issue an appropriate order to ensure compliance with the conditions  
25 of the exemption. The order may be appealed pursuant to RCW  
26 43.21B.310.

27 **Sec. 1186.** RCW 70.95.330 and 2009 c 178 s 1 are each amended to  
28 read as follows:

29 (1) An anaerobic digester that complies with the conditions  
30 specified in this section is exempt from the permitting requirements  
31 of this chapter. To qualify for the exemption, an anaerobic digester  
32 must meet the following conditions:

33 (a) The owner or operator must provide the department or the  
34 jurisdictional health department with at least thirty days' notice of  
35 intent to operate under the conditions specified in this section and  
36 comply with any guidelines issued under subsection (2) of this  
37 section;



1 (b) The anaerobic digester must process at least fifty percent  
2 livestock manure by volume;

3 (c) The anaerobic digester may process no more than thirty  
4 percent imported organic waste-derived material by volume, and must  
5 comply with subsection (3) of this section;

6 (d) The anaerobic digester must comply with design and operating  
7 standards in the natural resources conservation service's  
8 conservation practice standard code 366 in effect as of July 26,  
9 2009;

10 (e) Digestate must:

11 (i) Be managed in accordance with a dairy nutrient management  
12 plan under chapter 90.64 RCW that includes elements addressing  
13 management and use of digestate;

14 (ii) Meet compost quality standards concerning pathogens,  
15 stability, nutrient testing, and metals before it is distributed for  
16 off-site use, or be sent to an off-site permitted compost facility  
17 for further treatment to meet compost quality standards; or

18 (iii) Be processed or managed in an alternate manner approved by  
19 the department;

20 (f) The owner or operator must allow inspection by the department  
21 or jurisdictional health department at reasonable times to verify  
22 compliance with the conditions specified in this section; and

23 (g) The owner or operator must submit an annual report to the  
24 department or the jurisdictional health department concerning use of  
25 nonmanure material in the anaerobic digester and any required  
26 compliance testing.

27 (2) By August 1, 2009, the department and the department of  
28 agriculture, in consultation with the department of health, shall  
29 make available to anaerobic digester owners and operators clearly  
30 written guidelines for the anaerobic codigestion of livestock manure  
31 and organic waste-derived material. The guidelines must explain the  
32 steps necessary for an owner or operator to meet the conditions  
33 specified in this section for an exemption from the permitting  
34 requirements of this chapter.

35 (3) Any imported organic waste-derived material must:

36 (a) Be preconsumer in nature;

37 (b) Be fed into the anaerobic digester within thirty-six hours of  
38 receipt at the anaerobic digester;

39 (c) If it is likely to contain animal by-products, be previously  
40 source-separated at a facility licensed to process food by the United

1 States department of agriculture, the United States food and drug  
2 administration, the Washington state department of agriculture, or  
3 other applicable regulatory agency;

4 (d) If it contains bovine processing waste, be derived from  
5 animals approved by the United States department of agriculture food  
6 safety and inspection service and not contain any specified risk  
7 material;

8 (e) If it contains sheep carcasses or sheep processing waste, not  
9 be fed into the anaerobic digester;

10 (f) Be stored and handled in a manner that protects surface water  
11 and groundwater and complies with best management practices;

12 (g) Be received or stored in structures that:

13 (i) Comply with the natural resources conservation service's  
14 conservation practice standard code 313 in effect as of July 26,  
15 2009;

16 (ii) Are certified to be effective by a representative of the  
17 natural resources conservation service; or

18 (iii) Meet applicable construction industry standards adopted by  
19 the American concrete institute or the American institute of steel  
20 construction and in effect as of July 26, 2009; and

21 (h) Be managed to prevent migration of nuisance odors beyond  
22 property boundaries and minimize attraction of flies, rodents, and  
23 other vectors.

24 (4) Digestate that is managed in accordance with a dairy nutrient  
25 management plan under chapter 90.64 RCW that includes elements  
26 addressing management and use of digestate shall no longer be  
27 considered a solid waste. Use of digestate from an anaerobic digester  
28 that complies with the conditions specified in this section is exempt  
29 from the permitting requirements of this chapter.

30 (5) An anaerobic digester that does not comply with the  
31 conditions specified in this section may be subject to the permitting  
32 requirements of this chapter. In addition, violations of the  
33 conditions specified in this section are subject to provisions in RCW  
34 70.95.315 (as recodified by this act).

35 (6) The definitions in this subsection apply throughout this  
36 section unless the context clearly requires otherwise:

37 (a) "Anaerobic digester" means a vessel that processes organic  
38 material into biogas and digestate using microorganisms in a  
39 decomposition process within a closed, oxygen-free container.

1 (b) "Best management practices" means managerial practices that  
2 prevent or reduce water pollution.

3 (c) "Digestate" means both solid and liquid substances that  
4 remain following anaerobic digestion of organic material in an  
5 anaerobic digester.

6 (d) "Imported" means originating off of the farm or other site  
7 where the anaerobic digester is being operated.

8 (e) "Organic waste-derived material" has the same meaning as  
9 defined in RCW 15.54.270 and any other organic wastes approved by the  
10 department, except for organic waste-derived material collected  
11 through municipal commercial and residential solid waste collection  
12 programs.

13 **Sec. 1187.** RCW 70.95.400 and 2005 c 394 s 4 are each amended to  
14 read as follows:

15 (1) For the purposes of this section and RCW 70.95.410 (as  
16 recodified by this act), "transporter" means any person or entity  
17 that transports recyclable materials from commercial or industrial  
18 generators over the public highways of the state of Washington for  
19 compensation, and who are required to possess a permit to operate  
20 from the Washington utilities and transportation commission under  
21 chapter 81.80 RCW. "Transporter" includes commercial recycling  
22 operations of certificated solid waste collection companies as  
23 provided in chapter 81.77 RCW. "Transporter" does not include:

24 (a) Carriers of commercial recyclable materials, when such  
25 materials are owned or being bought or sold by the entity or person,  
26 and being carried in their own vehicle, when such activity is  
27 incidental to the conduct of an entity or person's primary business;

28 (b) Entities or persons hauling their own recyclables or hauling  
29 recyclables they generated or purchased and transported in their own  
30 vehicles;

31 (c) Nonprofit or charitable organizations collecting and  
32 transporting recyclable materials from a buyback center, drop box, or  
33 from a commercial or industrial generator of recyclable materials;

34 (d) City municipal solid waste departments or city solid waste  
35 contractors; or

36 (e) Common carriers under chapter 81.80 RCW whose primary  
37 business is not the transportation of recyclable materials.

1 (2) All transporters shall register with the department prior to  
2 the transportation of recyclable materials. The department shall  
3 supply forms for registration.

4 (3) A transporter who transports recyclable materials within the  
5 state without a transporter registration required by this section is  
6 subject to a civil penalty in an amount up to one thousand dollars  
7 per violation.

8 **Sec. 1188.** RCW 70.95.420 and 2005 c 394 s 6 are each amended to  
9 read as follows:

10 Any person damaged by a violation of RCW 70.95.400 through  
11 70.95.440 (as recodified by this act) may bring a civil action for  
12 such a violation by seeking either injunctive relief or damages, or  
13 both, in the superior court of the county in which the violation took  
14 place or in Thurston county. The prevailing party in such an action  
15 is entitled to reasonable costs and attorneys' fees, including those  
16 on appeal.

17 **Sec. 1189.** RCW 70.95.430 and 2005 c 394 s 7 are each amended to  
18 read as follows:

19 (1) All facilities that recycle solid waste, except for those  
20 facilities with a current solid waste handling permit issued under  
21 RCW 70.95.170 (as recodified by this act), must notify the department  
22 in writing within thirty days prior to operation, or ninety days from  
23 July 24, 2005, for existing recycling operations, of the intent to  
24 conduct recycling in accordance with this section. Notification must  
25 be in writing, and include:

26 (a) Contact information for the person conducting the recycling  
27 activity;

28 (b) A general description of the recycling activity;

29 (c) A description of the types of solid waste being recycled; and

30 (d) A general explanation of the recycling processes and methods.

31 (2) Each facility that recycles solid waste, except those  
32 facilities with a current solid waste handling permit issued under  
33 RCW 70.95.170 (as recodified by this act), shall prepare and submit  
34 an annual report to the department by April 1st on forms supplied by  
35 the department. The annual report must detail recycling activities  
36 during the previous calendar year and include the following  
37 information:

38 (a) The name and address of the recycling operation;

1 (b) The calendar year covered by the report;

2 (c) The annual quantities and types of waste received, recycled,  
3 and disposed, in tons, for purposes of determining progress towards  
4 achieving the goals of waste reduction, waste recycling, and  
5 treatment in accordance with RCW 70.95.010(4) (as recodified by this  
6 act); and

7 (d) Any additional information required by written notification  
8 of the department that is needed to determine progress towards  
9 achieving the goals of waste reduction, waste recycling, and  
10 treatment in accordance with RCW 70.95.010(4) (as recodified by this  
11 act).

12 (3) Any facility, except for product take-back centers, that  
13 recycles solid waste materials within the state without first  
14 obtaining a solid waste handling permit under RCW 70.95.170 (as  
15 recodified by this act) or completing a notification under this  
16 section is subject to a civil penalty of up to one thousand dollars  
17 per violation.

18 **Sec. 1190.** RCW 70.95.510 and 2009 c 261 s 2 are each amended to  
19 read as follows:

20 (1) There is levied a one dollar per tire fee on the retail sale  
21 of new replacement vehicle tires. The fee imposed in this section  
22 must be paid by the buyer to the seller, and each seller shall  
23 collect from the buyer the full amount of the fee. The fee collected  
24 from the buyer by the seller less the ten percent amount retained by  
25 the seller as provided in RCW 70.95.535(1) (as recodified by this  
26 act) must be paid to the department of revenue in accordance with RCW  
27 82.32.045.

28 (2) The department of revenue shall incorporate into the agency's  
29 regular audit cycle a reconciliation of the number of tires sold and  
30 the amount of revenue collected by the businesses selling new  
31 replacement vehicle tires at retail. The department of revenue shall  
32 collect on the business excise tax return from the businesses selling  
33 new replacement vehicle tires at retail:

34 (a) The number of tires sold; and

35 (b) The fee levied in this section.

36 (3) All other applicable provisions of chapter 82.32 RCW have  
37 full force and application with respect to the fee imposed under this  
38 section. The department of revenue shall administer this section.

1 (4) For the purposes of this section, "new replacement vehicle  
2 tires" means tires that are newly manufactured for vehicle purposes  
3 and does not include retreaded vehicle tires.

4 **Sec. 1191.** RCW 70.95.530 and 2014 c 76 s 6 are each amended to  
5 read as follows:

6 (1) Moneys in the waste tire removal account may be appropriated  
7 to the department of ecology:

8 (a) To provide for funding to state and local governments for the  
9 removal of discarded vehicle tires from unauthorized tire dump sites;  
10 and

11 (b) To accomplish the other purposes of RCW 70.95.020 (as  
12 recodified by this act) as they relate to waste tire cleanup under  
13 this chapter.

14 (2) In spending funds in the account under this section, the  
15 department shall identify communities with the most severe problems  
16 with waste tires and provide funds first to those communities to  
17 remove accumulations of waste tires.

18 (3) The department shall provide on its web site a summary of  
19 state and local government efforts funded using the waste tire  
20 removal account, a list of authorized waste tire storage sites and  
21 transporters, and tire recycling and reuse rates in the state for  
22 each calendar year.

23 **Sec. 1192.** RCW 70.95.532 and 2017 3rd sp.s. c 25 s 10 are each  
24 amended to read as follows:

25 (1) All receipts from tire fees imposed under RCW 70.95.510 (as  
26 recodified by this act), except as provided in subsection (2) of this  
27 section, must be deposited in the waste tire removal account created  
28 under RCW 70.95.521 (as recodified by this act). Moneys in the  
29 account may be spent only after appropriation. Expenditures from the  
30 account may be used for the cleanup of unauthorized waste tire piles  
31 and measures that prevent future accumulation of unauthorized waste  
32 tire piles.

33 (2) On September 1st of odd-numbered years, the state treasurer  
34 must transfer any cash balance in excess of one million dollars from  
35 the waste tire removal account created under RCW 70.95.521 (as  
36 recodified by this act) to the motor vehicle ~~((account-[fund]))~~ fund  
37 for the purpose of road wear related maintenance on state and local  
38 public highways.

1       **Sec. 1193.** RCW 70.95.535 and 1989 c 431 s 93 are each amended to  
2 read as follows:

3       (1) Every person engaged in making retail sales of new  
4 replacement vehicle tires in this state shall retain ten percent of  
5 the collected one dollar fee. The moneys retained may be used for  
6 costs associated with the proper management of the waste vehicle  
7 tires by the retailer.

8       (2) The department of ecology will administer the funds for the  
9 purposes specified in RCW 70.95.020(~~(5)~~) (6) (as recodified by this  
10 act) including, but not limited to:

11       (a) Making grants to local governments for pilot demonstration  
12 projects for on-site shredding and recycling of tires from  
13 unauthorized dump sites;

14       (b) Grants to local government for enforcement programs;

15       (c) Implementation of a public information and education program  
16 to include posters, signs, and informational materials to be  
17 distributed to retail tire sales and tire service outlets;

18       (d) Product marketing studies for recycled tires and alternatives  
19 to land disposal.

20       **Sec. 1194.** RCW 70.95.550 and 1988 c 250 s 3 are each amended to  
21 read as follows:

22       Unless the context clearly requires otherwise, the definitions in  
23 this section apply throughout RCW 70.95.555 through 70.95.565 (as  
24 recodified by this act).

25       (1) "Storage" or "storing" means the placing of more than eight  
26 hundred waste tires in a manner that does not constitute final  
27 disposal of the waste tires.

28       (2) "Transportation" or "transporting" means picking up or  
29 transporting waste tires for the purpose of storage or final  
30 disposal.

31       (3) "Waste tires" means tires that are no longer suitable for  
32 their original intended purpose because of wear, damage, or defect.

33       **Sec. 1195.** RCW 70.95.555 and 2009 c 261 s 6 are each amended to  
34 read as follows:

35       Any person engaged in the business of transporting or storing  
36 waste tires shall be licensed by the department. To obtain a license,  
37 each applicant must:

1 (1) Provide assurances that the applicant is in compliance with  
2 this chapter and the rules regarding waste tire storage and  
3 transportation;

4 (2) Accept liability for and authorize the department to recover  
5 any costs incurred in any cleanup of waste tires transported or newly  
6 stored by the applicant in violation of this section, or RCW  
7 70.95.560, 70.95.515, or 70.95.570 (as recodified by this act), or  
8 rules adopted thereunder, after July 1, 2005;

9 (3) After January 1, 2006, for waste tires transported or stored  
10 before July 1, 2005, or for waste tires transported or stored after  
11 July 1, 2005, post a bond in an amount to be determined by the  
12 department sufficient to cover the liability for the cost of cleanup  
13 of the transported or stored waste tires, in favor of the state of  
14 Washington. In lieu of the bond, the applicant may submit financial  
15 assurances acceptable to the department;

16 (4) Be registered in the state of Washington as a business and be  
17 in compliance with all state laws, rules, and local ordinances;

18 (5) Have a federal tax identification number and be in compliance  
19 with all applicable federal codes and regulations; and

20 (6) Report annually to the department the amount of tires  
21 transported and their disposition. Failure to report shall result in  
22 revocation of the license.

23 **Sec. 1196.** RCW 70.95.560 and 2005 c 354 s 7 are each amended to  
24 read as follows:

25 (1) Any person who transports or stores waste tires without a  
26 license in violation of RCW 70.95.555 (as recodified by this act)  
27 shall be guilty of a gross misdemeanor and upon conviction shall be  
28 punished under RCW 9A.20.021(2).

29 (2) Any person who transports or stores waste tires without a  
30 license in violation of RCW 70.95.555 (as recodified by this act) is  
31 liable for the costs of cleanup of any and all waste tires  
32 transported or stored. This subsection does not apply to the storage  
33 of waste tires when the storage of the tires occurred before July 1,  
34 2005, and the storage was licensed in accordance with RCW 70.95.555  
35 (as recodified by this act) at the time the tires were stored.

36 **Sec. 1197.** RCW 70.95.610 and 1989 c 431 s 37 are each amended to  
37 read as follows:



1 (1) No person may knowingly dispose of a vehicle battery except  
2 by delivery to: A person or entity selling lead acid batteries, a  
3 person or entity authorized by the department to accept the battery,  
4 or to a secondary lead smelter.

5 (2) No owner or operator of a solid waste disposal site shall  
6 knowingly accept for disposal used vehicle batteries except when  
7 authorized to do so by the department or by the federal government.

8 (3) Any person who violates this section shall be subject to a  
9 fine of up to one thousand dollars. Each battery will constitute a  
10 separate violation. Nothing in this section and RCW 70.95.620 through  
11 70.95.660 (as recodified by this act) shall supersede the provisions  
12 under chapter 70.105 RCW (as recodified by this act).

13 (4) For purposes of this section and RCW 70.95.620 through  
14 70.95.660 (as recodified by this act), "vehicle battery" means  
15 batteries capable for use in any vehicle, having a core consisting of  
16 elemental lead, and a capacity of six or more volts.

17 **Sec. 1198.** RCW 70.95.630 and 1989 c 431 s 39 are each amended to  
18 read as follows:

19 A person selling vehicle batteries at retail in the state shall:

20 (1) Accept, at the time of purchase of a replacement battery, in  
21 the place where the new batteries are physically transferred to the  
22 purchasers, and in a quantity at least equal to the number of new  
23 batteries purchased, used vehicle batteries from the purchasers, if  
24 offered by the purchasers. When a purchaser fails to provide an  
25 equivalent used battery or batteries, the purchaser may reclaim the  
26 core charge paid under RCW 70.95.640 (as recodified by this act) by  
27 returning, to the point of purchase within thirty days, a used  
28 battery or batteries and a receipt showing proof of purchase from the  
29 establishment where the replacement battery or batteries were  
30 purchased; and

31 (2) Post written notice which must be at least eight and one-half  
32 inches by eleven inches in size and must contain the universal  
33 recycling symbol and the following language:

34 (a) "It is illegal to put a motor vehicle battery or other  
35 vehicle battery in your garbage."

36 (b) "State law requires us to accept used motor vehicle batteries  
37 or other vehicle batteries for recycling, in exchange for new  
38 batteries purchased."

1 (c) "When you buy a battery, state law also requires us to  
2 include a core charge of five dollars or more if you do not return  
3 your old battery for exchange."

4 **Sec. 1199.** RCW 70.95.650 and 1989 c 431 s 41 are each amended to  
5 read as follows:

6 (1) A person selling vehicle batteries at wholesale to a retail  
7 establishment in this state shall accept, at the time and place of  
8 transfer, used vehicle batteries in a quantity at least equal to the  
9 number of new batteries purchased, if offered by the purchaser.

10 (2) When a battery wholesaler, or agent of the wholesaler, fails  
11 to accept used vehicle batteries as provided in this section, a  
12 retailer may file a complaint with the department and the department  
13 shall investigate any such complaint.

14 (3) (a) The department shall issue an order suspending any of the  
15 provisions of RCW 70.95.630 through 70.95.660 (as recodified by this  
16 act) whenever it finds that the market price of lead has fallen to  
17 the extent that new battery wholesalers' estimated statewide average  
18 cost of transporting used batteries to a smelter or other person or  
19 entity in the business of purchasing used batteries is clearly  
20 greater than the market price paid for used lead batteries by such  
21 smelter or person or entity.

22 (b) The order of suspension shall only apply to batteries that  
23 are sold at retail during the period in which the suspension order is  
24 effective.

25 (c) The department shall limit its suspension order to a definite  
26 period not exceeding six months, but shall revoke the order prior to  
27 its expiration date should it find that the reasons for its issuance  
28 are no longer valid.

29 **Sec. 1200.** RCW 70.95.660 and 1989 c 431 s 42 are each amended to  
30 read as follows:

31 The department shall produce, print, and distribute the notices  
32 required by RCW 70.95.630 (as recodified by this act) to all places  
33 where vehicle batteries are offered for sale at retail and in  
34 performing its duties under this section the department may inspect  
35 any place, building, or premise governed by RCW 70.95.640 (as  
36 recodified by this act). Authorized employees of the agency may issue  
37 warnings and citations to persons who fail to comply with the  
38 requirements of RCW 70.95.610 through 70.95.670 (as recodified by

1 this act). Failure to conform to the notice requirements of RCW  
2 70.95.630 (as recodified by this act) shall subject the violator to a  
3 fine imposed by the department not to exceed one thousand dollars.  
4 However, no such fine shall be imposed unless the department has  
5 issued a warning of infraction for the first offense. Each day that a  
6 violator does not comply with the requirements of chapter 431, Laws  
7 of 1989 following the issuance of an initial warning of infraction  
8 shall constitute a separate offense.

9 **Sec. 1201.** RCW 70.95.670 and 1989 c 431 s 43 are each amended to  
10 read as follows:

11 The department shall adopt rules providing for the implementation  
12 and enforcement of RCW 70.95.610 through 70.95.660 (as recodified by  
13 this act).

14 **Sec. 1202.** RCW 70.95.715 and 1994 c 165 s 5 are each amended to  
15 read as follows:

16 (1) A solid waste planning jurisdiction may designate sharps  
17 waste container drop-off sites.

18 (2) A pharmacy return program shall not be considered a solid  
19 waste handling facility and shall not be required to obtain a solid  
20 waste permit. A pharmacy return program is required to register, at  
21 no cost, with the department. To facilitate designation of sharps  
22 waste drop-off sites, the department shall share the name and  
23 location of registered pharmacy return programs with jurisdictional  
24 health departments and local solid waste management officials.

25 (3) A public or private provider of solid waste collection  
26 service may provide a program to collect source separated residential  
27 sharps waste containers as provided in chapter 70.95K RCW (as  
28 recodified by this act).

29 (4) For the purpose of this section, "sharps waste," "sharps  
30 waste container," and "pharmacy return program" shall have the same  
31 meanings as provided in RCW 70.95K.010 (as recodified by this act).

32 **Sec. 1203.** RCW 70.95.807 and 2015 c 142 s 3 are each amended to  
33 read as follows:

34 (1) The department of transportation, together with its  
35 implementation partners, as that term is defined in RCW 70.95.805 (as  
36 recodified by this act), must report annually to the legislature on  
37 the implementation of RCW 70.95.805 (as recodified by this act). The

1 annual report must be submitted to the legislature, consistent with  
2 RCW 43.01.036, by January 2nd of each year from 2017 through 2020.

3 (2) This section expires July 1, 2021.

4 **Sec. 1204.** RCW 70.95.815 and 2019 c 255 s 2 are each amended to  
5 read as follows:

6 (1) A goal is established for the state to reduce by fifty  
7 percent the amount of food waste generated annually by 2030, relative  
8 to 2015 levels. A subset of this goal must include a prevention goal  
9 to reduce the amount of edible food that is wasted.

10 (2) The department may estimate 2015 levels of wasted food in  
11 Washington using any combination of solid waste reporting data  
12 obtained under this chapter and surveys and studies measuring wasted  
13 food and food waste in other jurisdictions. For the purposes of  
14 measuring progress towards the goal in subsection (1) of this  
15 section, the department must adopt standardized metrics and processes  
16 for measuring or estimating volumes of wasted food and food waste  
17 generated in the state.

18 (3) By October 1, 2020, the department, in consultation with the  
19 department of agriculture and the department of health, must develop  
20 and adopt a state wasted food reduction and food waste diversion plan  
21 designed to achieve the goal established in subsection (1) of this  
22 section.

23 (a) The wasted food reduction and food waste diversion plan must  
24 include strategies, in descending order of priority, to:

25 (i) Prevent and reduce the wasting of edible food by residents  
26 and businesses;

27 (ii) Help match and support the capacity for edible food that  
28 would otherwise be wasted with food banks and other distributors that  
29 will ensure the food reaches those who need it; and

30 (iii) Support productive uses of inedible food materials,  
31 including using it for animal feed, energy production through  
32 anaerobic digestion, or other commercial uses, and for off-site or  
33 on-site management systems including composting, vermicomposting, or  
34 other biological systems.

35 (b) The wasted food reduction and food waste diversion plan must  
36 be designed to:

37 (i) Recommend a regulatory environment that optimizes activities  
38 and processes to rescue safe, nutritious, edible food;

1 (ii) Recommend a funding environment in which stable, predictable  
2 resources are provided to wasted food prevention and rescue and food  
3 waste recovery activities in such a way as to allow the development  
4 of additional capacity and the use of new technologies;

5 (iii) Avoid placing burdensome regulations on the hunger relief  
6 system, and ensure that organizations involved in wasted food  
7 prevention and rescue, and food waste recovery, retain discretion to  
8 accept or reject donations of food when appropriate;

9 (iv) Provide state technical support to wasted food prevention  
10 and rescue and food waste recovery organizations;

11 (v) Support the development and distribution of equitable  
12 materials to support food waste and wasted food educational and  
13 programmatic efforts in K-12 schools, in collaboration with the  
14 office of the superintendent of public instruction, and aligned with  
15 the Washington state science and social studies learning standards;  
16 and

17 (vi) Facilitate and encourage restaurants and other retail food  
18 establishments to safely donate food to food banks and food  
19 assistance programs through education and outreach to retail food  
20 establishment operators regarding safe food donation opportunities,  
21 practices, and benefits.

22 (c) The wasted food reduction and food waste diversion plan must  
23 include suggested best practices that local governments may  
24 incorporate into solid waste management plans developed under RCW  
25 70.95.080 (as recodified by this act).

26 (d) The department must solicit feedback from the public and  
27 interested stakeholders throughout the process of developing and  
28 adopting the wasted food reduction and food waste diversion plan. To  
29 assist with its food waste reduction plan development  
30 responsibilities, the department may designate a stakeholder advisory  
31 panel. If the department designates a stakeholder advisory panel, it  
32 must consist of local government health departments, local government  
33 solid waste departments, food banks, hunger-focused nonprofit  
34 organizations, waste-focused nonprofit organizations, K-12 public  
35 education, and food businesses or food business associations.

36 (e) The department must identify the sources of scientific,  
37 economic, or other technical information it relied upon in developing  
38 the plan required under this section, including peer-reviewed  
39 science.

1 (f) In conjunction with the development of the wasted food  
2 reduction and food waste diversion plan, the department and the  
3 departments of agriculture and health must consider recommending  
4 changes to state law, including changes to food quality, labeling,  
5 and inspection requirements under chapter 69.80 RCW and any changes  
6 in laws relating to the donation of food waste or wasted food for  
7 animals, in order to achieve the goal established in subsection (1)  
8 of this section. Any such recommendations must be explained via a  
9 report to the legislature submitted consistent with RCW 43.01.036 by  
10 December 1, 2020. Prior to any implementation of the plan, for the  
11 activities, programs, or policies in the plan that would impose new  
12 obligations on state agencies, local governments, businesses, or  
13 citizens, the December 1, 2020, report must outline the plan for  
14 making regulatory changes identified in the report. This outline must  
15 include the department or the appropriate state agency's plan to make  
16 recommendations for statutory or administrative rule changes  
17 identified. In combination with any identified statutory or  
18 administrative rule changes, the department or the appropriate state  
19 agency must include expected cost estimates for both government  
20 entities and private persons or businesses to comply with any  
21 recommended changes.

22 (4) In support of the development of the plan in subsection (3)  
23 of this section, the department of commerce must contract for an  
24 independent evaluation of the state's food waste and wasted food  
25 management system.

26 (5) The definitions in this subsection apply throughout this  
27 section unless the context clearly requires otherwise.

28 (a)(i) "Food waste" means waste from fruits, vegetables, meats,  
29 dairy products, fish, shellfish, nuts, seeds, grains, and similar  
30 materials that results from the storage, preparation, cooking,  
31 handling, selling, or serving of food for human consumption.

32 (ii) "Food waste" includes, but is not limited to, excess,  
33 spoiled, or unusable food and includes inedible parts commonly  
34 associated with food preparation such as pits, shells, bones, and  
35 peels. "Food waste" does not include dead animals not intended for  
36 human consumption or animal excrement.

37 (b) "Prevention" refers to avoiding the wasting of food in the  
38 first place and represents the greatest potential for cost savings  
39 and environmental benefits for businesses, governments, and  
40 consumers.

1 (c) "Recovery" refers to processing inedible food waste to  
2 extract value from it, through composting, anaerobic digestion, or  
3 for use as animal feedstock.

4 (d) "Rescue" refers to the redistribution of surplus edible food  
5 to other users.

6 (e) "Wasted food" means the edible portion of food waste.

7 **Sec. 1205.** RCW 70.95A.070 and 1983 c 167 s 176 are each amended  
8 to read as follows:

9 Any bonds issued under the provisions of this chapter and at any  
10 time outstanding may at any time and from time to time be refunded by  
11 a municipality by the issuance of its refunding bonds in such amount  
12 as the governing body may deem necessary but not exceeding an amount  
13 sufficient to refund the principal of the bonds to be so refunded,  
14 together with any unpaid interest thereon and any premiums and  
15 commissions necessary to be paid in connection therewith: PROVIDED,  
16 That an issue of refunding bonds may be combined with an issue of  
17 additional revenue bonds on any facilities. Any such refunding may be  
18 effected whether the bonds to be refunded shall have then matured or  
19 shall thereafter mature, either by sale of the refunding bonds and  
20 the application of the proceeds thereof for the payment of the bonds  
21 to be refunded thereby, or by exchange of the refunding bonds for the  
22 bonds to be refunded thereby: PROVIDED FURTHER, That the owners of  
23 any bonds to be so refunded shall not be compelled without their  
24 consent to surrender their bonds for payment or exchange except on  
25 the terms expressed on the face thereof. Any refunding bonds issued  
26 under the authority of this chapter shall be subject to the  
27 provisions contained in RCW 70.95A.040 (as recodified by this act)  
28 and may be secured in accordance with the provisions of RCW  
29 70.95A.050 (as recodified by this act).

30 **Sec. 1206.** RCW 70.95A.100 and 1973 c 132 s 11 are each amended  
31 to read as follows:

32 Upon request by a municipality or by a user of the facilities the  
33 department of ecology may in relation to chapter 54, Laws of 1972 ex.  
34 sess. and this chapter issue its certificate stating that the  
35 facilities (1) as designed are in furtherance of the purpose of  
36 abating, controlling or preventing pollution, and/or (2) as designed  
37 or as operated meet state and local requirements for the control of  
38 pollution. This section shall not be construed as modifying the

1 provisions of RCW 82.34.030; chapter 70.94 RCW (as recodified by this  
2 act); or chapter 90.48 RCW.

3 **Sec. 1207.** RCW 70.95B.060 and 1973 c 139 s 6 are each amended to  
4 read as follows:

5 The director is authorized when taking action pursuant to RCW  
6 70.95B.040 and 70.95B.050 (as recodified by this act) to consider  
7 generally applicable criteria and guidelines developed by a  
8 nationally recognized association of certification authorities.

9 **Sec. 1208.** RCW 70.95B.090 and 2018 c 213 s 1 are each amended to  
10 read as follows:

11 The issuance and renewal of a certificate shall be subject to the  
12 following conditions:

13 (1) A certificate shall be issued if the operator has  
14 satisfactorily passed a written examination, or has met the  
15 requirements of RCW 70.95B.080 (as recodified by this act), and has  
16 met the requirements specified in the rules and regulations as  
17 authorized by this chapter, and has paid the department an  
18 application fee as established by the department under RCW 70.95B.095  
19 (as recodified by this act).

20 (2) The term for all certificates shall be from the first of  
21 January of the year of issuance until the thirty-first of December of  
22 the renewal year. The renewal period, not to exceed three years,  
23 shall be set by agency rule. Every certificate shall be renewed upon  
24 the payment of a renewal fee as established by the department under  
25 RCW 70.95B.095 (as recodified by this act) and satisfactory evidence  
26 presented to the director that the operator demonstrates continued  
27 professional growth in the field.

28 (3) Individuals who fail to renew their certificates before  
29 December 31 of the renewal year, upon notice by the director shall  
30 have their certificates suspended for sixty days. If, during the  
31 suspension period, the renewal is not completed, the director shall  
32 give notice of revocation to the employer and to the operator and the  
33 certificate will be revoked ten days after such notice is given. An  
34 operator whose certificate has been revoked must reapply for  
35 certification and will be requested to meet the requirements of a new  
36 applicant.



1           **Sec. 1209.** RCW 70.95B.095 and 2018 c 213 s 2 are each amended to  
2 read as follows:

3           (1) The department shall establish and collect fees for the  
4 issuance and renewal of wastewater treatment plant operator  
5 certificates as provided for in RCW 70.95B.090 (as recodified by this  
6 act). The department, with the advice of an advisory committee, shall  
7 establish an initial fee schedule by rule. Fees shall be established  
8 in amounts to fully recover and not to exceed expenses incurred by  
9 the department to administer the wastewater operator certification  
10 program, to include evaluating applications necessary to verify  
11 compliance with certification requirements, maintaining and  
12 administering credible examinations, ensuring operators receive  
13 necessary training, outreach, and technical assistance, enforcing  
14 certification program requirements, providing necessary education and  
15 training to program staff, and supporting the overhead expenses  
16 related to administering the wastewater operator certification  
17 program.

18           (2) Once the initial fee schedule is adopted by rule, the  
19 department shall conduct a workload analysis and prepare a biennial  
20 budget estimate for the wastewater treatment plant operator  
21 certification program. Thereafter, the department shall assess and  
22 collect fees from all wastewater treatment plant operators at a level  
23 that fully recovers the costs identified in its biennial operating  
24 budget.

25           (3) If fee increases above the state's fiscal growth factor are  
26 proposed, due to an expansion of the wastewater operator  
27 certification program, the department must submit a report to the  
28 legislature describing the need for the increase.

29           **Sec. 1210.** RCW 70.95B.120 and 1987 c 357 s 8 are each amended to  
30 read as follows:

31           On and after one year following July 1, 1973, it shall be  
32 unlawful for any person, firm, corporation, municipal corporation, or  
33 other governmental subdivision or agency to operate a wastewater  
34 treatment plant unless the individuals identified in RCW 70.95B.030  
35 (as recodified by this act) are duly certified by the director under  
36 the provisions of this chapter or any lawful rule, order, or  
37 regulation of the department. It shall also be unlawful for any  
38 person to perform the duties of an operator as defined in this  
39 chapter, or in any lawful rule, order, or regulation of the

1 department, without being duly certified under the provisions of this  
2 chapter.

3 **Sec. 1211.** RCW 70.95B.151 and 2017 c 35 s 1 are each amended to  
4 read as follows:

5 The wastewater treatment plant operator certification account is  
6 created in the state treasury. All fees paid pursuant to RCW  
7 70.95B.095 (as recodified by this act) and any other receipts  
8 realized in the administration of this chapter must be deposited into  
9 the account. Moneys in the account may be spent only after  
10 appropriation. Moneys from the account must be used by the department  
11 to carry out the purposes of the wastewater treatment plant operator  
12 certification program.

13 **Sec. 1212.** RCW 70.95C.010 and 1990 c 114 s 1 are each amended to  
14 read as follows:

15 The legislature finds that land disposal and incineration of  
16 solid and hazardous waste can be both harmful to the environment and  
17 costly to those who must dispose of the waste. In order to address  
18 this problem in the most cost-effective and environmentally sound  
19 manner, and to implement the highest waste management priority as  
20 articulated in RCW 70.95.010 and 70.105.150 (as recodified by this  
21 act), public and private efforts should focus on reducing the  
22 generation of waste. Waste reduction can be achieved by encouraging  
23 voluntary efforts to redesign industrial, commercial, production, and  
24 other processes to result in the reduction or elimination of waste  
25 by-products and to maximize the in-process reuse or reclamation of  
26 valuable spent material.

27 In the interest of protecting the public health, safety, and the  
28 environment, the legislature declares that it is the policy of the  
29 state of Washington to encourage reduction in the use of hazardous  
30 substances and reduction in the generation of hazardous waste  
31 whenever economically and technically practicable.

32 The legislature finds that hazardous wastes are generated by  
33 numerous different sources including, but not limited to, large and  
34 small business, households, and state and local government. The  
35 legislature further finds that a goal against which efforts at waste  
36 reduction may be measured is essential for an effective hazardous  
37 waste reduction program. The Pacific Northwest hazardous waste  
38 advisory council has endorsed a goal of reducing, through hazardous

1 substance use reduction and waste reduction techniques, the  
2 generation of hazardous waste by fifty percent by 1995. The  
3 legislature adopts this as a policy goal for the state of Washington.  
4 The legislature recognizes that many individual businesses have  
5 already reduced the generation of hazardous waste through appropriate  
6 hazardous waste reduction techniques. The legislature also recognizes  
7 that there are some basic industrial processes which by their nature  
8 have limited potential for significantly reducing the use of certain  
9 raw materials or substantially reducing the generation of hazardous  
10 wastes. Therefore, the goal of reducing hazardous waste generation by  
11 fifty percent cannot be applied as a regulatory requirement.

12 **Sec. 1213.** RCW 70.95C.020 and 1991 c 319 s 313 are each amended  
13 to read as follows:

14 As used in this chapter, the following terms have the meanings  
15 indicated unless the context clearly requires otherwise.

16 (1) "Department" means the department of ecology.

17 (2) "Director" means the director of the department of ecology or  
18 the director's designee.

19 (3) "Dangerous waste" shall have the same definition as set forth  
20 in RCW 70.105.010(~~((+5))~~) (1) (as recodified by this act) and shall  
21 specifically include those wastes designated as dangerous by rules  
22 adopted pursuant to chapter 70.105 RCW (as recodified by this act).

23 (4) "EPA/state identification number" means the number assigned  
24 by the EPA (environmental protection agency) or by the department of  
25 ecology to each generator and/or transporter and treatment, storage,  
26 and/or disposal facility.

27 (5) "Extremely hazardous waste" shall have the same definition as  
28 set forth in RCW 70.105.010(~~((+6))~~) (7) (as recodified by this act)  
29 and shall specifically include those wastes designated as extremely  
30 hazardous by rules adopted pursuant to chapter 70.105 RCW (as  
31 recodified by this act).

32 (6) "Fee" means the annual hazardous waste fees imposed under RCW  
33 70.95E.020 and 70.95E.030 (as recodified by this act).

34 (7) "Generate" means any act or process which produces hazardous  
35 waste or first causes a hazardous waste to become subject to  
36 regulation.

37 (8) "Hazardous substance" means any hazardous substance listed as  
38 a hazardous substance as of March 21, 1990, pursuant to section 313  
39 of Title III of the Superfund Amendments and Reauthorization Act, any

1 other substance determined by the director by rule to present a  
2 threat to human health or the environment, and all ozone depleting  
3 compounds as defined by the Montreal Protocol of October 1987.

4 (9) (a) "Hazardous substance use reduction" means the reduction,  
5 avoidance, or elimination of the use or production of hazardous  
6 substances without creating substantial new risks to human health or  
7 the environment.

8 (b) "Hazardous substance use reduction" includes proportionate  
9 changes in the usage of hazardous substances as the usage of a  
10 hazardous substance or hazardous substances changes as a result of  
11 production changes or other business changes.

12 (10) "Hazardous substance user" means any facility required to  
13 report under section 313 of Title III of the Superfund Amendments and  
14 Reauthorization Act, except for those facilities which only  
15 distribute or use fertilizers or pesticides intended for commercial  
16 agricultural applications.

17 (11) "Hazardous waste" means and includes all dangerous and  
18 extremely hazardous wastes, but does not include radioactive wastes  
19 or a substance composed of both radioactive and hazardous components  
20 and does not include any hazardous waste generated as a result of a  
21 remedial action under state or federal law.

22 (12) "Hazardous waste generator" means any person generating  
23 hazardous waste regulated by the department.

24 (13) "Office" means the office of waste reduction.

25 (14) "Plan" means the plan provided for in RCW 70.95C.200 (as  
26 recodified by this act).

27 (15) "Person" means an individual, trust, firm, joint stock  
28 company, partnership, association, state, public or private or  
29 municipal corporation, commission, political subdivision of a state,  
30 interstate body, the federal government, including any agency or  
31 officer thereof, and any Indian tribe or authorized tribal  
32 organization.

33 (16) "Process" means all industrial, commercial, production, and  
34 other processes that result in the generation of waste.

35 (17) "Recycled for beneficial use" means the use of hazardous  
36 waste, either before or after reclamation, as a substitute for a  
37 commercial product or raw material, but does not include: (a) Use  
38 constituting disposal; (b) incineration; or (c) use as a fuel.

1 (18) "Recycling" means reusing waste materials and extracting  
2 valuable materials from a waste stream. Recycling does not include  
3 burning for energy recovery.

4 (19) "Treatment" means the physical, chemical, or biological  
5 processing of waste to render it completely innocuous, produce a  
6 recyclable by-product, reduce toxicity, or substantially reduce the  
7 volume of material requiring disposal as described in the priorities  
8 established in RCW 70.105.150 (as recodified by this act). Treatment  
9 does not include incineration.

10 (20) "Used oil" means (a) lubricating fluids that have been  
11 removed from an engine crankcase, transmission, gearbox, hydraulic  
12 device, or differential of an automobile, bus, truck, vessel, plane,  
13 heavy equipment, or machinery powered by an internal combustion  
14 engine; (b) any oil that has been refined from crude oil, used, and  
15 as a result of use, has been contaminated with physical or chemical  
16 impurities; and (c) any oil that has been refined from crude oil and,  
17 as a consequence of extended storage, spillage, or contamination, is  
18 no longer useful to the original purchaser. "Used oil" does not  
19 include used oil to which hazardous wastes have been added.

20 (21) "Waste" means any solid waste as defined under RCW 70.95.030  
21 (as recodified by this act), any hazardous waste, any air contaminant  
22 as defined under RCW 70.94.030 (as recodified by this act), and any  
23 organic or inorganic matter that shall cause or tend to cause water  
24 pollution as defined under RCW 90.48.020.

25 (22) "Waste generator" means any individual, business, government  
26 agency, or any other organization that generates waste.

27 (23) "Waste reduction" means all in-plant practices that reduce,  
28 avoid, or eliminate the generation of wastes or the toxicity of  
29 wastes, prior to generation, without creating substantial new risks  
30 to human health or the environment. As used in RCW 70.95C.200 through  
31 70.95C.240 (as recodified by this act), "waste reduction" refers to  
32 hazardous waste only.

33 **Sec. 1214.** RCW 70.95C.030 and 1998 c 245 s 133 are each amended  
34 to read as follows:

35 (1) There is established in the department an office of waste  
36 reduction. The office shall use its authorities to encourage the  
37 voluntary reduction of hazardous substance usage and waste generation  
38 by waste generators and hazardous substance users. The office shall  
39 prepare and submit a quarterly progress report to the director.

1 (2) The office shall be the coordinating center for all state  
2 agency programs that provide technical assistance to waste generators  
3 and hazardous substance users and shall serve as the state's lead  
4 agency and promoter for such programs. In addition to this  
5 coordinating function, the office shall encourage hazardous substance  
6 use reduction and waste reduction by:

7 (a) Providing for the rendering of advice and consultation to  
8 waste generators and hazardous substance users on hazardous substance  
9 use reduction and waste reduction techniques, including assistance in  
10 preparation of plans provided for in RCW 70.95C.200 (as recodified by  
11 this act);

12 (b) Sponsoring or co-sponsoring with public or private  
13 organizations technical workshops and seminars on waste reduction and  
14 hazardous substance use reduction;

15 (c) Administering a waste reduction and hazardous substance use  
16 reduction database and hotline providing comprehensive referral  
17 services to waste generators and hazardous substance users;

18 (d) Administering a waste reduction and hazardous substance use  
19 reduction research and development program;

20 (e) Coordinating a waste reduction and hazardous substance use  
21 reduction public education program that includes the utilization of  
22 existing publications from public and private sources, as well as  
23 publishing necessary new materials on waste reduction;

24 (f) Recommending to institutions of higher education in the state  
25 courses and curricula in areas related to waste reduction and  
26 hazardous substance use reduction; and

27 (g) Operating an intern program in cooperation with institutions  
28 of higher education and other outside resources to provide technical  
29 assistance on hazardous substance use reduction and waste reduction  
30 techniques and to carry out research projects as needed within the  
31 office.

32 **Sec. 1215.** RCW 70.95C.040 and 1990 c 114 s 5 are each amended to  
33 read as follows:

34 (1) The office shall establish a waste reduction and hazardous  
35 substance use reduction consultation program to be coordinated with  
36 other state waste reduction and hazardous substance use reduction  
37 consultation programs.

38 (2) The director may grant a request by any waste generator or  
39 hazardous substance user for advice and consultation on waste

1 reduction and hazardous substance use reduction techniques and  
2 assistance in preparation or modification of a plan, executive  
3 summary, or annual progress report, or assistance in the  
4 implementation of a plan required by RCW 70.95C.200 (as recodified by  
5 this act). Pursuant to a request from a facility such as a business,  
6 governmental entity, or other process site in the state, the director  
7 may visit the facility making the request for the purposes of  
8 observing hazardous substance use and the waste-generating process,  
9 obtaining information relevant to waste reduction and hazardous  
10 substance use reduction, rendering advice, and making  
11 recommendations. No such visit may be regarded as an inspection or  
12 investigation, and no notices or citations may be issued, or civil  
13 penalty be assessed, upon such a visit. A representative of the  
14 director providing advisory or consultative services under this  
15 section may not have any enforcement authority.

16 (3) Consultation and advice given under this section shall be  
17 limited to the matters specified in the request and shall include  
18 specific techniques of waste reduction and hazardous substance use  
19 reduction tailored to the relevant process. In granting any request  
20 for advisory or consultative services, the director may provide for  
21 an alternative means of affording consultation and advice other than  
22 on-site consultation.

23 (4) Any proprietary information obtained by the director while  
24 carrying out the duties required under this section shall remain  
25 confidential and shall not be publicized or become part of the  
26 database established under RCW 70.95C.060 (as recodified by this act)  
27 without written permission of the requesting party.

28 **Sec. 1216.** RCW 70.95C.070 and 1988 c 177 s 7 are each amended to  
29 read as follows:

30 (1) The office may administer a waste reduction research and  
31 development program. The director may contract with any public or  
32 private organization for the purpose of developing methods and  
33 technologies that achieve waste reduction. All research performed and  
34 all methods or technologies developed as a result of a contract  
35 entered into under this section shall become the property of the  
36 state and shall be incorporated into the database system established  
37 under RCW 70.95C.060 (as recodified by this act).

38 (2) Any contract entered into under this section shall be awarded  
39 only after requests for proposals have been circulated to persons,

1 firms, or organizations who have requested that their names be placed  
2 on a proposal list. The director shall establish a proposal list and  
3 shall review and evaluate all proposals received.

4 **Sec. 1217.** RCW 70.95C.210 and 1990 c 114 s 7 are each amended to  
5 read as follows:

6 A person required to prepare a plan under RCW 70.95C.200 (as  
7 recodified by this act) because of the quantity of hazardous waste  
8 generated may petition the director to be excused from this  
9 requirement. The person must demonstrate to the satisfaction of the  
10 director that the quantity of hazardous waste generated was due to  
11 unique circumstances not likely to be repeated and that the person is  
12 unlikely to generate sufficient hazardous waste to require a plan in  
13 the next five years.

14 **Sec. 1218.** RCW 70.95C.220 and 2005 c 274 s 338 are each amended  
15 to read as follows:

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

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

37 (3) If a hazardous substance user or hazardous waste generator  
38 fails to complete an adequate plan, executive summary, or annual



1 progress report, the department shall notify the user or generator of  
2 the inadequacy, identifying specific deficiencies. For the purposes  
3 of this section, a deficiency may include failure to develop a plan,  
4 failure to submit an executive summary pursuant to the schedule  
5 provided in RCW 70.95C.200(5) (as recodified by this act), and  
6 failure to submit an annual progress report pursuant to the rules  
7 developed under RCW 70.95C.200(6) (as recodified by this act). The  
8 department shall specify a reasonable time frame, of not less than  
9 ninety days, within which the user or generator shall complete a  
10 modified plan, executive summary, or annual progress report  
11 addressing the specified deficiencies.

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

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

33 (b) If a hazardous substance user or hazardous waste generator  
34 required to prepare a plan fails to complete an adequate plan,  
35 executive summary, or annual progress report after the department has  
36 levied against the user or generator the penalty provided in (a) of  
37 this subsection, the user or generator shall be required to pay a  
38 surcharge to the department whenever the user or generator disposes  
39 of a hazardous waste at any hazardous waste incinerator or hazardous  
40 waste landfill facility located in Washington state, until a plan,

1 executive summary, or annual progress report is completed and  
2 determined to be adequate by the department. The surcharge shall be  
3 equal to three times the fee charged for disposal. The department  
4 shall furnish the incinerator and landfill facilities in this state  
5 with a list of environmental protection agency/state identification  
6 numbers of the hazardous waste generators that are not in compliance  
7 with the requirements of RCW 70.95C.200 (as recodified by this act).

8 **Sec. 1219.** RCW 70.95C.230 and 1990 c 114 s 9 are each amended to  
9 read as follows:

10 A user or generator may appeal from a department order or a  
11 surcharge under RCW 70.95C.220 (as recodified by this act) to the  
12 pollution control hearings board pursuant to chapter 43.21B RCW.

13 **Sec. 1220.** RCW 70.95D.010 and 1995 c 269 s 2801 are each amended  
14 to read as follows:

15 Unless the context clearly requires otherwise the definitions in  
16 this section apply throughout this chapter.

17 (1) "Certificate" means a certificate of competency issued by the  
18 director stating that the operator has met the requirements for the  
19 specified operator classification of the certification program.

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

21 (3) "Director" means the director of ecology.

22 (4) "Incinerator" means a facility which has the primary purpose  
23 of burning or which is designed with the primary purpose of burning  
24 solid waste or solid waste derived fuel, but excludes facilities that  
25 have the primary purpose of burning hog fuel.

26 (5) "Landfill" means a landfill as defined under RCW 70.95.030  
27 (as recodified by this act).

28 (6) "Owner" means, in the case of a town or city, the city or  
29 town acting through its chief executive officer or the lessee if  
30 operated pursuant to a lease or contract; in the case of a county,  
31 the chief elected official of the county legislative authority or the  
32 chief elected official's designee; in the case of a board of public  
33 utilities, association, municipality, or other public body, the  
34 president or chief elected official of the body or the president's or  
35 chief elected official's designee; in the case of a privately owned  
36 landfill or incinerator, the legal owner.

37 (7) "Solid waste" means solid waste as defined under RCW  
38 70.95.030 (as recodified by this act).

1       **Sec. 1221.** RCW 70.95E.010 and 1995 c 207 s 1 are each amended to  
2 read as follows:

3       As used in this chapter, the following terms have the meanings  
4 indicated unless the context clearly requires otherwise.

5       (1) "Dangerous waste" shall have the same definition as set forth  
6 in RCW 70.105.010(~~((+5))~~) (1) (as recodified by this act) and shall  
7 include those wastes designated as dangerous by rules adopted  
8 pursuant to chapter 70.105 RCW (as recodified by this act).

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

10       (3) "EPA/state identification number" means the number assigned  
11 by the EPA (environmental protection agency) or by the department of  
12 ecology to each generator and/or transporter and treatment, storage,  
13 and/or disposal facility.

14       (4) "Extremely hazardous waste" shall have the same definition as  
15 set forth in RCW 70.105.010(~~((+6))~~) (7) (as recodified by this act)  
16 and shall specifically include those wastes designated as extremely  
17 hazardous by rules adopted pursuant to chapter 70.105 RCW (as  
18 recodified by this act).

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

20       (6) "Generate" means any act or process which produces hazardous  
21 waste or first causes a hazardous waste to become subject to  
22 regulation.

23       (7) "Hazardous waste" means and includes all dangerous and  
24 extremely hazardous wastes but for the purposes of this chapter  
25 excludes all radioactive wastes or substances composed of both  
26 radioactive and hazardous components.

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

31       (9) "Person" means an individual, trust, firm, joint stock  
32 company, partnership, association, state, public or private or  
33 municipal corporation, commission, political subdivision of a state,  
34 interstate body, the federal government including any agency or  
35 officer thereof, and any Indian tribe or authorized tribal  
36 organization.

37       (10) "Price deflator" means the United States department of  
38 commerce bureau of economic analysis, "Implicit Price Deflator for  
39 Gross National Product" for "Government Purchases of Goods and  
40 Services," for "State and Local Government."

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

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

7 **Sec. 1222.** RCW 70.95E.020 and 1995 c 207 s 2 are each amended to  
8 read as follows:

9 A fee is imposed for the privilege of generating hazardous waste  
10 in the state. The annual amount of the fee shall be thirty-five  
11 dollars upon every hazardous waste generator doing business in  
12 Washington in the current calendar year or any part thereof. This fee  
13 shall be collected by the department or its designee. A hazardous  
14 waste generator shall be exempt from the fee imposed under this  
15 section if the value of products, gross proceeds of sales, or gross  
16 income of the business, from all business activities of the hazardous  
17 waste generator, is less than twelve thousand dollars in the current  
18 calendar year. The department shall, subject to appropriation, use  
19 the funds collected from the fees assessed in this subsection to  
20 support the activities of the office of waste reduction as specified  
21 in RCW 70.95C.030 (as recodified by this act). The fee imposed  
22 pursuant to this section is due annually by July 1 of the year  
23 following the calendar year for which the fee is imposed.

24 **Sec. 1223.** RCW 70.95E.030 and 1994 c 136 s 3 are each amended to  
25 read as follows:

26 Hazardous waste generators and hazardous substance users required  
27 to prepare plans under RCW 70.95C.200 (as recodified by this act)  
28 shall pay an annual fee to support implementation of RCW 70.95C.200  
29 and 70.95C.040 (as recodified by this act). These fees are to be used  
30 by the department, subject to appropriation, for plan review,  
31 technical assistance to facilities that are required to prepare  
32 plans, other activities related to plan development and  
33 implementation, and associated indirect costs. The total fees  
34 collected under this subsection shall not exceed the department's  
35 costs of implementing RCW 70.95C.200 and 70.95C.040 (as recodified by  
36 this act) and shall not exceed one million dollars per year. The  
37 annual fee for a facility shall not exceed ten thousand dollars per  
38 year. Any facility that generates less than two thousand six hundred

1 forty pounds of hazardous waste per waste generation site in the  
2 previous calendar year shall be exempt from the fee imposed by this  
3 section. The annual fee for a facility generating at least two  
4 thousand six hundred forty pounds but not more than four thousand  
5 pounds of hazardous waste per waste generation site in the previous  
6 calendar year shall not exceed fifty dollars. A person that develops  
7 a plan covering more than one interrelated facility as provided for  
8 in RCW 70.95C.200 (as recodified by this act) shall be assessed fees  
9 only for the number of plans prepared. The department shall adopt a  
10 fee schedule by rule after consultation with typical affected  
11 businesses and other interested parties. Hazardous waste generated  
12 and recycled for beneficial use, including initial amount of  
13 hazardous substances introduced into a process and subsequently  
14 recycled for beneficial use, shall not be used in the calculations of  
15 hazardous waste generated for purposes of this section.

16 The annual fee imposed by this section shall be first due on July  
17 1<sup>st</sup> of the year prior to the year that the facility is required to  
18 prepare a plan, and by July 1<sup>st</sup> of each year thereafter.

19 **Sec. 1224.** RCW 70.95E.040 and 1990 c 114 s 14 are each amended  
20 to read as follows:

21 On an annual basis, the department shall adjust the fees provided  
22 for in RCW 70.95E.020 and 70.95E.030 (as recodified by this act),  
23 including the maximum annual fee, and maximum total fees, by  
24 conducting the calculation in subsection (1) of this section and  
25 taking the actions set forth in subsection (2) of this section:

26 (1) In November of each year, the fees, annual fee, and maximum  
27 total fees imposed in RCW 70.95E.020 and 70.95E.030 (as recodified by  
28 this act), or as subsequently adjusted by this section, shall be  
29 multiplied by a factor equal to the most current quarterly "price  
30 deflator" available, divided by the "price deflator" used in the  
31 numerator the previous year. However, the "price deflator" used in  
32 the denominator for the first adjustment shall be defined by the  
33 second quarter "price deflator" for 1990.

34 (2) Each year by March 1<sup>st</sup> the fee schedule, as adjusted in  
35 subsection (1) of this section will be published. The department will  
36 round the published fees to the nearest dollar.

37 **Sec. 1225.** RCW 70.95E.050 and 1995 c 207 s 3 are each amended to  
38 read as follows:

1 In administration of this chapter for the enforcement and  
2 collection of the fees due and owing under RCW 70.95E.020 and  
3 70.95E.030 (as recodified by this act), the department may apply RCW  
4 43.17.240.

5 **Sec. 1226.** RCW 70.95E.080 and 1991 sp.s. c 13 s 75 are each  
6 amended to read as follows:

7 The hazardous waste assistance account is hereby created in the  
8 state treasury. The following moneys shall be deposited into the  
9 hazardous waste assistance account:

10 (1) Those revenues which are raised by the fees imposed under RCW  
11 70.95E.020 and 70.95E.030 (as recodified by this act);

12 (2) Penalties and surcharges collected under chapter 70.95C RCW  
13 (as recodified by this act) and this chapter; and

14 (3) Any other moneys appropriated or transferred to the account  
15 by the legislature. Moneys in the hazardous waste assistance account  
16 may be spent only for the purposes of this chapter following  
17 legislative appropriation.

18 **Sec. 1227.** RCW 70.95E.090 and 1995 c 207 s 4 are each amended to  
19 read as follows:

20 The department may use funds in the hazardous waste assistance  
21 account to provide technical assistance and compliance education  
22 assistance to hazardous substance users and waste generators, to  
23 provide grants to local governments, and for administration of this  
24 chapter.

25 Technical assistance may include the activities authorized under  
26 chapter 70.95C RCW (as recodified by this act) and RCW 70.105.170 (as  
27 recodified by this act) to encourage hazardous waste reduction and  
28 hazardous use reduction and the assistance provided for by RCW  
29 70.105.100(2) (as recodified by this act).

30 Compliance education may include the activities authorized under  
31 RCW 70.105.100(2) (as recodified by this act) to train local agency  
32 officials and to inform hazardous substance users and hazardous waste  
33 generators and owners and operators of hazardous waste management  
34 facilities of the requirements of chapter 70.105 RCW (as recodified  
35 by this act) and related federal laws and regulations. To the extent  
36 practicable, the department shall contract with private businesses to  
37 provide compliance education.

1 Grants to local governments shall be used for small quantity  
2 generator technical assistance and compliance education components of  
3 their moderate risk waste plans as required by RCW 70.105.220 (as  
4 recodified by this act).

5 **Sec. 1228.** RCW 70.95F.020 and 1991 c 319 s 104 are each amended  
6 to read as follows:

7 (1) The provisions of this section and any rules adopted under  
8 this section shall be interpreted to conform with nationwide plastics  
9 industry standards.

10 (2) Except as provided in RCW 70.95F.030(2) (as recodified by  
11 this act), after January 1, 1992, no person may distribute, sell, or  
12 offer for sale in this state a plastic bottle or rigid plastic  
13 container unless the container is labeled with a code identifying the  
14 appropriate resin type used to produce the structure of the  
15 container. The code shall consist of a number placed within three  
16 triangulated arrows and letters placed below the triangle of arrows.  
17 The triangulated arrows shall be equilateral, formed by three arrows  
18 with the apex of each point of the triangle at the midpoint of each  
19 arrow, rounded with a short radius. The pointer (arrowhead) of each  
20 arrow shall be at the midpoint of each side of the triangle with a  
21 short gap separating the pointer from the base of the adjacent arrow.  
22 The triangle, formed by the three arrows curved at their midpoints  
23 shall depict a clockwise path around the code number. The numbers and  
24 letters used shall be as follows:

- 25 (a) 1.= PETE (polyethylene terephthalate)
- 26 (b) 2.= HDPE (high density polyethylene)
- 27 (c) 3.= V (vinyl)
- 28 (d) 4.= LDPE (low density polyethylene)
- 29 (e) 5.= PP (polypropylene)
- 30 (f) 6.= PS (polystyrene)
- 31 (g) 7.= OTHER

32 **Sec. 1229.** RCW 70.95F.030 and 1991 c 319 s 105 are each amended  
33 to read as follows:

34 (1) A person who, after written notice from the department,  
35 violates RCW 70.95F.020 (as recodified by this act) is subject to a  
36 civil penalty of fifty dollars for each violation up to a maximum of

1 five hundred dollars and may be enjoined from continuing violations.  
2 Each distribution constitutes a separate offense.

3 (2) Retailers and distributors shall have two years from May 21,  
4 1991, to clear current inventory, delivered or received and held in  
5 their possession as of May 21, 1991.

6 **Sec. 1230.** RCW 70.95G.030 and 1991 c 319 s 109 are each amended  
7 to read as follows:

8 All packages and packaging components shall be subject to this  
9 chapter except the following:

10 (1) Those packages or package components with a code indicating  
11 date of manufacture that were manufactured prior to May 21, 1991;

12 (2) Those packages or packaging components that have been  
13 purchased by, delivered to, or are possessed by a retailer on or  
14 before twenty-four months following May 21, 1991, to permit  
15 opportunity to clear existing inventory of the proscribed packaging  
16 material;

17 (3) Those packages or packaging components to which lead,  
18 cadmium, mercury, or hexavalent chromium have been added in the  
19 manufacturing, forming, printing, or distribution process in order to  
20 comply with health or safety requirements of federal law or for which  
21 there is no feasible alternative; or

22 (4) Those packages and packaging components that would not exceed  
23 the maximum contaminant levels set forth in RCW 70.95G.020(1) (as  
24 recodified by this act) but for the addition of postconsumer  
25 materials; and provided that the exemption for this subsection shall  
26 expire six years after May 21, 1991.

27 **Sec. 1231.** RCW 70.95G.040 and 2018 c 138 s 3 are each amended to  
28 read as follows:

29 A certificate of compliance stating that a package or packaging  
30 component is in compliance with the requirements of this chapter  
31 shall be developed by its manufacturer. For food packaging, a  
32 manufacturer shall develop a compliance certificate by the date of a  
33 prohibition taking effect under RCW 70.95G.070 (as recodified by this  
34 act). If compliance is achieved under the exemption or exemptions  
35 provided in RCW 70.95G.030 (as recodified by this act), the  
36 certificate shall state the specific basis upon which the exemption  
37 is claimed. The certificate of compliance shall be signed by an  
38 authorized official of the manufacturing company. The certificate of



1 compliance shall be kept on file by the manufacturer for as long as  
2 the package or packaging component is in use, and for three years  
3 from the date of the last sale or distribution by the manufacturer.  
4 Certificates of compliance, or copies thereof, shall be furnished to  
5 the department of ecology upon request within sixty days. If  
6 manufacturers are required under any other state statute to provide a  
7 certificate of compliance, one certificate may be developed  
8 containing all required information.

9 If the manufacturer or supplier of the package or packaging  
10 component reformulates or creates a new package or packaging  
11 component, the manufacturer shall develop an amended or new  
12 certificate of compliance for the reformulated or new package or  
13 packaging component.

14 **Sec. 1232.** RCW 70.95G.060 and 1991 c 319 s 112 are each amended  
15 to read as follows:

16 The department of ecology may prohibit the sale of any package  
17 for which a manufacturer has failed to respond to a request by the  
18 department for a certificate of compliance within the allotted period  
19 of time pursuant to RCW 70.95G.040 (as recodified by this act).

20 **Sec. 1233.** RCW 70.95I.010 and 1991 c 319 s 302 are each amended  
21 to read as follows:

22 Unless the context clearly requires otherwise, the definitions in  
23 this section apply throughout this chapter.

24 (1) "Rerefining used oil" means the reclaiming of base lube stock  
25 from used oil for use again in the production of lube stock.  
26 Rerefining used oil does not mean combustion or landfilling.

27 (2) "Used oil" means (a) lubricating fluids that have been  
28 removed from an engine crankcase, transmission, gearbox, hydraulic  
29 device, or differential of an automobile, bus, truck, vessel, plane,  
30 heavy equipment, or machinery powered by an internal combustion  
31 engine; (b) any oil that has been refined from crude oil, used, and  
32 as a result of use, has been contaminated with physical or chemical  
33 impurities; and (c) any oil that has been refined from crude oil and,  
34 as a consequence of extended storage, spillage, or contamination, is  
35 no longer useful to the original purchaser. "Used oil" does not  
36 include used oil to which hazardous wastes have been added.

37 (3) "Public used oil collection site" means a site where a used  
38 oil collection tank has been placed for the purpose of collecting

1 household generated used oil. "Public used oil collection site" also  
2 means a vehicle designed or operated to collect used oil from the  
3 public.

4 (4) "Lubricating oil" means any oil designed for use in, or  
5 maintenance of, a vehicle, including, but not limited to, motor oil,  
6 gear oil, and hydraulic oil. "Lubricating oil" does not mean  
7 petroleum hydrocarbons with a flash point below one hundred degrees  
8 Centigrade.

9 (5) "Vehicle" includes every device physically capable of being  
10 moved upon a public or private highway, road, street, watercourse, or  
11 trail, and in, upon, or by which any person or property is or may be  
12 transported or drawn upon a public or private highway, road, street,  
13 watercourse, or trail, except devices moved by human or animal power.

14 (6) "Department" means the department of ecology.

15 (7) "Local government" means a city or county developing a local  
16 hazardous waste plan under RCW 70.105.220 (as recodified by this  
17 act).

18 **Sec. 1234.** RCW 70.95I.020 and 2014 c 173 s 1 are each amended to  
19 read as follows:

20 (1) Each local government and its local hazardous waste plan  
21 under RCW 70.105.220 (as recodified by this act) is required to  
22 include a used oil recycling element. This element shall include:

23 (a) A plan to reach the local goals for household used oil  
24 recycling established by the local government and the department  
25 under RCW 70.95I.030 (as recodified by this act). The plan shall, to  
26 the maximum extent possible, incorporate voluntary agreements with  
27 the private sector and state agencies to provide sites for the  
28 collection of used oil. Where provided, the plan shall also  
29 incorporate residential collection of used oil;

30 (b) A plan for enforcing the sign and container ordinances  
31 required by RCW 70.95I.040 (as recodified by this act);

32 (c) A plan for public education on used oil recycling;

33 (d) A plan for addressing best management practices as provided  
34 for under RCW 70.95I.030 (as recodified by this act); and

35 (e) An estimate of funding needed to implement the requirements  
36 of this chapter. This estimate shall include a budget reserve for  
37 disposal of contaminated oil detected at any public used oil  
38 collection site administered by the local government.

1 (2) By July 1, 1993, each local government or combination of  
2 contiguous local governments shall submit its used oil recycling  
3 element to the department. The department shall approve or disapprove  
4 the used oil recycling element by January 1, 1994, or within ninety  
5 days of submission, whichever is later. The department shall approve  
6 or disapprove the used oil recycling element if it determines that  
7 the element is consistent with this chapter and the guidelines  
8 developed by the department under RCW 70.95I.030 (as recodified by  
9 this act).

10 (3) Each local government, or combination of contiguous local  
11 governments, shall submit an annual statement to the department  
12 describing the number of used oil collection sites and the quantity  
13 of household used oil recycled for the jurisdiction during the  
14 previous calendar year. The first statement shall be due April 1,  
15 1994. Subsequent statements shall be due April 1st of each year.

16 (4) Nothing in this section shall be construed to require a city  
17 or county to construct or operate a public used oil collection site.

18 **Sec. 1235.** RCW 70.95I.030 and 2014 c 173 s 2 are each amended to  
19 read as follows:

20 (1) The department shall, in consultation with local governments,  
21 maintain guidelines for the used oil recycling elements required by  
22 RCW 70.95I.020 (as recodified by this act) and, by July 1, 2015,  
23 shall develop best management practices for preventing and managing  
24 polychlorinated biphenyl contamination at public used oil collection  
25 sites.

26 (a) The guidelines shall:

27 (i) Require development of local collection and rerefining goals  
28 for household used oil for each entity preparing a used oil recycling  
29 element under RCW 70.95I.020 (as recodified by this act);

30 (ii) Require local government to recommend the number of used oil  
31 collection sites needed to meet the local goals. The department shall  
32 establish criteria regarding minimum levels of used oil collection  
33 sites;

34 (iii) Require local government to identify locations suitable as  
35 public used oil collection sites as described under RCW  
36 70.95I.020(1)(a) (as recodified by this act).

37 (b) The best management practices for preventing and managing  
38 polychlorinated biphenyl contamination at public used oil collection  
39 sites must include, at a minimum:

- 1 (i) Tank testing requirements;
- 2 (ii) Contaminated tank labeling and security measures;
- 3 (iii) Contaminated tank cleanup standards;
- 4 (iv) Proper contaminated used oil disposal as required under
- 5 chapter 70.105 RCW (as recodified by this act) and 40 C.F.R. Part
- 6 761;
- 7 (v) Spill control measures; and
- 8 (vi) Model contract language for contracts with used oil
- 9 collection vendors.

10 (2) The department may waive all or part of the specific  
11 requirements of RCW 70.95I.020 (as recodified by this act) if a local  
12 government demonstrates to the satisfaction of the department that  
13 the objectives of this chapter have been met.

14 (3) The department may prepare and implement a used oil recycling  
15 plan for any local government failing to complete the used oil  
16 recycling element of the plan.

17 (4) The department shall develop statewide collection and  
18 rerefining goals for household used oil for each calendar year  
19 beginning with calendar year 1994. Goals shall be based on the  
20 estimated statewide collection and rerefining rate for calendar year  
21 1993, and shall increase each year until calendar year 1996, when the  
22 rate shall be eighty percent.

23 (5) By July 1, 2015, the department shall update the guidelines  
24 establishing statewide equipment and operating standards for public  
25 used oil collection sites. The updated guidelines must include the  
26 best management practices for prevention and management of  
27 contaminated used oil developed pursuant to subsection (1) of this  
28 section and a process for how to petition the legislature for relief  
29 of extraordinary costs incurred with the management and disposal of  
30 contaminated used oil. In addition, the standards shall:

31 (a) Allow the use of used oil collection igloos and other types  
32 of portable used oil collection tanks;

33 (b) Prohibit the disposal of nonhousehold-generated used oil;

34 (c) Limit the amount of used oil deposited to five gallons per  
35 household per day;

36 (d) Ensure adequate protection against leaks and spills; and

37 (e) Include other requirements deemed appropriate by the  
38 department.

1           **Sec. 1236.** RCW 70.95I.040 and 1991 c 319 s 305 are each amended  
2 to read as follows:

3           (1) A person annually selling one thousand or more gallons of  
4 lubricating oil to ultimate consumers for use or installation off the  
5 premises, or five hundred or more vehicle oil filters to ultimate  
6 consumers for use or installation off the premises within a city or  
7 county having an approved used oil recycling element, shall:

8           (a) Post and maintain at or near the point of sale, durable and  
9 legible signs informing the public of the importance of used oil  
10 recycling and how and where used oil may be properly recycled; and

11           (b) Provide for sale at or near the display location of the  
12 lubricating oil or vehicle oil filters, household used oil recycling  
13 containers. The department shall design and print the signs required  
14 by this section, and shall make them available to local governments  
15 and retail outlets.

16           (2) A person, who, after notice, violates this section is guilty  
17 of a misdemeanor and on conviction is subject to a fine not to exceed  
18 one thousand dollars.

19           (3) The department is responsible for notifying retailers subject  
20 to this section.

21           (4) A city or county may adopt household used oil recycling  
22 container standards in order to ensure compatibility with local  
23 recycling programs.

24           (5) Each local government preparing a used oil recycling element  
25 of a local hazardous waste plan pursuant to RCW 70.95I.020 (as  
26 recodified by this act) shall adopt ordinances within its  
27 jurisdiction to enforce subsections (1) and (4) of this section.

28           **Sec. 1237.** RCW 70.95I.060 and 1991 c 319 s 307 are each amended  
29 to read as follows:

30           (1) Effective January 1, 1992, the use of used oil for dust  
31 suppression or weed abatement is prohibited.

32           (2) Effective July 1, 1992, no person may sell or distribute  
33 absorbent-based kits, intended for home use, as a means for  
34 collecting, recycling, or disposing of used oil.

35           (3) Effective January 1, 1994, no person may knowingly dispose of  
36 used oil except by delivery to a person collecting used oil for  
37 recycling, treatment, or disposal, subject to the provisions of this  
38 chapter and chapter 70.105 RCW (as recodified by this act).

1 (4) Effective January 1, 1994, no owner or operator of a solid  
2 waste landfill may knowingly accept used oil for disposal in the  
3 landfill.

4 (5) A person who violates this section is guilty of a  
5 misdemeanor.

6 **Sec. 1238.** RCW 70.95I.070 and 1991 c 319 s 308 are each amended  
7 to read as follows:

8 (1) By January 1, 1993, the department shall adopt rules  
9 requiring any transporter of used oil to comply with minimum  
10 notification, invoicing, recordkeeping, and reporting requirements.  
11 For the purpose of this section, a transporter means a person engaged  
12 in the off-site transportation of used oil in quantities greater than  
13 twenty-five gallons per day.

14 (2) By January 1, 1993, the department shall adopt minimum  
15 standards for used oil that is blended into fuels. Standards shall,  
16 at a minimum, establish testing and recordkeeping requirements.  
17 Unless otherwise exempted, a processor is any person involved in the  
18 marketing, blending, mixing, or processing of used oil to produce  
19 fuel to be burned for energy recovery.

20 (3) Any person who knowingly transports used oil without meeting  
21 the requirements of this section shall be subject to civil penalties  
22 under chapter 70.105 RCW (as recodified by this act).

23 (4) Rules developed under this section shall not require a  
24 manifest from individual residences served by a waste oil curbside  
25 collection program.

26 **Sec. 1239.** RCW 70.95J.010 and 1992 c 174 s 3 are each amended to  
27 read as follows:

28 Unless the context clearly requires otherwise, the definitions in  
29 this section apply throughout this chapter.

30 (1) "Biosolids" means municipal sewage sludge that is a primarily  
31 organic, semisolid product resulting from the wastewater treatment  
32 process, that can be beneficially recycled and meets all requirements  
33 under this chapter. For the purposes of this chapter, "biosolids"  
34 includes septic tank sludge, also known as septage, that can be  
35 beneficially recycled and meets all requirements under this chapter.

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

1 (3) "Local health department" has the same meaning as  
2 "jurisdictional health department" in RCW 70.95.030 (as recodified by  
3 this act).

4 (4) "Municipal sewage sludge" means a semisolid substance  
5 consisting of settled sewage solids combined with varying amounts of  
6 water and dissolved materials generated from a publicly owned  
7 wastewater treatment plant.

8 **Sec. 1240.** RCW 70.95J.090 and 1992 c 174 s 11 are each amended  
9 to read as follows:

10 (1) Any permit issued by a local health department under RCW  
11 70.95J.080 (as recodified by this act) may be reviewed by the  
12 department to ensure that the proposed site or facility conforms with  
13 all applicable laws, rules, and standards under this chapter.

14 (2) If the department does not approve or disapprove a permit  
15 within sixty days, the permit shall be considered approved.

16 (3) A local health department may appeal the department's  
17 decision to disapprove a permit to the pollution control hearings  
18 board, as provided in chapter 43.21B RCW.

19 **Sec. 1241.** RCW 70.95K.010 and 2019 c 432 s 32 are each amended  
20 to read as follows:

21 The definitions in this section apply throughout this chapter  
22 unless the context clearly requires otherwise.

23 (1) "Biomedical waste" means, and is limited to, the following  
24 types of waste:

25 (a) "Animal waste" is waste animal carcasses, body parts, and  
26 bedding of animals that are known to be infected with, or that have  
27 been inoculated with, human pathogenic microorganisms infectious to  
28 humans.

29 (b) "Biosafety level 4 disease waste" is waste contaminated with  
30 blood, excretions, exudates, or secretions from humans or animals who  
31 are isolated to protect others from highly communicable infectious  
32 diseases that are identified as pathogenic organisms assigned to  
33 biosafety level 4 by the centers for disease control, national  
34 institute of health, biosafety in microbiological and biomedical  
35 laboratories, current edition.

36 (c) "Cultures and stocks" are wastes infectious to humans and  
37 includes specimen cultures, cultures and stocks of etiologic agents,  
38 wastes from production of biologicals and serums, discarded live and

1 attenuated vaccines, and laboratory waste that has come into contact  
2 with cultures and stocks of etiologic agents or blood specimens. Such  
3 waste includes but is not limited to culture dishes, blood specimen  
4 tubes, and devices used to transfer, inoculate, and mix cultures.

5 (d) "Human blood and blood products" is discarded waste human  
6 blood and blood components, and materials containing free-flowing  
7 blood and blood products.

8 (e) "Pathological waste" is waste human source biopsy materials,  
9 tissues, and anatomical parts that emanate from surgery, obstetrical  
10 procedures, and autopsy. "Pathological waste" does not include teeth,  
11 human corpses, remains, and anatomical parts that are intended for  
12 final disposition.

13 (f) "Sharps waste" is all hypodermic needles, syringes with  
14 needles attached, IV tubing with needles attached, scalpel blades,  
15 and lancets that have been removed from the original sterile package.

16 (2) "Local government" means city, town, or county.

17 (3) "Local health department" means the city, county, city-  
18 county, or district public health department.

19 (4) "Person" means an individual, firm, corporation, association,  
20 partnership, consortium, joint venture, commercial entity, state  
21 government agency, or local government.

22 (5) "Treatment" means incineration, sterilization, or other  
23 method, technique, or process that changes the character or  
24 composition of a biomedical waste so as to minimize the risk of  
25 transmitting an infectious disease.

26 (6) "Residential sharps waste" has the same meaning as "sharps  
27 waste" in subsection (1) of this section except that the sharps waste  
28 is generated and prepared for disposal at a residence, apartment,  
29 dwelling, or other noncommercial habitat.

30 (7) "Sharps waste container" means a leak-proof, rigid, puncture-  
31 resistant red container that is taped closed or tightly lidded to  
32 prevent the loss of the residential sharps waste.

33 (8) "Mail programs" means those programs that provide sharps  
34 users with a multiple barrier protection kit for the placement of a  
35 sharps container and subsequent mailing of the wastes to an approved  
36 disposal facility.

37 (9) "Pharmacy return programs" means those programs where sharps  
38 containers are returned by the user to designated return sites  
39 located at a pharmacy to be transported by a biomedical or solid



1 waste collection company approved by the utilities and transportation  
2 commission.

3 (10) "Drop-off programs" means those program sites designated by  
4 the solid waste planning jurisdiction where sharps users may dispose  
5 of their sharps containers.

6 (11) "Source separation" has the same meaning as in RCW 70.95.030  
7 (as recodified by this act).

8 (12) "Unprotected sharps" means residential sharps waste that are  
9 not disposed of in a sharps waste container.

10 **Sec. 1242.** RCW 70.95K.011 and 1992 c 14 s 3 are each amended to  
11 read as follows:

12 The definition of biomedical waste set forth in RCW 70.95K.010  
13 (as recodified by this act) shall be the sole state definition for  
14 biomedical waste within the state, and shall preempt biomedical waste  
15 definitions established by a local health department or local  
16 government.

17 **Sec. 1243.** RCW 70.95L.010 and 1993 c 118 s 2 are each amended to  
18 read as follows:

19 Unless the context clearly requires otherwise, the definitions in  
20 this section apply throughout RCW 70.95L.005 through 70.95L.030 (as  
21 recodified by this act).

22 (1) "Department" means the department of ecology.

23 (2) "Dishwashing detergent" means a cleaning agent sold, used, or  
24 manufactured for the purpose of cleaning dishes, whether by hand or  
25 by household machine.

26 (3) "Laundry detergent" means a cleaning agent sold, used, or  
27 manufactured for the purpose of cleaning laundry, whether by hand or  
28 by household machine.

29 (4) "Person" means an individual, firm, association,  
30 copartnership, political subdivision, government agency,  
31 municipality, industry, public or private corporation, or any other  
32 entity whatsoever.

33 (5) "Phosphorus" means elemental phosphorus.

34 **Sec. 1244.** RCW 70.95L.040 and 1993 c 118 s 5 are each amended to  
35 read as follows:

36 The attorney general or appropriate city or county prosecuting  
37 attorney is authorized to bring an appropriate action to enjoin any

1 violation of the provisions of RCW 70.95L.020 (as recodified by this  
2 act).

3 **Sec. 1245.** RCW 70.95M.080 and 2019 c 422 s 405 are each amended  
4 to read as follows:

5 A violation of this chapter is punishable by a civil penalty not  
6 to exceed one thousand dollars for each violation in the case of a  
7 first violation. Repeat violators are liable for a civil penalty not  
8 to exceed five thousand dollars for each repeat violation. Penalties  
9 collected under this section must be deposited in the model toxics  
10 control operating account created in RCW 70.105D.190 (as recodified  
11 by this act).

12 **Sec. 1246.** RCW 70.95M.110 and 2003 c 260 s 13 are each amended  
13 to read as follows:

14 Nothing in RCW 70.95M.020, 70.95M.050 (1), (3), or (4), or  
15 70.95M.060 (as recodified by this act) applies to medical equipment  
16 or reagents used in medical or research tests regulated by the food  
17 and drug administration under the federal food, drug, and cosmetic  
18 act (21 U.S.C. Sec. 301 et seq.).

19 **Sec. 1247.** RCW 70.95N.020 and 2013 c 305 s 1 are each reenacted  
20 and amended to read as follows:

21 The definitions in this section apply throughout this chapter  
22 unless the context clearly requires otherwise.

23 (1) "Authority" means the Washington materials management and  
24 financing authority created under RCW 70.95N.280 (as recodified by  
25 this act).

26 (2) "Authorized party" means a manufacturer who submits an  
27 individual independent plan or the entity authorized to submit an  
28 independent plan for more than one manufacturer.

29 (3) "Board" means the board of directors of the Washington  
30 materials management and financing authority created under RCW  
31 70.95N.290 (as recodified by this act).

32 (4) "Collector" means an entity licensed to do business in the  
33 state that gathers unwanted covered electronic products from  
34 households, small businesses, school districts, small governments,  
35 and charities for the purpose of recycling and meets minimum  
36 standards that may be developed by the department.

1 (5) "Contract for services" means an instrument executed by the  
2 authority and one or more persons or entities that delineates  
3 collection, transportation, and recycling services, in whole or in  
4 part, that will be provided to the citizens of the state within  
5 service areas as described in the approved standard plan.

6 (6) "Covered electronic product" includes a cathode ray tube or  
7 flat panel computer monitor having a viewable area greater than four  
8 inches when measured diagonally, a desktop computer, a laptop or a  
9 portable computer, or a cathode ray tube or flat panel television  
10 having a viewable area greater than four inches when measured  
11 diagonally that has been used in the state by any covered entity  
12 regardless of original point of purchase. "Covered electronic  
13 product" does not include: (a) A motor vehicle or replacement parts  
14 for use in motor vehicles or aircraft, or any computer, computer  
15 monitor, or television that is contained within, and is not separate  
16 from, the motor vehicle or aircraft; (b) monitoring and control  
17 instruments or systems; (c) medical devices; (d) products including  
18 materials intended for use as ingredients in those products as  
19 defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec.  
20 301 et seq.) or the virus-serum-toxin act of 1913 (21 U.S.C. Sec. 151  
21 et seq.), and regulations issued under those acts; (e) equipment used  
22 in the delivery of patient care in a health care setting; (f) a  
23 computer, computer monitor, or television that is contained within a  
24 clothes washer, clothes dryer, refrigerator, refrigerator and  
25 freezer, microwave oven, conventional oven or range, dishwasher, room  
26 air conditioner, dehumidifier, or air purifier; or (g) handheld  
27 portable voice or data devices used for commercial mobile services as  
28 defined in 47 U.S.C. Sec. 332 (d)(1).

29 (7) "Covered entity" means any household, charity, school  
30 district, small business, or small government located in Washington  
31 state.

32 (8) "Curbside service" means a collection service providing  
33 regularly scheduled pickup of covered electronic products from  
34 households or other covered entities in quantities generated from  
35 households.

36 (9) "Department" means the department of ecology.

37 (10) "Electronic product" includes a cathode ray tube or flat  
38 panel computer monitor having a viewable area greater than four  
39 inches when measured diagonally; a desktop computer; a laptop or a  
40 portable computer; or a cathode ray tube or flat screen television

1 having a viewable area greater than four inches when measured  
2 diagonally.

3 (11) "Equivalent share" means the weight in pounds of covered  
4 electronic products identified for an individual manufacturer under  
5 this chapter as determined by the department under RCW 70.95N.200 (as  
6 recodified by this act).

7 (12) "Household" means a single detached dwelling unit or a  
8 single unit of a multiple dwelling unit and appurtenant structures.

9 (13) "Independent plan" means a plan for the collection,  
10 transportation, and recycling of unwanted covered electronic products  
11 that is developed, implemented, and financed by an individual  
12 manufacturer or by an authorized party.

13 (14) "Manufacturer" means any person, in business or no longer in  
14 business but having a successor in interest, who, irrespective of the  
15 selling technique used, including by means of distance or remote  
16 sale:

17 (a) Manufactures or has manufactured a covered electronic product  
18 under its own brand names for sale in or into this state;

19 (b) Assembles or has assembled a covered electronic product that  
20 uses parts manufactured by others for sale in or into this state  
21 under the assembler's brand names;

22 (c) Resells or has resold in or into this state under its own  
23 brand names a covered electronic product produced by other suppliers,  
24 including retail establishments that sell covered electronic products  
25 under their own brand names;

26 (d) Manufactures or manufactured a cobranded product for sale in  
27 or into this state that carries the name of both the manufacturer and  
28 a retailer;

29 (e) Imports or has imported a covered electronic product into the  
30 United States that is sold in or into this state. However, if the  
31 imported covered electronic product is manufactured by any person  
32 with a presence in the United States meeting the criteria of  
33 manufacturer under (a) through (d) of this subsection, that person is  
34 the manufacturer. For purposes of this subsection, "presence" means  
35 any person that performs activities conducted under the standards  
36 established for interstate commerce under the commerce clause of the  
37 United States Constitution;

38 (f) Sells at retail a covered electronic product acquired from an  
39 importer that is the manufacturer as described in (e) of this

1 subsection, and elects to register in lieu of the importer as the  
2 manufacturer for those products; or

3 (g) Beginning in program year 2016, elects to assume the  
4 responsibility and register in lieu of a manufacturer as defined  
5 under this section. In the event the entity who assumes  
6 responsibility fails to comply, the manufacturer as defined under (a)  
7 through (f) of this subsection remains fully responsible.

8 (15) "Market share" means the percentage of covered electronic  
9 products by weight identified for an individual manufacturer, as  
10 determined by the department under RCW 70.95N.190 (as recodified by  
11 this act).

12 (16) "New entrant" means: (a) A manufacturer of televisions that  
13 have been sold in the state for less than ten years; or (b) a  
14 manufacturer of desktop computers, laptop and portable computers, or  
15 computer monitors that have been sold in the state for less than five  
16 years. However, a manufacturer of both televisions and computers or a  
17 manufacturer of both televisions and computer monitors that is deemed  
18 a new entrant under either only (a) or (b) of this subsection is not  
19 considered a new entrant for purposes of this chapter.

20 (17) "Orphan product" means a covered electronic product that  
21 lacks a manufacturer's brand or for which the manufacturer is no  
22 longer in business and has no successor in interest.

23 (18) "Plan's equivalent share" means the weight in pounds of  
24 covered electronic products for which a plan is responsible. A plan's  
25 equivalent share is equal to the sum of the equivalent shares of each  
26 manufacturer participating in that plan.

27 (19) "Plan's market share" means the sum of the market shares of  
28 each manufacturer participating in that plan.

29 (20) "Plan's return share" means the sum of the return shares of  
30 each manufacturer participating in that plan.

31 (21) "Premium service" means services such as at-location system  
32 upgrade services provided to covered entities and at-home pickup  
33 services offered to households. "Premium service" does not include  
34 curbside service.

35 (22) "Processor" means an entity engaged in disassembling,  
36 dismantling, or shredding electronic products to recover materials  
37 contained in the electronic products and prepare those materials for  
38 reclaiming or reuse in new products in accordance with processing  
39 standards established by this chapter and by the department. A  
40 processor may also salvage parts to be used in new products.

1 (23) "Product type" means one of the following categories:  
2 Computer monitors; desktop computers; laptop and portable computers;  
3 and televisions.

4 (24) "Program" means the collection, transportation, and  
5 recycling activities conducted to implement an independent plan or  
6 the standard plan.

7 (25) "Program year" means each full calendar year after the  
8 program has been initiated.

9 (26) "Recycling" means transforming or remanufacturing unwanted  
10 electronic products, components, and by-products into usable or  
11 marketable materials for use other than landfill disposal or  
12 incineration. "Recycling" does not include energy recovery or energy  
13 generation by means of combusting unwanted electronic products,  
14 components, and by-products with or without other waste. Smelting of  
15 electronic materials to recover metals for reuse in conformance with  
16 all applicable laws and regulations is not considered disposal or  
17 energy recovery.

18 (27) "Retailer" means a person who offers covered electronic  
19 products for sale at retail through any means including, but not  
20 limited to, remote offerings such as sales outlets, catalogs, or the  
21 internet, but does not include a sale that is a wholesale transaction  
22 with a distributor or a retailer.

23 (28) "Return share" means the percentage of covered electronic  
24 products by weight identified for an individual manufacturer, as  
25 determined by the department under RCW 70.95N.190 (as recodified by  
26 this act).

27 (29) "Reuse" means any operation by which an electronic product  
28 or a component of a covered electronic product changes ownership and  
29 is used for the same purpose for which it was originally purchased.

30 (30) "Small business" means a business employing less than fifty  
31 people.

32 (31) "Small government" means a city in the state with a  
33 population less than fifty thousand, a county in the state with a  
34 population less than one hundred twenty-five thousand, and special  
35 purpose districts in the state.

36 (32) "Standard plan" means the plan for the collection,  
37 transportation, and recycling of unwanted covered electronic products  
38 developed, implemented, and financed by the authority on behalf of  
39 manufacturers participating in the authority.

1 (33) "Transporter" means an entity that transports covered  
2 electronic products from collection sites or services to processors  
3 or other locations for the purpose of recycling, but does not include  
4 any entity or person that hauls their own unwanted electronic  
5 products.

6 (34) "Unwanted electronic product" means a covered electronic  
7 product that has been discarded or is intended to be discarded by its  
8 owner.

9 (35) "White box manufacturer" means a person who manufactured  
10 unbranded covered electronic products offered for sale in the state  
11 within ten years prior to a program year for televisions or within  
12 five years prior to a program year for desktop computers, laptop or  
13 portable computers, or computer monitors.

14 **Sec. 1248.** RCW 70.95N.040 and 2013 c 305 s 2 are each amended to  
15 read as follows:

16 (1) By January 1, 2007, and annually thereafter, each  
17 manufacturer must register with the department.

18 (2) A manufacturer must submit to the department with each  
19 registration or annual renewal a fee to cover the administrative  
20 costs of this chapter as determined by the department under RCW  
21 70.95N.230 (as recodified by this act).

22 (3) The department shall review the registration or renewal  
23 application and notify the manufacturer if their registration does  
24 not meet the requirements of this section. Within thirty days of  
25 receipt of such a notification from the department, the manufacturer  
26 must file with the department a revised registration addressing the  
27 requirements noted by the department.

28 (4) The registration must include the following information:

29 (a) The name and contact information of the manufacturer  
30 submitting the registration;

31 (b) The manufacturer's brand names of covered electronic  
32 products, including all brand names sold in the state in the past,  
33 all brand names currently being sold in the state, and all brand  
34 names for which the manufacturer has legal responsibility under RCW  
35 70.95N.100 (as recodified by this act);

36 (c) The method or methods of sale used in the state; and

37 (d) Whether the registrant will be participating in the standard  
38 plan or submitting an independent plan to the department for  
39 approval.

1 (5) The registrant shall submit any changes to the information  
2 provided in the registration to the department within fourteen days  
3 of such change.

4 (6) The department shall identify, using all reasonable means,  
5 manufacturers that are in business or that are no longer in business  
6 but that have a successor in interest by examining best available  
7 return share data, product advertisements, and other pertinent data.  
8 The department shall notify manufacturers that have been identified  
9 and for whom an address has been found of the requirements of this  
10 chapter, including registration and plan requirements under this  
11 section and RCW 70.95N.050 (as recodified by this act).

12 **Sec. 1249.** RCW 70.95N.060 and 2006 c 183 s 6 are each amended to  
13 read as follows:

14 (1) All initial independent plans and the initial standard plan  
15 required under RCW 70.95N.050 (as recodified by this act) must be  
16 submitted to the department by February 1, 2008. The department shall  
17 review each independent plan and the standard plan.

18 (2) The authority submitting the standard plan and each  
19 authorized party submitting an independent plan to the department  
20 must pay a fee to the department to cover the costs of administering  
21 and implementing this chapter. The department shall set the fees as  
22 described under RCW 70.95N.230 (as recodified by this act).

23 (3) The fees in subsection (2) of this section apply to the  
24 initial plan submission and plan updates and revisions required in  
25 RCW 70.95N.070 (as recodified by this act).

26 (4) Within ninety days after receipt of a plan, the department  
27 shall determine whether the plan complies with this chapter. If the  
28 plan is approved, the department shall send a letter of approval. If  
29 a plan is rejected, the department shall provide the reasons for  
30 rejecting the plan to the authority or authorized party. The  
31 authority or authorized party must submit a new plan within sixty  
32 days after receipt of the letter of disapproval.

33 (5) An independent plan and the standard plan must contain the  
34 following elements:

35 (a) Contact information for the authority or authorized party and  
36 a comprehensive list of all manufacturers participating in the plan  
37 and their contact information;



1 (b) A description of the collection, transportation, and  
2 recycling systems and service providers used, including a description  
3 of how the authority or authorized party will:

4 (i) Seek to use businesses within the state, including retailers,  
5 charities, processors, and collection and transportation services;

6 (ii) Fairly compensate collectors for providing collection  
7 services; and

8 (iii) Fairly compensate processors for providing processing  
9 services;

10 (c) The method or methods for the reasonably convenient  
11 collection of all product types of covered electronic products in  
12 rural and urban areas throughout the state, including how the plan  
13 will provide for collection services in each county of the state and  
14 for a minimum of one collection site or alternate collection service  
15 for each city or town with a population greater than ten thousand. A  
16 collection site for a county may be the same as a collection site for  
17 a city or town in the county;

18 (d) A description of how the plan will provide service to small  
19 businesses, small governments, charities, and school districts in  
20 Washington;

21 (e) The processes and methods used to recycle covered electronic  
22 products including a description of the processing that will be used  
23 and the facility location;

24 (f) Documentation of audits of each processor used in the plan  
25 and compliance with processing standards established under RCW  
26 70.95N.250 (~~and section 26 of this act~~) (as recodified by this  
27 act);

28 (g) A description of the accounting and reporting systems that  
29 will be employed to track progress toward the plan's equivalent  
30 share;

31 (h) A timeline describing start-up, implementation, and progress  
32 towards milestones with anticipated results;

33 (i) A public information campaign to inform consumers about how  
34 to recycle their covered electronic products at the end of the  
35 product's life; and

36 (j) A description of how manufacturers participating in the plan  
37 will communicate and work with processors utilized by that plan to  
38 promote and encourage design of electronic products and their  
39 components for recycling.

1 (6) The standard plan shall address how it will incorporate and  
2 fairly compensate registered collectors providing curbside or premium  
3 services such that they are not compensated at a lower rate for  
4 collection costs than the compensation offered other collectors  
5 providing drop-off collection sites in that geographic area.

6 (7) All transporters, collectors, and processors used to fulfill  
7 the requirements of this section must be registered as described in  
8 RCW 70.95N.240 (as recodified by this act).

9 **Sec. 1250.** RCW 70.95N.070 and 2006 c 183 s 7 are each amended to  
10 read as follows:

11 (1) An independent plan and the standard plan must be updated at  
12 least every five years and as required in (a) and (b) of this  
13 subsection.

14 (a) If the program fails to provide service in each county in the  
15 state or meet other plan requirements, the authority or authorized  
16 party shall submit to the department within sixty days of failing to  
17 provide service an updated plan addressing how the program will be  
18 adjusted to meet the program geographic coverage and collection  
19 service requirements established in RCW 70.95N.090 (as recodified by  
20 this act).

21 (b) The authority or authorized party shall notify the department  
22 of any modification to the plan. If the department determines that  
23 the authority or authorized party has significantly modified the  
24 program described in the plan, the authority or authorized party  
25 shall submit a revised plan describing the changes to the department  
26 within sixty days of notification by the department.

27 (2) Within sixty days after receipt of a revised plan, the  
28 department shall determine whether the revised plan complies with  
29 this chapter. If the revised plan is approved, the department shall  
30 send a letter of approval. If the revised plan is rejected, the  
31 department shall provide the reasons for rejecting the plan to the  
32 authority or authorized party. The authority or authorized party must  
33 submit a new plan revision within sixty days after receipt of the  
34 letter of disapproval.

35 (3) The authority or authorized parties may buy and sell  
36 collected covered electronic products with other programs without  
37 submitting a plan revision for review.

1       **Sec. 1251.** RCW 70.95N.080 and 2006 c 183 s 8 are each amended to  
2 read as follows:

3       (1) A manufacturer participating in an independent plan may join  
4 the standard plan by notifying the authority and the department of  
5 its intention at least five months prior to the start of the next  
6 program year.

7       (2) Manufacturers may not change from one plan to another plan  
8 during a program year.

9       (3) A manufacturer participating in the standard plan wishing to  
10 implement or participate in an independent plan may do so by  
11 complying with rules adopted by the department under RCW 70.95N.230  
12 (as recodified by this act).

13       **Sec. 1252.** RCW 70.95N.130 and 2006 c 183 s 13 are each amended  
14 to read as follows:

15       (1) The electronic products recycling account is created in the  
16 custody of the state treasurer. All payments resulting from plans not  
17 reaching their equivalent share, as described in RCW 70.95N.220 (as  
18 recodified by this act), shall be deposited into the account. Any  
19 moneys collected for manufacturer registration fees, fees associated  
20 with reviewing and approving plans and plan revisions, and penalties  
21 levied under this chapter shall be deposited into the account.

22       (2) Only the director of the department or the director's  
23 designee may authorize expenditures from the account. The account is  
24 subject to allotment procedures under chapter 43.88 RCW, but an  
25 appropriation is not required for expenditures.

26       (3) Moneys in the account may be used solely by the department  
27 for the purposes of fulfilling department responsibilities specified  
28 in this chapter and for expenditures to the authority and authorized  
29 parties resulting from plans exceeding their equivalent share, as  
30 described in RCW 70.95N.220 (as recodified by this act). Funds in the  
31 account may not be diverted for any purpose or activity other than  
32 those specified in this section.

33       **Sec. 1253.** RCW 70.95N.140 and 2013 c 305 s 6 and 2013 c 292 s 1  
34 are each reenacted and amended to read as follows:

35       (1) By March 1st of the second program year and each program year  
36 thereafter, the authority and each authorized party shall file with  
37 the department an annual report for the preceding program year.

38       (2) The annual report must include the following information:

1 (a) The total weight in pounds of each type of covered electronic  
2 products collected and recycled, by county, during the preceding  
3 program year including documentation verifying collection and  
4 processing of that material. The total weight in pounds includes  
5 orphan products. The report must also indicate and document the  
6 weight in pounds received from each nonprofit charitable organization  
7 primarily engaged in the business of reuse and resale used by the  
8 plan. The report must document the weight in pounds that were  
9 received in large quantities from small businesses, small  
10 governments, charities and school districts as described in RCW  
11 70.95N.090(5) (as recodified by this act);

12 (b) The collection services provided in each county and for each  
13 city with a population over ten thousand including a list of all  
14 collection sites and services operating in the state in the prior  
15 program year and the parties who operated them;

16 (c) (i) A list of processors used, the weight of covered  
17 electronic products processed by each direct processor, and a  
18 description of the processes and methods used to recycle the covered  
19 electronic products including a description of the processing and  
20 facility locations. The report must also include a list of  
21 subcontractors who further processed or recycled unwanted covered  
22 electronic products or electronic components, including facility  
23 locations.

24 (ii) An estimate of the weight of each type of material recovered  
25 as a result of the processing of recycled covered electronic  
26 products. Recovered materials catalogued under this subsection must  
27 include, at a minimum: Cathode ray tube glass, circuit boards,  
28 batteries, mercury-containing devices, plastics, and metals.

29 (iii) An estimate of the percentage, by weight, of all collected  
30 products that ultimately are reused, recycled, or end up as residual  
31 waste that is disposed of in another manner;

32 (d) Educational and promotional efforts that were undertaken;

33 (e) For program years 2009 through 2014, the results of sampling  
34 and sorting as required in RCW 70.95N.110 (as recodified by this  
35 act), including a list of the brand names of covered electronic  
36 products by product type, the number of covered electronic products  
37 by product type, the weight of covered electronic products that are  
38 identified for each brand name or that lack a manufacturer's brand,  
39 and the total weight of the sample by product type;

1 (f) The list of manufacturers that are participating in the  
2 standard plan;

3 (g) A description of program revenues and costs, including: (i)  
4 The total cost of the program; and (ii) the average cost of the  
5 program per pound of covered electronic product collected;

6 (h) A detailed accounting of the following costs of the program:

7 (i) Program delivery, including: (A) Education and promotional  
8 efforts; (B) collection; (C) transportation; and (D) processing and  
9 labor; and (ii) program administration;

10 (i) A description of the methods used by the program to collect,  
11 transport, recycle, and process covered electronic products; and

12 (j) Any other information deemed necessary by the department.

13 (3) The department shall review each report within ninety days of  
14 its submission and shall notify the authority or authorized party of  
15 any need for additional information or documentation, or any  
16 deficiency in its program.

17 (4) All reports submitted to the department must be available to  
18 the general public through the internet. Proprietary information  
19 submitted to the department under this chapter is exempt from public  
20 disclosure under RCW 42.56.270.

21 **Sec. 1254.** RCW 70.95N.170 and 2006 c 183 s 17 are each amended  
22 to read as follows:

23 No person may sell or offer for sale a covered electronic product  
24 to any person in this state unless the manufacturer of the covered  
25 electronic product has filed a registration with the department under  
26 RCW 70.95N.040 (as recodified by this act) and is participating in an  
27 approved plan under RCW 70.95N.050 (as recodified by this act). A  
28 person that sells or offers for sale a covered electronic product in  
29 the state shall consult the department's web site for lists of  
30 manufacturers with registrations and approved plans prior to selling  
31 a covered electronic product in the state. A person is considered to  
32 have complied with this section if on the date the product was  
33 ordered from the manufacturer or its agent, the manufacturer was  
34 listed as having registered and having an approved plan on the  
35 department's web site.

36 **Sec. 1255.** RCW 70.95N.180 and 2013 c 305 s 7 are each amended to  
37 read as follows:

1 (1) The department shall maintain on its web site the following  
2 information:

3 (a) The names of the manufacturers and the manufacturer's brands  
4 that are registered with the department under RCW 70.95N.040 (as  
5 recodified by this act);

6 (b) The names of the manufacturers and the manufacturer's brands  
7 that are participating in an approved plan under RCW 70.95N.050 (as  
8 recodified by this act);

9 (c) The names and addresses of the collectors and transporters  
10 that are listed in registrations filed with the department under RCW  
11 70.95N.240 (as recodified by this act);

12 (d) The names and addresses of the processors used to fulfill the  
13 requirements of the plans;

14 (e) For program years 2009 through 2015, return and equivalent  
15 shares for all manufacturers.

16 (2) The department shall update this web site information  
17 promptly upon receipt of a registration or a report.

18 **Sec. 1256.** RCW 70.95N.190 and 2013 c 305 s 8 are each amended to  
19 read as follows:

20 (1) For program years 2009 through 2015, the department shall  
21 determine the return share for each manufacturer in the standard plan  
22 or an independent plan by dividing the weight of covered electronic  
23 products identified for each manufacturer by the total weight of  
24 covered electronic products identified for all manufacturers in the  
25 standard plan or an independent plan, then multiplying the quotient  
26 by one hundred.

27 (2) For the first program year, the department shall determine  
28 the return share for such manufacturers using all reasonable means  
29 and based on best available information regarding return share data  
30 from other states and other pertinent data.

31 (3) For 2014, the department shall determine the return share for  
32 such manufacturers using all reasonable means and based on the most  
33 recent sampling of covered electronic products conducted in the state  
34 under RCW 70.95N.110 (as recodified by this act).

35 (4) (a) For program year 2016 and all subsequent program years,  
36 the department shall determine market share by weight for all  
37 manufacturers using any combination of the following data:

38 (i) Generally available market research data;

1 (ii) Sales data supplied by manufacturers for brands they  
2 manufacture or sell; or

3 (iii) Sales data provided by retailers for brands they sell.

4 (b) The department shall determine each manufacturer's percentage  
5 of market share by dividing each manufacturer's total pounds of  
6 covered electronic products sold in Washington by the sum total of  
7 all pounds of covered electronic products sold in Washington by all  
8 manufacturers.

9 (5) Data reported by manufacturers under subsection (4) of this  
10 section is exempt from public disclosure under chapter 42.56 RCW.

11 **Sec. 1257.** RCW 70.95N.200 and 2013 c 305 s 9 are each amended to  
12 read as follows:

13 (1) For program years 2009 through 2015, the department shall  
14 determine the total equivalent share for each manufacturer in the  
15 standard plan or an independent plan by dividing the return share  
16 percentage for each manufacturer by one hundred, then multiplying the  
17 quotient by the total weight in pounds of covered electronic products  
18 collected for that program year, allowing as needed for the  
19 additional credit authorized in subsection (3) of this section. For  
20 program year 2016 and all subsequent program years, the department  
21 shall determine the total equivalent share for each manufacturer in  
22 the standard plan or an independent plan by dividing the market share  
23 percentage for each manufacturer by one hundred, then multiplying the  
24 quotient by the total weight in pounds of covered electronic products  
25 collected for that program year, allowing as needed for the  
26 additional credit authorized in subsection (3) of this section.

27 (2)(a) By June 1st of each program year, the department shall  
28 notify each manufacturer of the manufacturer's equivalent share of  
29 covered electronic products to be applied to the previous program  
30 year. The department shall also notify each manufacturer of how its  
31 equivalent share was determined.

32 (b) By June 1st of each program year, the department shall bill  
33 any authorized party or authority that has not attained its plan's  
34 equivalent share as determined under RCW 70.95N.220 (as recodified by  
35 this act). The authorized party or authority shall remit payment to  
36 the department within sixty days from the billing date.

37 (c) By September 1st of each program year, the department shall  
38 pay any authorized party or authority that exceeded its plan's  
39 equivalent share.

1 (3) Plans that utilize the collection services of nonprofit  
2 charitable organizations that qualify for a taxation exemption under  
3 section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C.  
4 Sec. 501(c)(3)) that are primarily engaged in the business of reuse  
5 and resale must be given an additional five percent credit to be  
6 applied toward a plan's equivalent share for pounds that are received  
7 for recycling from those organizations. The department may adjust the  
8 percentage of credit annually.

9 **Sec. 1258.** RCW 70.95N.230 and 2013 c 305 s 11 are each amended  
10 to read as follows:

11 (1) The department shall adopt rules to determine the process for  
12 manufacturers to change plans under RCW 70.95N.080 (as recodified by  
13 this act).

14 (2) The department shall establish annual registration and plan  
15 review fees for administering this chapter. An initial fee schedule  
16 must be established by rule and be adjusted no more often than once  
17 every two years. All fees charged must be based on factors relating  
18 to administering this chapter and be based on a sliding scale that is  
19 representative of annual sales of covered electronic products in the  
20 state, either by weight or unit, or by representative market share.  
21 Fees must be established in amounts to fully recover and not to  
22 exceed expenses incurred by the department to implement this chapter.

23 (3) The department shall establish an annual process for local  
24 governments and local communities to report their satisfaction with  
25 the services provided by plans under this chapter. This information  
26 must be used by the department in reviewing plan updates and  
27 revisions.

28 (4) The department may adopt rules as necessary for the purpose  
29 of implementing, administering, and enforcing this chapter.

30 **Sec. 1259.** RCW 70.95N.260 and 2006 c 183 s 27 are each amended  
31 to read as follows:

32 (1) No manufacturer may sell or offer for sale a covered  
33 electronic product in or into the state unless the manufacturer of  
34 the covered electronic product is participating in an approved plan.  
35 The department shall send a written warning to a manufacturer that  
36 does not have an approved plan or is not participating in an approved  
37 plan as required under RCW 70.95N.050 (as recodified by this act).  
38 The written warning must inform the manufacturer that it must



1 participate in an approved plan within thirty days of the notice. Any  
2 violation after the initial written warning shall be assessed a  
3 penalty of up to ten thousand dollars for each violation.

4 (2) If the authority or any authorized party fails to implement  
5 their approved plan, the department must assess a penalty of up to  
6 five thousand dollars for the first violation along with notification  
7 that the authority or authorized party must implement its plan within  
8 thirty days of the violation. After thirty days, the authority or any  
9 authorized party failing to implement their approved plan must be  
10 assessed a penalty of up to ten thousand dollars for the second and  
11 each subsequent violation.

12 (3) Any person that does not comply with manufacturer  
13 registration requirements under RCW 70.95N.040 (as recodified by this  
14 act), education and outreach requirements under RCW 70.95N.120 (as  
15 recodified by this act), reporting requirements under RCW 70.95N.140  
16 (as recodified by this act), labeling requirements under RCW  
17 70.95N.160 (as recodified by this act), retailer responsibility  
18 requirements under RCW 70.95N.170 (as recodified by this act),  
19 collector or transporter registration requirements under RCW  
20 70.95N.240 (as recodified by this act), or requirements under RCW  
21 70.95N.250 ~~((and section 26 of this act))~~ (as recodified by this  
22 act), must first receive a written warning including a copy of the  
23 requirements under this chapter and thirty days to correct the  
24 violation. After thirty days, a person must be assessed a penalty of  
25 up to one thousand dollars for the first violation and up to two  
26 thousand dollars for the second and each subsequent violation.

27 (4) All penalties levied under this section must be deposited  
28 into the electronic products recycling account created under RCW  
29 70.95N.130 (as recodified by this act).

30 (5) The department shall enforce this section.

31 **Sec. 1260.** RCW 70.95N.280 and 2006 c 183 s 29 are each amended  
32 to read as follows:

33 (1) The Washington materials management and financing authority  
34 is established as a public body corporate and politic, constituting  
35 an instrumentality of the state of Washington exercising essential  
36 governmental functions.

37 (2) The authority shall plan and implement a collection,  
38 transportation, and recycling program for manufacturers that have  
39 registered with the department their intent to participate in the

1 standard program as required under RCW 70.95N.040 (as recodified by  
2 this act).

3 (3) Membership in the authority is comprised of registered  
4 participating manufacturers. Any registered manufacturer who does not  
5 qualify or is not approved to submit an independent plan, or whose  
6 independent plan has not been approved by the department, is a member  
7 of the authority. All new entrants and white box manufacturers are  
8 also members of the authority.

9 (4) The authority shall act as a business management organization  
10 on behalf of the citizens of the state to manage financial resources  
11 and contract for services for collection, transportation, and  
12 recycling of covered electronic products.

13 (5) The authority's standard plan is responsible for collecting,  
14 transporting, and recycling the sum of the equivalent shares of each  
15 participating manufacturer.

16 (6) The authority shall accept into the standard program covered  
17 electronic products from any registered collector who meets the  
18 requirements of this chapter. The authority shall compensate  
19 registered collectors for the reasonable costs associated with  
20 collection, but is not required to compensate nor restricted from  
21 compensating the additional collection costs resulting from the  
22 additional convenience offered to customers through premium and  
23 curbside services.

24 (7) The authority shall accept and utilize in the standard  
25 program any registered processor meeting the requirements of this  
26 chapter and any requirements described in the authority's operating  
27 plan or through contractual arrangements. Processors utilized by the  
28 standard plan shall provide documentation to the authority at least  
29 annually regarding how they are meeting the requirements in RCW  
30 70.95N.250 (~~(and section 26 of this act)~~) (as recodified by this  
31 act), including enough detail to allow the standard plan to meet its  
32 reporting requirements in RCW 70.95N.140(2)(c) (~~(and (d))~~) (as  
33 recodified by this act), and must submit to audits conducted by or  
34 for the authority. The authority shall compensate such processors for  
35 the reasonable costs, as determined by the authority, associated with  
36 processing unwanted electronic products. Such processors must  
37 demonstrate that the unwanted electronic products have been received  
38 from registered collectors or transporters, and provide other  
39 documentation as may be required by the authority.

1 (8) Except as specifically allowed in this chapter, the authority  
2 shall operate without using state funds or lending the credit of the  
3 state or local governments.

4 (9) The authority shall develop innovative approaches to improve  
5 materials management efficiency in order to ensure and increase the  
6 use of secondary material resources within the economy.

7 **Sec. 1261.** RCW 70.95N.300 and 2013 c 305 s 13 are each amended  
8 to read as follows:

9 (1) Manufacturers participating in the standard plan shall pay  
10 the authority to cover all administrative and operational costs  
11 associated with the collection, transportation, and recycling of  
12 covered electronic products within the state of Washington incurred  
13 by the standard program operated by the authority to meet the  
14 standard plan's equivalent share obligation as described in RCW  
15 70.95N.280(5) (as recodified by this act).

16 (2) The authority shall assess charges on each manufacturer  
17 participating in the standard plan and collect funds from each  
18 participating manufacturer for the manufacturer's portion of the  
19 costs in subsection (1) of this section. For program years 2009  
20 through 2015, such apportionment must be based on return share,  
21 market share, any combination of return share and market share, or  
22 any other equitable method. For the 2016 program year and all  
23 subsequent program years, such apportionment must be based on market  
24 share. The authority's apportionment of costs to manufacturers  
25 participating in the standard plan may not include nor be based on  
26 electronic products imported through the state and subsequently  
27 exported outside the state. Charges assessed under this section must  
28 not be formulated in such a way as to create incentives to divert  
29 imported electronic products to ports or distribution centers in  
30 other states. The authority shall adjust the charges to manufacturers  
31 participating in the standard plan as necessary in order to ensure  
32 that all costs associated with the identified activities are covered.

33 (3) The authority may require financial assurances or performance  
34 bonds for manufacturers participating in the standard plan, including  
35 but not limited to new entrants and white box manufacturers, when  
36 determining equitable methods for apportioning costs to ensure that  
37 the long-term costs for collecting, transporting, and recycling of a  
38 covered electronic product are borne by the appropriate manufacturer

1 in the event that the manufacturer ceases to participate in the  
2 program.

3 (4) Nothing in this section authorizes the authority to assess  
4 fees or levy taxes directly on the sale or possession of electronic  
5 products.

6 (5) If a manufacturer has not met its financial obligations as  
7 determined by the authority under this section, the authority shall  
8 notify the department that the manufacturer is no longer  
9 participating in the standard plan.

10 (6) For program years 2009 through 2015, the authority shall  
11 submit its plan for assessing charges and apportioning cost on  
12 manufacturers participating in the standard plan to the department  
13 for review and approval along with the standard plan as provided in  
14 RCW 70.95N.060 (as recodified by this act).

15 (7)(a) Any manufacturer participating in the standard plan may  
16 appeal an assessment of charges or apportionment of costs levied by  
17 the authority under this section by written petition to the director  
18 of the department. The director of the department or the director's  
19 designee shall review all appeals within timelines established by the  
20 department and shall reverse any assessments of charges or  
21 apportionment of costs if the director finds that the authority's  
22 assessments or apportionment of costs was an arbitrary administrative  
23 decision, an abuse of administrative discretion, or is not an  
24 equitable assessment or apportionment of costs. The director shall  
25 make a fair and impartial decision based on sound data. If the  
26 director of the department reverses an assessment of charges, the  
27 authority must redetermine the assessment or apportionment of costs.

28 (b) Disputes regarding a final decision made by the director or  
29 director's designee may be challenged through arbitration. The  
30 director shall appoint one member to serve on the arbitration panel  
31 and the challenging party shall appoint one other. These two persons  
32 shall choose a third person to serve. If the two persons cannot agree  
33 on a third person, the presiding judge of the Thurston county  
34 superior court shall choose a third person. The decision of the  
35 arbitration panel shall be final and binding, subject to review by  
36 the superior court solely upon the question of whether the decision  
37 of the panel was arbitrary or capricious.

38 **Sec. 1262.** RCW 70.95N.310 and 2006 c 183 s 32 are each amended  
39 to read as follows:

1 (1) The authority shall use any funds legally available to it for  
2 any purpose specifically authorized by this chapter to:

3 (a) Contract and pay for collecting, transporting, and recycling  
4 of covered electronic products and education and other services as  
5 identified in the standard plan;

6 (b) Pay for the expenses of the authority including, but not  
7 limited to, salaries, benefits, operating costs and consumable  
8 supplies, equipment, office space, and other expenses related to the  
9 costs associated with operating the authority;

10 (c) Pay into the electronic products recycling account amounts  
11 billed by the department to the authority for any deficit in reaching  
12 the standard plan's equivalent share as required under RCW 70.95N.220  
13 (as recodified by this act); and

14 (d) Pay the department for the fees for submitting the standard  
15 plan and any plan revisions.

16 (2) If practicable, the authority shall avoid creating new  
17 infrastructure already available through private industry in the  
18 state.

19 (3) The authority may not receive an appropriation of state  
20 funds, other than:

21 (a) Funds that may be provided as a one-time loan to cover  
22 administrative costs associated with start-up of the authority, such  
23 as electing the board of directors and conducting the public hearing  
24 for the operating plan, provided that no appropriated funds may be  
25 used to pay for collection, transportation, or recycling services;  
26 and

27 (b) Funds received from the department from the electronic  
28 products recycling account for exceeding the standard plan's  
29 equivalent share.

30 (4) The authority may receive additional sources of funding that  
31 do not obligate the state to secure debt.

32 (5) All funds collected by the authority under this chapter,  
33 including interest, dividends, and other profits, are and must remain  
34 under the complete control of the authority and its board of  
35 directors, be fully available to achieve the intent of this chapter,  
36 and be used for the sole purpose of achieving the intent of this  
37 chapter.

38 **Sec. 1263.** RCW 70.98.020 and 1975-'76 2nd ex.s. c 108 s 13 are  
39 each amended to read as follows:

1 It is the purpose of this chapter to effectuate the policies set  
2 forth in RCW 70.98.010 (as recodified by this act) as now or  
3 hereafter amended by providing for:

4 (1) A program of effective regulation of sources of ionizing  
5 radiation for the protection of the occupational and public health  
6 and safety;

7 (2) A program to promote an orderly regulatory pattern within the  
8 state, among the states and between the federal government and the  
9 state and facilitate intergovernmental cooperation with respect to  
10 use and regulation of sources of ionizing radiation to the end that  
11 duplication of regulation may be minimized;

12 (3) A program to establish procedures for assumption and  
13 performance of certain regulatory responsibilities with respect to  
14 by-product, source, and special nuclear materials.

15 **Sec. 1264.** RCW 70.98.085 and 2012 c 19 s 9 are each amended to  
16 read as follows:

17 (1) The agency is empowered to administer a user permit system  
18 and issue site use permits for generators, packagers, or brokers to  
19 use the commercial low-level radioactive waste disposal facility. The  
20 agency may issue a site use permit consistent with the requirements  
21 of this chapter and the rules adopted under it and the requirements  
22 of the Northwest Interstate Compact on Low-Level Radioactive Waste  
23 Management under chapter 43.145 RCW (as recodified by this act). The  
24 agency may deny an application for a site use permit or modify,  
25 suspend, or revoke a site use permit in any case in which it finds  
26 that the permit was obtained by fraud or there is or has been a  
27 failure, refusal, or inability to comply with the requirements of  
28 this chapter or rules adopted under this chapter or the requirements  
29 of the Northwest Interstate Compact on Low-Level Radioactive Waste  
30 Management under chapter 43.145 RCW (as recodified by this act). The  
31 agency may also deny or suspend a site use permit for failure to  
32 comply with RCW 43.200.230 (as recodified by this act).

33 (2) Any permit issued by the department of ecology for a site use  
34 permit pursuant to chapter 43.200 RCW (as recodified by this act) is  
35 valid until the first expiration date that occurs after July 1, 2012.

36 (3) The agency shall collect a fee from the applicants for site  
37 use permits that is sufficient to fund the costs to the agency to  
38 administer the user permit system. The site use permit fee must be  
39 set at a level that is also sufficient to fund state participation in

1 activities related to the Northwest Interstate Compact on Low-Level  
2 Radioactive Waste Management under chapter 43.145 RCW (as recodified  
3 by this act). The site use permit fees must be deposited in the site  
4 closure account established in RCW 43.200.080(2) (as recodified by  
5 this act). Appropriations to the department of health or the  
6 department of ecology are required to permit expenditures using site  
7 use permit fee funds from the site closure account.

8 (4) The agency shall collect a surveillance fee as an added  
9 charge on each cubic foot of low-level radioactive waste disposed of  
10 at the commercial low-level radioactive waste disposal site in this  
11 state which shall be set at a level that is sufficient to fund  
12 completely the radiation control activities of the agency directly  
13 related to the disposal site, including but not limited to the  
14 management, licensing, monitoring, and regulation of the site. The  
15 fee shall also provide funds to the Washington state patrol for costs  
16 incurred from inspection of low-level radioactive waste shipments  
17 entering this state. Disbursements for this purpose shall be by  
18 authorization of the secretary of the department of health or the  
19 secretary's designee.

20 (5) The agency shall require that any person who holds or applies  
21 for a permit under this chapter indemnify and hold harmless the state  
22 from claims, suits, damages, or expenses on account of injuries to or  
23 death of persons and property damage, arising or growing out of any  
24 operations and activities for which the person holds the permit, and  
25 any necessary or incidental operations.

26 (6) The agency may adopt such rules as are necessary to carry out  
27 its responsibilities under this section.

28 **Sec. 1265.** RCW 70.98.095 and 2012 c 19 s 10 are each amended to  
29 read as follows:

30 (1) The radiation control agency may require any person who  
31 applies for, or holds, a license under this chapter to demonstrate  
32 that the person has financial assurance sufficient to assure that  
33 liability incurred as a result of licensed operations and activities  
34 can be fully satisfied. Financial assurance may be in the form of  
35 insurance, cash deposits, surety bonds, corporate guarantees, letters  
36 of credit, or other financial instruments or guarantees determined by  
37 the agency to be acceptable financial assurance. The agency may  
38 require financial assurance in an amount determined by the secretary  
39 pursuant to RCW 70.98.098 (as recodified by this act).

1 (2) The radiation control agency may require site use permit  
2 holders to demonstrate financial assurance in an amount that is  
3 adequate to protect the state and its citizens from all claims,  
4 suits, losses, damages, or expenses on account of injuries to persons  
5 and property damage arising or growing out of the transportation or  
6 disposal of commercial low-level radioactive waste. The financial  
7 assurance may be in the form of insurance, cash deposits, surety  
8 bonds, corporate guarantees, and other acceptable instruments or  
9 guarantees determined by the secretary to be acceptable evidence of  
10 financial assurance. The agency may require financial assurance in an  
11 amount determined by the secretary pursuant to RCW 70.98.098 (as  
12 recodified by this act).

13 (3) The radiation control agency shall refuse to issue a license  
14 or permit or suspend the license or permit of any person required by  
15 this section to demonstrate financial assurance who fails to  
16 demonstrate compliance with this section. The license or permit shall  
17 not be issued or reinstated until the person demonstrates compliance  
18 with this section.

19 (4) The radiation control agency shall require (a) that any  
20 person required to demonstrate financial assurance, maintain with the  
21 agency current copies of any insurance policies, certificates of  
22 insurance, letters of credit, surety bonds, or any other documents  
23 used to comply with this section, (b) that the agency be notified of  
24 any changes in the financial assurance or financial condition of the  
25 person, and (c) that the state be named as an insured party on any  
26 insurance policy used to comply with this section.

27 **Sec. 1266.** RCW 70.98.098 and 2012 c 19 s 11 are each amended to  
28 read as follows:

29 (1) In making the determination of the appropriate level of  
30 financial assurance, the secretary shall consider: (a) Any report  
31 prepared by the department of ecology pursuant to RCW 43.200.200 (as  
32 recodified by this act); (b) the potential cost of decontamination,  
33 treatment, disposal, decommissioning, and cleanup of facilities or  
34 equipment; (c) federal cleanup and decommissioning requirements; and  
35 (d) the legal defense cost, if any, that might be paid from the  
36 required financial assurance.

37 (2) The secretary may establish different levels of required  
38 financial assurance for various classes of permit or license holders.



1 (3) The secretary shall establish by rule the instruments or  
2 mechanisms by which a person may demonstrate financial assurance as  
3 required by RCW 70.98.095 (as recodified by this act).

4 (4) To the extent that money in the site closure account together  
5 with the amount of money identified for repayment to the site closure  
6 account pursuant to RCW 43.200.080 (as recodified by this act) equals  
7 or exceeds the cost estimate approved by the department of health for  
8 closure and decommissioning of the commercial low-level radioactive  
9 waste disposal facility, the money in the site closure account  
10 together with the amount of money identified for repayment to the  
11 site closure account shall constitute adequate financial assurance  
12 for purposes of the department of health financial assurance  
13 requirements under RCW 70.98.095 (as recodified by this act).

14 **Sec. 1267.** RCW 70.98.122 and 1985 c 372 s 3 are each amended to  
15 read as follows:

16 The department of ecology shall seek federal funding, such as is  
17 available under the clean air act (42 U.S.C. Sec. 1857 et seq.) and  
18 the nuclear waste policy act (42 U.S.C. Sec. 10101 et seq.) to carry  
19 out the purposes of RCW 70.98.050(4) ~~((+e))~~ (e) (as recodified by  
20 this act).

21 **Sec. 1268.** RCW 70.98.220 and 2012 c 19 s 13 are each amended to  
22 read as follows:

23 The agency shall adopt rules for administering a site use permit  
24 program under RCW 70.98.085 (as recodified by this act).

25 **Sec. 1269.** RCW 70.98.910 and 1961 c 207 s 23 are each amended to  
26 read as follows:

27 The provisions of this act relating to the control of by-product,  
28 source and special nuclear materials shall become effective on the  
29 effective date of the agreement between the federal government and  
30 this state as authorized in RCW 70.98.110 (as recodified by this  
31 act). All other provisions of this act shall become effective on the  
32 30th day of June, 1961.

33 **Sec. 1270.** RCW 70.99.050 and 1981 c 1 s 5 are each amended to  
34 read as follows:

1 (1) A violation of or failure to comply with the provisions of  
2 RCW 70.99.030 or 70.99.040 (as recodified by this act) is a gross  
3 misdemeanor.

4 (2) Any person or entity that violates or fails to comply with  
5 the provisions of RCW 70.99.030 or 70.99.040 (as recodified by this  
6 act) is subject to a civil penalty of one thousand dollars for each  
7 violation or failure to comply.

8 (3) Each day upon which a violation occurs constitutes a separate  
9 violation for the purposes of subsections (1) and (2) of this  
10 section.

11 (4) Any person or entity violating this chapter may be enjoined  
12 from continuing the violation. The attorney general or any person  
13 residing in the state of Washington may bring an action to enjoin  
14 violations of this chapter, on his or her own behalf and on the  
15 behalf of all persons similarly situated. Such action may be  
16 maintained in the person's own name or in the name of the state of  
17 Washington. No bond may be required as a condition to obtaining any  
18 injunctive relief. The superior courts have jurisdiction over actions  
19 brought under this section, and venue shall lie in the county of the  
20 plaintiff's residence, in the county in which the violation is  
21 alleged to occur, or in Thurston county. In addition to other relief,  
22 the court in its discretion may award attorney's and expert witness  
23 fees and costs of the suit to a party who demonstrates that a  
24 violation of this chapter has occurred.

25 **Sec. 1271.** RCW 70.102.020 and 2005 c 274 s 339 are each amended  
26 to read as follows:

27 There is hereby created the hazardous substance information and  
28 education office. Through this office the department shall:

29 (1) Facilitate access to existing information on hazardous  
30 substances within a community;

31 (2) Request and obtain information about hazardous substances at  
32 specified locations and facilities from agencies that regulate those  
33 locations and facilities. The department shall review, approve, and  
34 provide confidentiality as provided by statute. Upon request of the  
35 department, each agency shall provide the information within forty-  
36 five days;

37 (3) At the request of citizens or public health or public safety  
38 organizations, compile existing information about hazardous substance

1 use at specified locations and facilities. This information shall  
2 include but not be limited to:

3 (a) Point and nonpoint air and water emissions;

4 (b) Extremely hazardous, moderate risk wastes and dangerous  
5 wastes as defined in chapter 70.105 RCW (as recodified by this act)  
6 produced, used, stored, transported from, or disposed of by any  
7 facility;

8 (c) A list of the hazardous substances present at a given site  
9 and data on their acute and chronic health and environmental effects;

10 (d) Data on governmental pesticide use at a given site;

11 (e) Data on commercial pesticide use at a given site if such data  
12 is only given to individuals who are chemically sensitive; and

13 (f) Compliance history of any facility.

14 (4) Provide education to the public on the proper production,  
15 use, storage, and disposal of hazardous substances, including but not  
16 limited to:

17 (a) A technical resource center on hazardous substance management  
18 for industry and the public;

19 (b) Programs, in cooperation with local government, to educate  
20 generators of moderate risk waste, and provide information regarding  
21 the potential hazards to human health and the environment resulting  
22 from improper use and disposal of the waste and proper methods of  
23 handling, reducing, recycling, and disposing of the waste;

24 (c) Public information and education relating to the safe  
25 handling and disposal of hazardous household substances; and

26 (d) Guidelines to aid counties in developing and implementing a  
27 hazardous household substances program.

28 Requests for information from the hazardous substance information  
29 and education office may be made by letter or by a toll-free  
30 telephone line, if one is established by the department. Requests  
31 shall be responded to in accordance with chapter 42.56 RCW.

32 This section shall not require any agency to compile information  
33 that is not required by existing laws or rules.

34 **Sec. 1272.** RCW 70.103.030 and 2010 c 158 s 3 are each amended to  
35 read as follows:

36 (1) The department shall administer and enforce a state program  
37 for worker training and certification, and training program  
38 accreditation, which shall include those program elements necessary  
39 to assume responsibility for federal requirements for a program as

1 set forth in Title IV of the toxic substances control act (15 U.S.C.  
2 Sec. 2601 et seq.), the residential lead-based paint hazard reduction  
3 act of 1992 (42 U.S.C. Sec. 4851 et seq.), 40 C.F.R. Part 745,  
4 Subparts L and Q (1996), and Title X of the housing and community  
5 development act of 1992 (P.L. 102-550). The department may delegate  
6 or enter into a memorandum of understanding with local governments or  
7 private entities for implementation of components of the state  
8 program.

9 (2) The department is authorized to adopt rules that are  
10 consistent with federal requirements to implement a state program.  
11 Rules adopted under this section shall:

12 (a) Establish minimum accreditation requirements for lead-based  
13 paint activities for training providers;

14 (b) Establish work practice standards for conduct of lead-based  
15 paint activities;

16 (c) Establish certification requirements for individuals and  
17 firms engaged in lead-based paint activities including provisions for  
18 recognizing certifications accomplished under existing certification  
19 programs;

20 (d) Require the use of certified personnel in all lead-based  
21 paint activities;

22 (e) Be revised as necessary to comply with federal law and rules  
23 and to maintain eligibility for federal funding;

24 (f) Facilitate reciprocity and communication with other states  
25 having a lead-based paint certification program;

26 (g) Provide for decertification, deaccreditation, and financial  
27 assurance for a person certified by or a training provider accredited  
28 by the department; and

29 (h) Be issued in accordance with the administrative procedure  
30 act, chapter 34.05 RCW.

31 (3) The department may accept federal funds for the  
32 administration of the program.

33 (4) This program shall equal, but not exceed, legislative  
34 authority under federal requirements as set forth in Title IV of the  
35 toxic substances control act (15 U.S.C. Sec. 2601 et seq.), the  
36 residential lead-based paint hazard reduction act of 1992 (42 U.S.C.  
37 Sec. 4851 et seq.), and Title X of the housing and community  
38 development act of 1992 (P.L. 102-550).

39 (5) Any rules adopted by the department shall be consistent with  
40 federal laws, regulations, and requirements relating to lead-based

1 paint activities specified by the residential lead-based paint hazard  
2 reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.) and Title X of  
3 the housing and community development act of 1992 (P.L. 102-550), and  
4 rules adopted pursuant to chapter 70.105D RCW (as recodified by this  
5 act), to ensure consistency in regulatory action. The rules may not  
6 be more restrictive than corresponding federal and state regulations  
7 unless such stringency is specifically authorized by this chapter.

8 (6) The department shall collect a fee in the amount of twenty-  
9 five dollars for certification and recertification of lead paint  
10 firms, inspectors, project developers, risk assessors, supervisors,  
11 abatement workers, renovators, and dust sampling technicians.

12 (7) The department shall collect a fee in the amount of two  
13 hundred dollars for the accreditation of lead paint training  
14 programs.

15 **Sec. 1273.** RCW 70.103.040 and 2010 c 158 s 4 are each amended to  
16 read as follows:

17 (1) The department shall establish a program for certification of  
18 persons involved in lead-based paint activities and for accreditation  
19 of training providers in compliance with federal laws and rules.

20 (2) Rules adopted under this section shall:

21 (a) Establish minimum accreditation requirements for lead-based  
22 paint activities for training providers;

23 (b) Establish work practice standards for conduct of lead-based  
24 paint activities;

25 (c) Establish certification requirements for individuals and  
26 firms engaged in lead-based paint activities including provisions for  
27 recognizing certifications accomplished under existing certification  
28 programs;

29 (d) Require the use of certified personnel in any lead-based  
30 paint hazard reduction activity;

31 (e) Be revised as necessary to comply with federal law and rules  
32 and to maintain eligibility for federal funding;

33 (f) Facilitate reciprocity and communication with other states  
34 having a lead-based paint certification program;

35 (g) Provide for decertification, deaccreditation, and financial  
36 assurance for a person certified or accredited by the department; and

37 (h) Be issued in accordance with the administrative procedure  
38 act, chapter 34.05 RCW.

1 (3) This program shall equal, but not exceed, legislative  
2 authority under federal requirements as set forth in Title IV of the  
3 toxic substances control act (15 U.S.C. Sec. 2601 et seq.), the  
4 residential lead-based paint hazard reduction act of 1992 (42 U.S.C.  
5 Sec. 4851 et seq.), 40 C.F.R. Part 745 (1996), Subparts L and Q, and  
6 Title X of the housing and community development act of 1992 (P.L.  
7 102-550).

8 (4) Any rules adopted by the department shall be consistent with  
9 federal laws, regulations, and requirements relating to lead-based  
10 paint activities specified by the residential lead-based paint hazard  
11 reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.) and Title X of  
12 the housing and community development act of 1992 (P.L. 102-550), and  
13 rules adopted pursuant to chapter 70.105D RCW (as recodified by this  
14 act), to ensure consistency in regulatory action. The rules may not  
15 be more restrictive than corresponding federal and state regulations  
16 unless such stringency is specifically authorized by this chapter.

17 (5) The department may accept federal funds for the  
18 administration of the program.

19 (6) For the purposes of certification under the federal  
20 requirements as set forth in section 2682 of the toxic substances  
21 control act (15 U.S.C. Sec. 2682), the department may require  
22 renovators and dust sampling technicians to apply for a certification  
23 badge issued by the department. The department may impose a fee on  
24 the applicant for processing the application. The application shall  
25 include a photograph of the applicant and a fee in the amount imposed  
26 by the department.

27 **Sec. 1274.** RCW 70.103.050 and 2010 c 158 s 5 are each amended to  
28 read as follows:

29 The department shall adopt rules to:

30 (1) Establish procedures and requirements for the accreditation  
31 of lead-based paint activities training programs including, but not  
32 limited to, the following:

33 (a) Training curriculum;

34 (b) Training hours;

35 (c) Hands-on training;

36 (d) Trainee competency and proficiency;

37 (e) Training program quality control;

38 (f) Procedures for the reaccreditation of training programs;

39 (g) Procedures for the oversight of training programs; and

1 (h) Procedures for the suspension, revocation, or modification of  
2 training program accreditations, or acceptance of training offered by  
3 an accredited training provider in another state or Indian tribe  
4 authorized by the environmental protection agency;

5 (2) Establish procedures for the purposes of certification, for  
6 the acceptance of training offered by an accredited training provider  
7 in a state or Indian tribe authorized by the environmental protection  
8 agency;

9 (3) Certify individuals involved in lead-based paint activities  
10 to ensure that certified individuals are trained by an accredited  
11 training program and possess appropriate educational or experience  
12 qualifications for certification;

13 (4) Establish procedures for recertification;

14 (5) Require the conduct of lead-based paint activities in  
15 accordance with work practice standards;

16 (6) Establish procedures for the suspension, revocation, or  
17 modification of certifications;

18 (7) Establish requirements for the administration of third-party  
19 certification exams;

20 (8) Use laboratories accredited under the environmental  
21 protection agency's national lead laboratory accreditation program;

22 (9) Establish work practice standards for the conduct of lead-  
23 based paint activities, as defined in RCW 70.103.020 (as recodified  
24 by this act);

25 (10) Establish an enforcement response policy that shall include:

26 (a) Warning letters, notices of noncompliance, notices of  
27 violation, or the equivalent;

28 (b) Administrative or civil actions, including penalty authority,  
29 including accreditation or certification suspension, revocation, or  
30 modification; and

31 (c) Authority to apply criminal sanctions or other criminal  
32 authority using existing state laws as applicable.

33 The department shall prepare and submit a biennial report to the  
34 legislature regarding the program's status, its costs, and the number  
35 of persons certified by the program.

36 **Sec. 1275.** RCW 70.103.060 and 2003 c 322 s 6 are each amended to  
37 read as follows:

38 The lead paint account is created in the state treasury. All  
39 receipts from RCW 70.103.030 (as recodified by this act) shall be

1 deposited into the account. Moneys in the account may be spent only  
2 after appropriation. Expenditures from the account may be used only  
3 for the purposes of this chapter.

4 **Sec. 1276.** RCW 70.103.070 and 2003 c 322 s 7 are each amended to  
5 read as follows:

6 (1)(a) The director or the director's designee is authorized to  
7 inspect at reasonable times and, when feasible, with at least twenty-  
8 four hours prior notification:

9 (i) Premises or facilities where those engaged in training for  
10 lead-based paint activities conduct business; and

11 (ii) The business records of, and take samples at, the businesses  
12 accredited or certified under this chapter to conduct lead-based  
13 paint training or activities.

14 (b) Any accredited training program or any firm or individual  
15 certified under this chapter that denies access to the department for  
16 the purposes of (a) of this subsection is subject to deaccreditation  
17 or decertification under RCW 70.103.040 (as recodified by this act).

18 (2) The director or the director's designee is authorized to  
19 inspect premises or facilities, with the consent of the owner or  
20 owner's agent, where violations may occur concerning lead-based paint  
21 activities, as defined under RCW 70.103.020 (as recodified by this  
22 act), at reasonable times and, when feasible, with at least forty-  
23 eight hours prior notification of the inspection.

24 (3) Prior to receipt of federal lead-based paint abatement  
25 funding, all premise or facility owners shall be notified by any  
26 entity that receives and disburses the federal funds that an  
27 inspection may be conducted. If a premise or facility owner does not  
28 wish to have an inspection conducted, that owner is not eligible to  
29 receive lead-based paint abatement funding.

30 **Sec. 1277.** RCW 70.105.005 and 1985 c 448 s 2 are each amended to  
31 read as follows:

32 The legislature hereby finds and declares:

33 (1) The health and welfare of the people of the state depend on  
34 clean and pure environmental resources unaffected by hazardous waste  
35 contamination. At the same time, the quality of life of the people of  
36 the state is in part based upon a large variety of goods produced by  
37 the economy of the state. The complex industrial processes that  
38 produce these goods also generate waste by-products, some of which



1 are hazardous to the public health and the environment if improperly  
2 managed.

3 (2) Safe and responsible management of hazardous waste is  
4 necessary to prevent adverse effects on the environment and to  
5 protect public health and safety.

6 (3) The availability of safe, effective, economical, and  
7 environmentally sound facilities for the management of hazardous  
8 waste is essential to protect public health and the environment and  
9 to preserve the economic strength of the state.

10 (4) Strong and effective enforcement of federal and state  
11 hazardous waste laws and regulations is essential to protect the  
12 public health and the environment and to meet the public's concerns  
13 regarding the acceptance of needed new hazardous waste management  
14 facilities.

15 (5) Negotiation, mediation, and similar conflict resolution  
16 techniques are useful in resolving concerns over the local impacts of  
17 siting hazardous waste management facilities.

18 (6) Safe and responsible management of hazardous waste requires  
19 an effective planning process that involves local and state  
20 governments, the public, and industry.

21 (7) Public acceptance and successful siting of needed new  
22 hazardous waste management facilities depends on several factors,  
23 including:

24 (a) Public confidence in the safety of the facilities;

25 (b) Assurance that the hazardous waste management priorities  
26 established in this chapter are being carried out to the maximum  
27 degree practical;

28 (c) Recognition that all state citizens benefit from certain  
29 products whose manufacture results in the generation of hazardous by-  
30 products, and that all state citizens must, therefore, share in the  
31 responsibility for finding safe and effective means to manage this  
32 hazardous waste; and

33 (d) Provision of adequate opportunities for citizens to meet with  
34 facility operators and resolve concerns about local hazardous waste  
35 management facilities.

36 (8) Due to the controversial and regional nature of facilities  
37 for the disposal and incineration of hazardous waste, the facilities  
38 have had difficulty in obtaining necessary local approvals. The  
39 legislature finds that there is a statewide interest in assuring that  
40 such facilities can be sited.

1 It is therefore the intent of the legislature to preempt local  
2 government's authority to approve, deny, or otherwise regulate  
3 disposal and incineration facilities, and to vest in the department  
4 of ecology the sole authority among state, regional, and local  
5 agencies to approve, deny, and regulate preempted facilities, as  
6 defined in this chapter.

7 In addition, it is the intent of the legislature that such  
8 complete preemptive authority also be vested in the department for  
9 treatment and storage facilities, in addition to disposal and  
10 incineration facilities, if a local government fails to carry out its  
11 responsibilities established in RCW 70.105.225 (as recodified by this  
12 act).

13 It is further the intent of the legislature that no local  
14 ordinance, permit requirement, other requirement, or decision shall  
15 prohibit on the basis of land use considerations the construction of  
16 a hazardous waste management facility within any zone designated and  
17 approved in accordance with this chapter, provided that the proposed  
18 site for the facility is consistent with applicable state siting  
19 criteria.

20 (9) With the exception of the disposal site authorized for  
21 acquisition under this chapter, the private sector has had the  
22 primary role in providing hazardous waste management facilities and  
23 services in the state. It is the intent of the legislature that this  
24 role be encouraged and continue into the future to the extent  
25 feasible. Whether privately or publicly owned and operated, hazardous  
26 waste management facilities and services should be subject to strict  
27 governmental regulation as provided under this chapter.

28 (10) Wastes that are exempt or excluded from full regulation  
29 under this chapter due to their small quantity or household origin  
30 have the potential to pose significant risk to public health and the  
31 environment if not properly managed. It is the intent of the  
32 legislature that the specific risks posed by such waste be  
33 investigated and assessed and that programs be carried out as  
34 necessary to manage the waste appropriately. In addition, the  
35 legislature finds that, because local conditions vary substantially  
36 in regard to the quantities, risks, and management opportunities  
37 available for such wastes, local government is the appropriate level  
38 of government to plan for and carry out programs to manage moderate-  
39 risk waste, with assistance and coordination provided by the  
40 department.

1       **Sec. 1278.** RCW 70.105.010 and 2010 1st sp.s. c 7 s 88 are each  
2 amended to read as follows:

3       The words and phrases defined in this section shall have the  
4 meanings indicated when used in this chapter unless the context  
5 clearly requires otherwise.

6       (1) "Dangerous wastes" means any discarded, useless, unwanted, or  
7 abandoned substances, including but not limited to certain  
8 pesticides, or any residues or containers of such substances which  
9 are disposed of in such quantity or concentration as to pose a  
10 substantial present or potential hazard to human health, wildlife, or  
11 the environment because such wastes or constituents or combinations  
12 of such wastes:

13       (a) Have short-lived, toxic properties that may cause death,  
14 injury, or illness or have mutagenic, teratogenic, or carcinogenic  
15 properties; or

16       (b) Are corrosive, explosive, flammable, or may generate pressure  
17 through decomposition or other means.

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

19       (3) "Designated zone facility" means any facility that requires  
20 an interim or final status permit under rules adopted under this  
21 chapter and that is not a preempted facility as defined in this  
22 section.

23       (4) "Director" means the director of the department of ecology or  
24 the director's designee.

25       (5) "Disposal site" means a geographical site in or upon which  
26 hazardous wastes are disposed of in accordance with the provisions of  
27 this chapter.

28       (6) "Dispose or disposal" means the discarding or abandoning of  
29 hazardous wastes or the treatment, decontamination, or recycling of  
30 such wastes once they have been discarded or abandoned.

31       (7) "Extremely hazardous waste" means any dangerous waste which:

32       (a) Will persist in a hazardous form for several years or more at  
33 a disposal site and which in its persistent form

34       (i) Presents a significant environmental hazard and may be  
35 concentrated by living organisms through a food chain or may affect  
36 the genetic makeup of human beings or wildlife, and

37       (ii) Is highly toxic to human beings or wildlife

38       (b) If disposed of at a disposal site in such quantities as would  
39 present an extreme hazard to human beings or the environment.

1 (8) "Facility" means all contiguous land and structures, other  
2 appurtenances, and improvements on the land used for recycling,  
3 storing, treating, incinerating, or disposing of hazardous waste.

4 (9) "Hazardous household substances" means those substances  
5 identified by the department as hazardous household substances in the  
6 guidelines developed under RCW 70.105.220 (as recodified by this  
7 act).

8 (10) "Hazardous substances" means any liquid, solid, gas, or  
9 sludge, including any material, substance, product, commodity, or  
10 waste, regardless of quantity, that exhibits any of the  
11 characteristics or criteria of hazardous waste as described in rules  
12 adopted under this chapter.

13 (11) "Hazardous waste" means and includes all dangerous and  
14 extremely hazardous waste, including substances composed of both  
15 radioactive and hazardous components.

16 (12) "Local government" means a city, town, or county.

17 (13) "Moderate-risk waste" means (a) any waste that exhibits any  
18 of the properties of hazardous waste but is exempt from regulation  
19 under this chapter solely because the waste is generated in  
20 quantities below the threshold for regulation, and (b) any household  
21 wastes which are generated from the disposal of substances identified  
22 by the department as hazardous household substances.

23 (14) "Person" means any person, firm, association, county, public  
24 or municipal or private corporation, agency, or other entity  
25 whatsoever.

26 (15) "Pesticide" shall have the meaning of the term as defined in  
27 RCW 15.58.030 as now or hereafter amended.

28 (16) "Preempted facility" means any facility that includes as a  
29 significant part of its activities any of the following operations:  
30 (a) Landfill, (b) incineration, (c) land treatment, (d) surface  
31 impoundment to be closed as a landfill, or (e) waste pile to be  
32 closed as a landfill.

33 (17) "Service charge" means an assessment imposed under RCW  
34 70.105.280 (as recodified by this act) against those facilities that  
35 store, treat, incinerate, or dispose of dangerous or extremely  
36 hazardous waste that contains both a nonradioactive hazardous  
37 component and a radioactive component. Service charges shall also  
38 apply to facilities undergoing closure under this chapter in those  
39 instances where closure entails the physical characterization of  
40 remaining wastes which contain both a nonradioactive hazardous

1 component and a radioactive component or the management of such  
2 wastes through treatment or removal, except any commercial low-level  
3 radioactive waste facility.

4 **Sec. 1279.** RCW 70.105.020 and 1994 c 264 s 42 are each amended  
5 to read as follows:

6 The department after notice and public hearing shall:

7 (1) Adopt regulations designating as extremely hazardous wastes  
8 subject to the provisions of this chapter those substances which  
9 exhibit characteristics consistent with the definition provided in  
10 RCW 70.105.010(~~((6))~~) (7) (as recodified by this act);

11 (2) Adopt and may revise when appropriate, minimum standards and  
12 regulations for disposal of extremely hazardous wastes to protect  
13 against hazards to the public, and to the environment. Before  
14 adoption of such standards and regulations, the department shall  
15 consult with appropriate agencies of interested local governments and  
16 secure technical assistance from the department of agriculture, the  
17 department of social and health services, the department of fish and  
18 wildlife, the department of natural resources, the department of  
19 labor and industries, and the department of (~~community, trade, and~~  
20 ~~economic development~~) commerce, through the director of fire  
21 protection.

22 **Sec. 1280.** RCW 70.105.035 and 1994 c 254 s 5 are each amended to  
23 read as follows:

24 Solid wastes that designate as dangerous waste or extremely  
25 hazardous waste but do not designate as hazardous waste under federal  
26 law are conditionally exempt from the requirements of this chapter,  
27 if:

28 (1) The waste is generated pursuant to a consent decree issued  
29 under chapter 70.105D RCW (as recodified by this act);

30 (2) The consent decree characterizes the solid waste and  
31 specifies management practices and a department-approved treatment or  
32 disposal location;

33 (3) The management practices are consistent with RCW 70.105.150  
34 (as recodified by this act) and are protective of human health and  
35 the environment as determined by the department of ecology; and

36 (4) Waste treated or disposed of on-site will be managed in a  
37 manner determined by the department to be as protective of human

1 health and the environment as clean-up standards pursuant to chapter  
2 70.105D RCW (as recodified by this act).

3 This section shall not be interpreted to limit the ability of the  
4 department to apply any requirement of this chapter through a consent  
5 decree issued under chapter 70.105D RCW (as recodified by this act),  
6 if the department determines these requirements to be appropriate.  
7 Neither shall this section be interpreted to limit the application of  
8 this chapter to a cleanup conducted under the federal comprehensive  
9 environmental response, compensation, and liability act (42 U.S.C.  
10 Sec. 9601 et seq., as amended).

11 **Sec. 1281.** RCW 70.105.050 and 1994 c 254 s 6 are each amended to  
12 read as follows:

13 (1) No person shall dispose of designated extremely hazardous  
14 wastes at any disposal site in the state other than the disposal site  
15 established and approved for such purpose under provisions of this  
16 chapter, except:

17 (a) When such wastes are going to a processing facility which  
18 will result in the waste being reclaimed, treated, detoxified,  
19 neutralized, or otherwise processed to remove its harmful properties  
20 or characteristics; or

21 (b) When such wastes are managed on-site as part of a remedial  
22 action conducted by the department or by potentially liable persons  
23 under a consent decree issued by the department pursuant to chapter  
24 70.105D RCW (as recodified by this act).

25 (2) Extremely hazardous wastes that contain radioactive  
26 components may be disposed at a radioactive waste disposal site that  
27 is (a) owned by the United States department of energy or a licensee  
28 of the nuclear regulatory commission and (b) permitted by the  
29 department and operated in compliance with the provisions of this  
30 chapter. However, prior to disposal, or as a part of disposal, all  
31 reasonable methods of treatment, detoxification, neutralization, or  
32 other waste management methodologies designed to mitigate hazards  
33 associated with these wastes shall be employed, as required by  
34 applicable federal and state laws and regulations.

35 **Sec. 1282.** RCW 70.105.090 and 2011 c 96 s 51 are each amended to  
36 read as follows:

37 In addition to the penalties imposed pursuant to RCW 70.105.080  
38 (as recodified by this act), any person who violates any provisions

1 of this chapter, or of the rules implementing this chapter, and any  
2 person who knowingly aids or abets another in conducting any  
3 violation of any provisions of this chapter, or of the rules  
4 implementing this chapter, shall be guilty of a gross misdemeanor and  
5 upon conviction thereof shall be punished by a fine of not less than  
6 one hundred dollars nor more than ten thousand dollars, and/or by  
7 imprisonment in the county jail for up to three hundred sixty-four  
8 days, for each separate violation. Each and every such violation  
9 shall be a separate and distinct offense. In case of continuing  
10 violation, every day's continuance shall be a separate and distinct  
11 offense.

12 **Sec. 1283.** RCW 70.105.105 and 1985 c 65 s 1 are each amended to  
13 read as follows:

14 The department of ecology shall regulate under this chapter  
15 (~~(70.105-RCW)~~), wastes generated from the salvaging, rebuilding, or  
16 discarding of transformers or capacitors that have been sold or  
17 otherwise transferred for salvage or disposal after the completion or  
18 termination of their useful lives and which contain polychlorinated  
19 biphenyls (PCB's) and whose disposal is not regulated under 40 C.F.R.  
20 part 761. Nothing in this section shall prohibit such wastes from  
21 being incinerated or disposed of at facilities permitted to manage  
22 PCB wastes under 40 C.F.R. part 761.

23 **Sec. 1284.** RCW 70.105.110 and 1987 c 488 s 3 are each amended to  
24 read as follows:

25 (1) Nothing in this chapter shall alter, amend, or supersede the  
26 provisions of chapter 80.50 RCW, except that, notwithstanding any  
27 provision of chapter 80.50 RCW, regulation of dangerous wastes  
28 associated with energy facilities from generation to disposal shall  
29 be solely by the department pursuant to this chapter (~~(70.105-RCW)~~).  
30 In the implementation of said section, the department shall consult  
31 and cooperate with the energy facility site evaluation council and,  
32 in order to reduce duplication of effort and to provide necessary  
33 coordination of monitoring and on-site inspection programs at energy  
34 facility sites, any on-site inspection by the department that may be  
35 required for the purposes of this chapter shall be performed pursuant  
36 to an interagency coordination agreement with the council.

37 (2) To facilitate the implementation of this chapter, the energy  
38 facility site evaluation council may require certificate holders to

1 remove from their energy facility sites any dangerous wastes,  
2 controlled by this chapter, within ninety days of their generation.

3 **Sec. 1285.** RCW 70.105.111 and 1987 c 488 s 5 are each amended to  
4 read as follows:

5 Nothing in this chapter diminishes the authority of the  
6 department of social and health services to regulate the radioactive  
7 portion of mixed wastes pursuant to chapter 70.98 RCW (as recodified  
8 by this act).

9 **Sec. 1286.** RCW 70.105.112 and 1987 c 528 s 9 are each amended to  
10 read as follows:

11 This chapter does not apply to special incinerator ash regulated  
12 under chapter 70.138 RCW (as recodified by this act) except that, for  
13 purposes of RCW 4.22.070(3)(a), special incinerator ash shall be  
14 considered hazardous waste.

15 **Sec. 1287.** RCW 70.105.116 and 1994 c 257 s 17 are each amended  
16 to read as follows:

17 The procedural requirements of this chapter shall not apply to  
18 any person conducting a remedial action at a facility pursuant to a  
19 consent decree, order, or agreed order issued pursuant to chapter  
20 70.105D RCW (as recodified by this act), or to the department of  
21 ecology when it conducts a remedial action under chapter 70.105D RCW  
22 (as recodified by this act). The department of ecology shall ensure  
23 compliance with the substantive requirements of this chapter through  
24 the consent decree, order, or agreed order issued pursuant to chapter  
25 70.105D RCW (as recodified by this act), or during the department-  
26 conducted remedial action, through the procedures developed by the  
27 department pursuant to RCW 70.105D.090 (as recodified by this act).

28 **Sec. 1288.** RCW 70.105.135 and 1986 c 82 s 1 are each amended to  
29 read as follows:

30 Any person who generates, treats, stores, disposes, or otherwise  
31 handles dangerous or extremely hazardous wastes shall provide copies  
32 of any notification forms, or annual reports that are required  
33 pursuant to RCW 70.105.130 (as recodified by this act) to the fire  
34 departments or fire districts that service the areas in which the  
35 wastes are handled upon the request of the fire departments or fire  
36 districts. In areas that are not serviced by a fire department or



1 fire district, the forms or reports shall be provided to the sheriff  
2 or other county official designated pursuant to RCW ((48.48.060))  
3 43.44.050 upon the request of the sheriff or other county official.  
4 This section shall not apply to the transportation of hazardous  
5 wastes.

6 **Sec. 1289.** RCW 70.105.140 and 1980 c 144 s 3 are each amended to  
7 read as follows:

8 Rules implementing RCW 70.105.130 (as recodified by this act)  
9 shall be submitted to the house and senate committees on ecology for  
10 review prior to being adopted in accordance with chapter 34.05 RCW.

11 **Sec. 1290.** RCW 70.105.145 and 1984 c 237 s 2 are each amended to  
12 read as follows:

13 Notwithstanding any other provision of this chapter ((70.105  
14 RCW)), the department of ecology is empowered to participate fully in  
15 and is empowered to administer all aspects of the programs of the  
16 federal Resource Conservation and Recovery Act, as it exists on June  
17 7, 1984, (42 U.S.C. Sec. 6901 et seq.), contemplated for  
18 participation and administration by a state under that act.

19 **Sec. 1291.** RCW 70.105.160 and 2010 1st sp.s. c 7 s 89 are each  
20 amended to read as follows:

21 The department shall conduct a study to determine the best  
22 management practices for categories of waste for the priority waste  
23 management methods established in RCW 70.105.150 (as recodified by  
24 this act), with due consideration in the course of the study to sound  
25 environmental management and available technology. As an element of  
26 the study, the department shall review methods that will help achieve  
27 the priority of RCW 70.105.150(1)(a) (as recodified by this act),  
28 waste reduction. Before issuing any proposed rules, the department  
29 shall conduct public hearings regarding the best management practices  
30 for the various waste categories studied by the department. After  
31 conducting the study, the department shall prepare new rules or  
32 modify existing rules as appropriate to promote implementation of the  
33 priorities established in RCW 70.105.150 (as recodified by this act)  
34 for management practices which assure use of sound environmental  
35 management techniques and available technology. The preliminary study  
36 shall be completed by July 1, 1986, and the rules shall be adopted by  
37 July 1, 1987.

1 The studies shall be updated at least once every five years. The  
2 funding for these studies shall be from the (~~hazardous waste control~~  
3 ~~and elimination account~~) model toxics control operating account  
4 created in RCW 70.105D.190 (as recodified by this act), subject to  
5 legislative appropriation.

6 **Sec. 1292.** RCW 70.105.165 and 1984 c 254 s 1 are each amended to  
7 read as follows:

8 (1) Independent of the processing or issuance of any or all  
9 federal, state, and local permits for disposal of dangerous wastes,  
10 no disposal of dangerous wastes at a commercial off-site land  
11 disposal facility may be undertaken prior to July 1, 1986, unless:

12 (a) The disposal results from actions taken under RCW 70.105A.060  
13 (2) and (3), or results from other emergency situations; or

14 (b) Studies undertaken by the department under RCW 70.105.160 (as  
15 recodified by this act) to determine the best management practices  
16 for various waste categories under the priority waste management  
17 methods established in RCW 70.105.150 (as recodified by this act) are  
18 completed for the particular wastes or waste categories to be  
19 disposed of and any regulatory revisions deemed necessary by the  
20 department are proposed and do not prohibit land disposal of such  
21 wastes; or

22 (c) Final regulations have been adopted by the department that  
23 allow for such disposal.

24 (2) Construction of facilities used solely for the purpose of  
25 disposal of wastes that have not met the requirements of subsection  
26 (1) of this section shall not be undertaken by any developer of a  
27 dangerous waste disposal facility.

28 (3) The department shall prioritize the studies of waste  
29 categories undertaken under RCW 70.105.160 (as recodified by this  
30 act) to provide initial consideration of those categories most likely  
31 to be suitable for land disposal. Any regulatory changes deemed  
32 necessary by the department shall be proposed and subjected to the  
33 rule-making process by category as the study of each waste category  
34 is completed. All of the study shall be completed, and implementing  
35 regulations proposed, by July 1, 1986.

36 (4) Any final permit issued by the department before the adoption  
37 of rules promulgated as a result of the study conducted under RCW  
38 70.105.160 (as recodified by this act) shall be modified as necessary  
39 to be consistent with such rules.

1       **Sec. 1293.** RCW 70.105.170 and 1983 1st ex.s. c 70 s 3 are each  
2 amended to read as follows:

3       Consistent with the purposes of RCW 70.105.150 and 70.105.160 (as  
4 recodified by this act), the department is authorized to promote the  
5 priority waste management methods listed in RCW 70.105.150 (as  
6 recodified by this act) by establishing or assisting in the  
7 establishment of: (1) Consultative services which, in conjunction  
8 with any business or industry requesting such service, study and  
9 recommend alternative waste management practices; and (2) technical  
10 assistance, such as a toll-free telephone service, to persons  
11 interested in waste management alternatives. Any person receiving  
12 such service or assistance may, in accordance with state law, request  
13 confidential treatment of information about their manufacturing or  
14 business practices.

15       **Sec. 1294.** RCW 70.105.180 and 1985 c 57 s 70 are each amended to  
16 read as follows:

17       All fines and penalties collected under this chapter shall be  
18 deposited in the (~~hazardous waste control and elimination~~) model  
19 toxics control operating account(~~(, which is hereby created in the~~  
20 ~~state treasury. Moneys in the account collected from fines and~~  
21 ~~penalties shall be expended exclusively by the department of ecology~~  
22 ~~for the purposes of chapter 70, Laws of 1983 1st ex. sess., subject~~  
23 ~~to legislative appropriation. Other sources of funds deposited in~~  
24 ~~this account may also be used for the purposes of chapter 70, Laws of~~  
25 ~~1983 1st ex. sess. All earnings of investments of balances in the~~  
26 ~~hazardous waste control and elimination account shall be credited to~~  
27 ~~the general fund)~~ created in RCW 70.105D.190 (as recodified by this  
28 act).

29       **Sec. 1295.** RCW 70.105.200 and 1985 c 448 s 4 are each amended to  
30 read as follows:

31       (1) The department shall develop, and shall update at least once  
32 every five years, a state hazardous waste management plan. The plan  
33 shall include, but shall not be limited to, the following elements:

34       (a) A state inventory and assessment of the capacity of existing  
35 facilities to treat, store, dispose, or otherwise manage hazardous  
36 waste;

37       (b) A forecast of future hazardous waste generation;

1 (c) A description of the plan or program required by RCW  
2 70.105.160 (as recodified by this act) to promote the waste  
3 management priorities established in RCW 70.105.150 (as recodified by  
4 this act);

5 (d) Siting criteria as appropriate for hazardous waste management  
6 facilities, including such criteria as may be appropriate for the  
7 designation of eligible zones for designated zone facilities.  
8 However, these criteria shall not prevent the continued operation, at  
9 or below the present level of waste management activity, of existing  
10 facilities on the basis of their location in areas other than those  
11 designated as eligible zones pursuant to RCW 70.105.225 (as  
12 recodified by this act);

13 (e) Siting policies as deemed appropriate by the department; and

14 (f) A plan or program to provide appropriate public information  
15 and education relating to hazardous waste management. The department  
16 shall ensure to the maximum degree practical that these plans or  
17 programs are coordinated with public education programs carried out  
18 by local government under RCW 70.105.220 (as recodified by this act).

19 (2) The department shall seek, encourage, and assist  
20 participation in the development, revision, and implementation of the  
21 state hazardous waste management plan by interested citizens, local  
22 government, business and industry, environmental groups, and other  
23 entities as appropriate.

24 (3) Siting criteria shall be completed by December 31, 1986.  
25 Other plan components listed in subsection (1) of this section shall  
26 be completed by June 30, 1987.

27 (4) The department shall incorporate into the state hazardous  
28 waste management plan those elements of the local hazardous waste  
29 management plans that it deems necessary to assure effective and  
30 coordinated programs throughout the state.

31 **Sec. 1296.** RCW 70.105.210 and 1989 1st ex.s. c 13 s 2 are each  
32 amended to read as follows:

33 By May 31, 1990, the department shall develop and adopt criteria  
34 for the siting of hazardous waste management facilities. These  
35 criteria will be part of the state hazardous waste management plan as  
36 described in RCW 70.105.200 (as recodified by this act). To the  
37 extent practical, these criteria shall be designed to minimize the  
38 short-term and long-term risks and costs that may result from  
39 hazardous waste management facilities. These criteria may vary by

1 type of facilities and may consider natural site characteristics and  
2 engineered protection. Criteria may be established for:

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

18 **Sec. 1297.** RCW 70.105.220 and 1992 c 17 s 1 are each amended to  
19 read as follows:

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

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

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

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

36 (ii) Proper methods of handling, reducing, recycling, and  
37 disposing of the waste;

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

4 (d) A description of the public involvement process used in  
5 developing the plan;

6 (e) A description of the eligible zones designated in accordance  
7 with RCW 70.105.225 (as recodified by this act). However, the  
8 requirement to designate eligible zones shall not be considered part  
9 of the local hazardous waste planning requirements; and

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

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

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

25 (4) (a) The department shall prepare guidelines for the  
26 development of local hazardous waste plans. The guidelines shall be  
27 prepared in consultation with local governments and shall be  
28 completed by December 31, 1986. The guidelines shall include a list  
29 of substances identified as hazardous household substances.

30 (b) In preparing the guidelines under (a) of this subsection, the  
31 department shall review and assess information on pilot projects that  
32 have been conducted for moderate-risk waste management. The  
33 department shall encourage additional pilot projects as needed to  
34 provide information to improve and update the guidelines.

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

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

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

19 (8) Each local government, or combination of contiguous local  
20 governments, shall implement the local hazardous waste plan for its  
21 jurisdiction by December 31, 1991.

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

26 **Sec. 1298.** RCW 70.105.221 and 1991 c 319 s 312 are each amended  
27 to read as follows:

28 Local governments and combinations of local governments shall  
29 amend their local hazardous waste plans required under RCW 70.105.220  
30 (as recodified by this act) to comply with RCW 70.95I.020 (as  
31 recodified by this act).

32 **Sec. 1299.** RCW 70.105.225 and 1989 1st ex.s. c 13 s 1 are each  
33 amended to read as follows:

34 (1) Each local government, or combination of contiguous local  
35 governments, is directed to: (a) Demonstrate to the satisfaction of  
36 the department that existing zoning allows designated zone facilities  
37 as permitted uses; or (b) designate land use zones within its  
38 jurisdiction in which designated zone facilities are permitted uses.

1 The zone designations shall be consistent with the state siting  
2 criteria adopted in accordance with RCW 70.105.210 (as recodified by  
3 this act), except as may be approved by the department in accordance  
4 with subsection (6) of this section.

5 (2) Local governments shall not prohibit the processing or  
6 handling of hazardous waste in zones in which the processing or  
7 handling of hazardous substances is not prohibited. This subsection  
8 does not apply in residential zones.

9 (3) The department shall prepare guidelines, as appropriate, for  
10 the designation of zones under this section. The guidelines shall be  
11 prepared in consultation with local governments and shall be  
12 completed by December 31, 1986.

13 (4) The initial designation of zones shall be completed or  
14 revised, and submitted to the department within eighteen months after  
15 the enactment of siting criteria in accordance with RCW 70.105.210  
16 (as recodified by this act). Local governments that do not comply  
17 with this submittal deadline shall be subject to the preemptive  
18 provisions of RCW 70.105.240(4) (as recodified by this act) until  
19 such time as zone designations are completed and approved by the  
20 department. Local governments may from time to time amend their  
21 designated zones.

22 (5) Local governments without land use zoning provisions shall  
23 designate eligible geographic areas within their jurisdiction, based  
24 on siting criteria adopted in accordance with RCW 70.105.210 (as  
25 recodified by this act). The area designation shall be subject to the  
26 same requirements as if they were zone designations.

27 (6) Each local government, or combination of contiguous local  
28 governments, shall submit its designation of zones or amendments  
29 thereto to the department. The department shall approve or disapprove  
30 zone designations or amendments within ninety days of submission. The  
31 department shall approve eligible zone designations if it determines  
32 that the proposed zone designations are consistent with this chapter,  
33 the applicable siting criteria, and guidelines for developing  
34 designated zones: PROVIDED, That the department shall consider local  
35 zoning in place as of January 1, 1985, or other special situations or  
36 conditions which may exist in the jurisdiction. If approval is  
37 denied, the department shall state within ninety days from the date  
38 of submission the facts upon which that decision is based and shall  
39 submit the statement to the local government together with any other  
40 comments or recommendations it deems appropriate. The local



1 government shall have ninety days after it receives the statement  
2 from the department to make modifications designed to eliminate the  
3 inconsistencies and resubmit the designation to the department for  
4 approval. Any designations shall take effect when approved by the  
5 department.

6 (7) The department may exempt a local government from the  
7 requirements of this section if:

8 (a) Regulated quantities of hazardous waste have not been  
9 generated within the jurisdiction during the two calendar years  
10 immediately preceding the calendar year during which the exemption is  
11 requested; and

12 (b) The local government can demonstrate to the satisfaction of  
13 the department that no significant portion of land within the  
14 jurisdiction can meet the siting criteria adopted in accordance with  
15 RCW 70.105.210 (as recodified by this act).

16 **Sec. 1300.** RCW 70.105.235 and 1986 c 210 s 2 are each amended to  
17 read as follows:

18 (1) Subject to legislative appropriations, the department may  
19 make and administer grants to local governments for (a) preparing and  
20 updating local hazardous waste plans, (b) implementing approved local  
21 hazardous waste plans, and (c) designating eligible zones for  
22 designated zone facilities as required under this chapter.

23 (2) Local governments shall match the funds provided by the  
24 department for planning or designating zones with an amount not less  
25 than twenty-five percent of the estimated cost of the work to be  
26 performed. Local governments may meet their share of costs with cash  
27 or contributed services. Local governments, or combination of  
28 contiguous local governments, conducting pilot projects pursuant to  
29 RCW 70.105.220(4) (as recodified by this act) may subtract the cost  
30 of those pilot projects conducted for hazardous household substances  
31 from their share of the cost. If a pilot project has been conducted  
32 for all moderate-risk wastes, only the portion of the cost that  
33 applies to hazardous household substances shall be subtracted. The  
34 matching funds requirement under this subsection shall be waived for  
35 local governments, or combination of contiguous local governments,  
36 that complete and submit their local hazardous waste plans under RCW  
37 70.105.220(6) (as recodified by this act) prior to June 30, 1988.

1 (3) Recipients of grants shall meet such qualifications and  
2 follow such procedures in applying for and using grants as may be  
3 established by the department.

4 **Sec. 1301.** RCW 70.105.240 and 1985 c 448 s 10 are each amended  
5 to read as follows:

6 (1) As of July 28, 1985, the state preempts the field of state,  
7 regional, or local permitting and regulating of all preempted  
8 facilities as defined in this chapter. The department of ecology is  
9 designated the sole decision-making authority with respect to  
10 permitting and regulating such facilities and no other state agency,  
11 department, division, bureau, commission, or board, or any local or  
12 regional political subdivision of the state, shall have any  
13 permitting or regulatory authority with respect to such facilities  
14 including, but not limited to, the location, construction, and  
15 operation of such facilities. Permits issued by the department shall  
16 be in lieu of any and all permits, approvals, certifications, or  
17 conditions of any other state, regional, or local governmental  
18 authority which would otherwise apply.

19 (2) The department shall ensure that any permits issued under  
20 this chapter invoking the preemption authority of this section meet  
21 the substantive requirements of existing state laws and regulations  
22 to the extent such laws and regulations are not inconsistent or in  
23 conflict with any of the provisions of this chapter. In the event  
24 that any of the provisions of this chapter, or any of the regulations  
25 promulgated hereunder, are in conflict with any other state law or  
26 regulations, such other law or regulations shall be deemed superseded  
27 for purposes of this chapter.

28 (3) As of July 28, 1985, any ordinances, regulations,  
29 requirements, or restrictions of regional or local governmental  
30 authorities regarding the location, construction, or operation of  
31 preempted facilities shall be deemed superseded. However, in issuing  
32 permits under this section, the department shall consider local fire  
33 and building codes and condition such permits as appropriate in  
34 compliance therewith.

35 (4) Effective July 1, 1988, the department shall have the same  
36 preemptive authority as defined in subsections (1) through (3) of  
37 this section in regard to any designated zone facility that may be  
38 proposed in any jurisdiction where the designation of eligible zones  
39 pursuant to RCW 70.105.225 (as recodified by this act) has not been

1 completed and approved by the department. Unless otherwise preempted  
2 by this subsection, designated zone facilities shall be subject to  
3 all applicable state and local laws, regulations, plans, and other  
4 requirements.

5 **Sec. 1302.** RCW 70.105.250 and 1985 c 448 s 12 are each amended  
6 to read as follows:

7 Any disputes between the department and the governing bodies of  
8 local governments in regard to the local planning requirements under  
9 RCW 70.105.220 (as recodified by this act) and the designation of  
10 zones under RCW 70.105.225 (as recodified by this act) may be  
11 appealed by the department or the governing body of the local  
12 government to the pollution control hearings board established under  
13 chapter 43.21B RCW.

14 **Sec. 1303.** RCW 70.105.270 and 1985 c 448 s 15 are each amended  
15 to read as follows:

16 The requirements of RCW 70.105.200 through 70.105.230 and  
17 70.105.240(4) (as recodified by this act) shall not become mandatory  
18 until funding is appropriated by the legislature.

19 **Sec. 1304.** RCW 70.105.280 and 2013 2nd sp.s. c 1 s 14 are each  
20 amended to read as follows:

21 (1) The department may assess reasonable service charges against  
22 those facilities that store, treat, incinerate, or dispose of  
23 dangerous or extremely hazardous waste that contains both a  
24 nonradioactive hazardous component and a radioactive component or  
25 which are undergoing closure under this chapter in those instances  
26 where closure entails the physical characterization of remaining  
27 wastes which contain both a nonradioactive hazardous component and a  
28 radioactive component or the management of such wastes through  
29 treatment or removal, except any commercial low-level radioactive  
30 waste facility. Service charges may not exceed the costs to the  
31 department in carrying out the duties of this section.

32 (2) Program elements or activities for which service charges may  
33 be assessed include:

34 (a) Office, staff, and staff support for the purposes of facility  
35 or unit permit development, review, and issuance; and

36 (b) Actions taken to determine and ensure compliance with the  
37 state's hazardous waste management act.

1 (3) Moneys collected through the imposition of such service  
2 charges shall be deposited in the radioactive mixed waste account  
3 created in RCW 70.105.310 (as recodified by this act).

4 (4) The department shall adopt rules necessary to implement this  
5 section. Facilities that store, treat, incinerate, or dispose of  
6 dangerous or extremely hazardous waste that contains both a  
7 nonradioactive hazardous component and a radioactive component shall  
8 not be subject to service charges prior to such rule making.  
9 Facilities undergoing closure under this chapter in those instances  
10 where closure entails the physical characterization of remaining  
11 wastes which contain both a nonradioactive hazardous component and a  
12 radioactive component or the management of such wastes through  
13 treatment or removal shall not be subject to service charges prior to  
14 such rule making.

15 **Sec. 1305.** RCW 70.105.310 and 2013 2nd sp.s. c 1 s 12 are each  
16 amended to read as follows:

17 The radioactive mixed waste account is created within the state  
18 treasury. All receipts received from facilities assessed service  
19 charges established under RCW 70.105.280 (as recodified by this act)  
20 must be deposited into the account. Moneys in the account may be  
21 spent only after appropriation. Expenditures from the account may  
22 only be used for carrying out the department's powers and duties  
23 under this chapter related to the regulation of facilities that  
24 treat, store, or dispose of mixed waste or mixed waste facilities  
25 that are undergoing closure.

26 **Sec. 1306.** RCW 70.105D.020 and 2013 2nd sp.s. c 1 s 2 are each  
27 reenacted and amended to read as follows:

28 The definitions in this section apply throughout this chapter  
29 unless the context clearly requires otherwise.

30 (1) "Agreed order" means an order issued by the department under  
31 this chapter with which the potentially liable person or prospective  
32 purchaser receiving the order agrees to comply. An agreed order may  
33 be used to require or approve any cleanup or other remedial actions  
34 but it is not a settlement under RCW 70.105D.040(4) (as recodified by  
35 this act) and shall not contain a covenant not to sue, or provide  
36 protection from claims for contribution, or provide eligibility for  
37 public funding of remedial actions under RCW ~~((70.105D.070(3) (k) and~~  
38 ~~(g))~~ 70.105D.200(4) (a) (v) and (vi) (as recodified by this act).

1 (2) "Area-wide groundwater contamination" means groundwater  
2 contamination on multiple adjacent properties with different  
3 ownerships consisting of hazardous substances from multiple sources  
4 that have resulted in commingled plumes of contaminated groundwater  
5 that are not practicable to address separately.

6 (3) "Brownfield property" means previously developed and  
7 currently abandoned or underutilized real property and adjacent  
8 surface waters and sediment where environmental, economic, or  
9 community reuse objectives are hindered by the release or threatened  
10 release of hazardous substances that the department has determined  
11 requires remedial action under this chapter or that the United States  
12 environmental protection agency has determined requires remedial  
13 action under the federal cleanup law.

14 (4) "City" means a city or town.

15 (5) "Department" means the department of ecology.

16 (6) "Director" means the director of ecology or the director's  
17 designee.

18 (7) "Environmental covenant" has the same meaning as defined in  
19 RCW 64.70.020.

20 (8) "Facility" means (a) any building, structure, installation,  
21 equipment, pipe or pipeline (including any pipe into a sewer or  
22 publicly owned treatment works), well, pit, pond, lagoon,  
23 impoundment, ditch, landfill, storage container, motor vehicle,  
24 rolling stock, vessel, or aircraft, or (b) any site or area where a  
25 hazardous substance, other than a consumer product in consumer use,  
26 has been deposited, stored, disposed of, or placed, or otherwise come  
27 to be located.

28 (9) "Federal cleanup law" means the federal comprehensive  
29 environmental response, compensation, and liability act of 1980, 42  
30 U.S.C. Sec. 9601 et seq., as amended by Public Law 99-499.

31 (10)(a) "Fiduciary" means a person acting for the benefit of  
32 another party as a bona fide trustee; executor; administrator;  
33 custodian; guardian of estates or guardian ad litem; receiver;  
34 conservator; committee of estates of incapacitated persons; trustee  
35 in bankruptcy; trustee, under an indenture agreement, trust  
36 agreement, lease, or similar financing agreement, for debt  
37 securities, certificates of interest or certificates of participation  
38 in debt securities, or other forms of indebtedness as to which the  
39 trustee is not, in the capacity of trustee, the lender. Except as  
40 provided in subsection (22)(b)(iii) of this section, the liability of

1 a fiduciary under this chapter shall not exceed the assets held in  
2 the fiduciary capacity.

3 (b) "Fiduciary" does not mean:

4 (i) A person acting as a fiduciary with respect to a trust or  
5 other fiduciary estate that was organized for the primary purpose of,  
6 or is engaged in, actively carrying on a trade or business for  
7 profit, unless the trust or other fiduciary estate was created as  
8 part of, or to facilitate, one or more estate plans or because of the  
9 incapacity of a natural person;

10 (ii) A person who acquires ownership or control of a facility  
11 with the objective purpose of avoiding liability of the person or any  
12 other person. It is prima facie evidence that the fiduciary acquired  
13 ownership or control of the facility to avoid liability if the  
14 facility is the only substantial asset in the fiduciary estate at the  
15 time the facility became subject to the fiduciary estate;

16 (iii) A person who acts in a capacity other than that of a  
17 fiduciary or in a beneficiary capacity and in that capacity directly  
18 or indirectly benefits from a trust or fiduciary relationship;

19 (iv) A person who is a beneficiary and fiduciary with respect to  
20 the same fiduciary estate, and who while acting as a fiduciary  
21 receives benefits that exceed customary or reasonable compensation,  
22 and incidental benefits permitted under applicable law;

23 (v) A person who is a fiduciary and receives benefits that  
24 substantially exceed customary or reasonable compensation, and  
25 incidental benefits permitted under applicable law; or

26 (vi) A person who acts in the capacity of trustee of state or  
27 federal lands or resources.

28 (11) "Fiduciary capacity" means the capacity of a person holding  
29 title to a facility, or otherwise having control of an interest in  
30 the facility pursuant to the exercise of the responsibilities of the  
31 person as a fiduciary.

32 (12) "Foreclosure and its equivalents" means purchase at a  
33 foreclosure sale, acquisition, or assignment of title in lieu of  
34 foreclosure, termination of a lease, or other repossession,  
35 acquisition of a right to title or possession, an agreement in  
36 satisfaction of the obligation, or any other comparable formal or  
37 informal manner, whether pursuant to law or under warranties,  
38 covenants, conditions, representations, or promises from the  
39 borrower, by which the holder acquires title to or possession of a  
40 facility securing a loan or other obligation.

1 (13) "Hazardous substance" means:

2 (a) Any dangerous or extremely hazardous waste as defined in RCW  
3 70.105.010 (1) and (7) (as recodified by this act), or any dangerous  
4 or extremely dangerous waste designated by rule pursuant to chapter  
5 70.105 RCW (as recodified by this act);

6 (b) Any hazardous substance as defined in RCW 70.105.010(10) (as  
7 recodified by this act) or any hazardous substance as defined by rule  
8 pursuant to chapter 70.105 RCW (as recodified by this act);

9 (c) Any substance that, on March 1, 1989, is a hazardous  
10 substance under section 101(14) of the federal cleanup law, 42 U.S.C.  
11 Sec. 9601(14);

12 (d) Petroleum or petroleum products; and

13 (e) Any substance or category of substances, including solid  
14 waste decomposition products, determined by the director by rule to  
15 present a threat to human health or the environment if released into  
16 the environment.

17 The term hazardous substance does not include any of the  
18 following when contained in an underground storage tank from which  
19 there is not a release: Crude oil or any fraction thereof or  
20 petroleum, if the tank is in compliance with all applicable federal,  
21 state, and local law.

22 (14) "Holder" means a person who holds indicia of ownership  
23 primarily to protect a security interest. A holder includes the  
24 initial holder such as the loan originator, any subsequent holder  
25 such as a successor-in-interest or subsequent purchaser of the  
26 security interest on the secondary market, a guarantor of an  
27 obligation, surety, or any other person who holds indicia of  
28 ownership primarily to protect a security interest, or a receiver,  
29 court-appointed trustee, or other person who acts on behalf or for  
30 the benefit of a holder. A holder can be a public or privately owned  
31 financial institution, receiver, conservator, loan guarantor, or  
32 other similar persons that loan money or guarantee repayment of a  
33 loan. Holders typically are banks or savings and loan institutions  
34 but may also include others such as insurance companies, pension  
35 funds, or private individuals that engage in loaning of money or  
36 credit.

37 (15) "Independent remedial actions" means remedial actions  
38 conducted without department oversight or approval, and not under an  
39 order, agreed order, or consent decree.

1 (16) "Indicia of ownership" means evidence of a security  
2 interest, evidence of an interest in a security interest, or evidence  
3 of an interest in a facility securing a loan or other obligation,  
4 including any legal or equitable title to a facility acquired  
5 incident to foreclosure and its equivalents. Evidence of such  
6 interests includes, mortgages, deeds of trust, sellers interest in a  
7 real estate contract, liens, surety bonds, and guarantees of  
8 obligations, title held pursuant to a lease financing transaction in  
9 which the lessor does not select initially the leased facility, or  
10 legal or equitable title obtained pursuant to foreclosure and their  
11 equivalents. Evidence of such interests also includes assignments,  
12 pledges, or other rights to or other forms of encumbrance against the  
13 facility that are held primarily to protect a security interest.

14 (17) "Industrial properties" means properties that are or have  
15 been characterized by, or are to be committed to, traditional  
16 industrial uses such as processing or manufacturing of materials,  
17 marine terminal and transportation areas and facilities, fabrication,  
18 assembly, treatment, or distribution of manufactured products, or  
19 storage of bulk materials, that are either:

20 (a) Zoned for industrial use by a city or county conducting land  
21 use planning under chapter 36.70A RCW; or

22 (b) For counties not planning under chapter 36.70A RCW and the  
23 cities within them, zoned for industrial use and adjacent to  
24 properties currently used or designated for industrial purposes.

25 (18) "Institutional controls" means measures undertaken to limit  
26 or prohibit activities that may interfere with the integrity of a  
27 remedial action or result in exposure to or migration of hazardous  
28 substances at a site. "Institutional controls" include environmental  
29 covenants.

30 (19) "Local government" means any political subdivision of the  
31 state, including a town, city, county, special purpose district, or  
32 other municipal corporation, including brownfield renewal authority  
33 created under RCW 70.105D.160 (as recodified by this act).

34 (20) "Model remedy" or "model remedial action" means a set of  
35 technologies, procedures, and monitoring protocols identified by the  
36 department for use in routine types of clean-up projects at  
37 facilities that have common features and lower risk to human health  
38 and the environment.

39 (21) "Operating a facility primarily to protect a security  
40 interest" occurs when all of the following are met: (a) Operating the



1 facility where the borrower has defaulted on the loan or otherwise  
2 breached the security agreement; (b) operating the facility to  
3 preserve the value of the facility as an ongoing business; (c) the  
4 operation is being done in anticipation of a sale, transfer, or  
5 assignment of the facility; and (d) the operation is being done  
6 primarily to protect a security interest. Operating a facility for  
7 longer than one year prior to foreclosure or its equivalents shall be  
8 presumed to be operating the facility for other than to protect a  
9 security interest.

10 (22) "Owner or operator" means:

11 (a) Any person with any ownership interest in the facility or who  
12 exercises any control over the facility; or

13 (b) In the case of an abandoned facility, any person who had  
14 owned, or operated, or exercised control over the facility any time  
15 before its abandonment;

16 The term does not include:

17 (i) An agency of the state or unit of local government which  
18 acquired ownership or control through a drug forfeiture action under  
19 RCW 69.50.505, or involuntarily through bankruptcy, tax delinquency,  
20 abandonment, or other circumstances in which the government  
21 involuntarily acquires title. This exclusion does not apply to an  
22 agency of the state or unit of local government which has caused or  
23 contributed to the release or threatened release of a hazardous  
24 substance from the facility;

25 (ii) A person who, without participating in the management of a  
26 facility, holds indicia of ownership primarily to protect the  
27 person's security interest in the facility. Holders after foreclosure  
28 and its equivalent and holders who engage in any of the activities  
29 identified in subsection (23)(e) through (g) of this section shall  
30 not lose this exemption provided the holder complies with all of the  
31 following:

32 (A) The holder properly maintains the environmental compliance  
33 measures already in place at the facility;

34 (B) The holder complies with the reporting requirements in the  
35 rules adopted under this chapter;

36 (C) The holder complies with any order issued to the holder by  
37 the department to abate an imminent or substantial endangerment;

38 (D) The holder allows the department or potentially liable  
39 persons under an order, agreed order, or settlement agreement under

1 this chapter access to the facility to conduct remedial actions and  
2 does not impede the conduct of such remedial actions;

3 (E) Any remedial actions conducted by the holder are in  
4 compliance with any preexisting requirements identified by the  
5 department, or, if the department has not identified such  
6 requirements for the facility, the remedial actions are conducted  
7 consistent with the rules adopted under this chapter; and

8 (F) The holder does not exacerbate an existing release. The  
9 exemption in this subsection (22)(b)(ii) does not apply to holders  
10 who cause or contribute to a new release or threatened release or who  
11 are otherwise liable under RCW 70.105D.040(1)(b), (c), (d), and (e)  
12 (as recodified by this act); provided, however, that a holder shall  
13 not lose this exemption if it establishes that any such new release  
14 has been remediated according to the requirements of this chapter and  
15 that any hazardous substances remaining at the facility after  
16 remediation of the new release are divisible from such new release;

17 (iii) A fiduciary in his, her, or its personal or individual  
18 capacity. This exemption does not preclude a claim against the assets  
19 of the estate or trust administered by the fiduciary or against a  
20 nonemployee agent or independent contractor retained by a fiduciary.  
21 This exemption also does not apply to the extent that a person is  
22 liable under this chapter independently of the person's ownership as  
23 a fiduciary or for actions taken in a fiduciary capacity which cause  
24 or contribute to a new release or exacerbate an existing release of  
25 hazardous substances. This exemption applies provided that, to the  
26 extent of the fiduciary's powers granted by law or by the applicable  
27 governing instrument granting fiduciary powers, the fiduciary  
28 complies with all of the following:

29 (A) The fiduciary properly maintains the environmental compliance  
30 measures already in place at the facility;

31 (B) The fiduciary complies with the reporting requirements in the  
32 rules adopted under this chapter;

33 (C) The fiduciary complies with any order issued to the fiduciary  
34 by the department to abate an imminent or substantial endangerment;

35 (D) The fiduciary allows the department or potentially liable  
36 persons under an order, agreed order, or settlement agreement under  
37 this chapter access to the facility to conduct remedial actions and  
38 does not impede the conduct of such remedial actions;

39 (E) Any remedial actions conducted by the fiduciary are in  
40 compliance with any preexisting requirements identified by the

1 department, or, if the department has not identified such  
2 requirements for the facility, the remedial actions are conducted  
3 consistent with the rules adopted under this chapter; and

4 (F) The fiduciary does not exacerbate an existing release.

5 The exemption in this subsection (22)(b)(iii) does not apply to  
6 fiduciaries who cause or contribute to a new release or threatened  
7 release or who are otherwise liable under RCW 70.105D.040(1) (b),  
8 (c), (d), and (e) (as recodified by this act); provided however, that  
9 a fiduciary shall not lose this exemption if it establishes that any  
10 such new release has been remediated according to the requirements of  
11 this chapter and that any hazardous substances remaining at the  
12 facility after remediation of the new release are divisible from such  
13 new release. The exemption in this subsection (22)(b)(iii) also does  
14 not apply where the fiduciary's powers to comply with this subsection  
15 (22)(b)(iii) are limited by a governing instrument created with the  
16 objective purpose of avoiding liability under this chapter or of  
17 avoiding compliance with this chapter; or

18 (iv) Any person who has any ownership interest in, operates, or  
19 exercises control over real property where a hazardous substance has  
20 come to be located solely as a result of migration of the hazardous  
21 substance to the real property through the groundwater from a source  
22 off the property, if:

23 (A) The person can demonstrate that the hazardous substance has  
24 not been used, placed, managed, or otherwise handled on the property  
25 in a manner likely to cause or contribute to a release of the  
26 hazardous substance that has migrated onto the property;

27 (B) The person has not caused or contributed to the release of  
28 the hazardous substance;

29 (C) The person does not engage in activities that damage or  
30 interfere with the operation of remedial actions installed on the  
31 person's property or engage in activities that result in exposure of  
32 humans or the environment to the contaminated groundwater that has  
33 migrated onto the property;

34 (D) If requested, the person allows the department, potentially  
35 liable persons who are subject to an order, agreed order, or consent  
36 decree, and the authorized employees, agents, or contractors of each,  
37 access to the property to conduct remedial actions required by the  
38 department. The person may attempt to negotiate an access agreement  
39 before allowing access; and

1 (E) Legal withdrawal of groundwater does not disqualify a person  
2 from the exemption in this subsection (22) (b) (iv).

3 (23) "Participation in management" means exercising decision-  
4 making control over the borrower's operation of the facility,  
5 environmental compliance, or assuming or manifesting responsibility  
6 for the overall management of the enterprise encompassing the day-to-  
7 day decision making of the enterprise.

8 The term does not include any of the following: (a) A holder with  
9 the mere capacity or ability to influence, or the unexercised right  
10 to control facility operations; (b) a holder who conducts or requires  
11 a borrower to conduct an environmental audit or an environmental site  
12 assessment at the facility for which indicia of ownership is held;  
13 (c) a holder who requires a borrower to come into compliance with any  
14 applicable laws or regulations at the facility for which indicia of  
15 ownership is held; (d) a holder who requires a borrower to conduct  
16 remedial actions including setting minimum requirements, but does not  
17 otherwise control or manage the borrower's remedial actions or the  
18 scope of the borrower's remedial actions except to prepare a facility  
19 for sale, transfer, or assignment; (e) a holder who engages in  
20 workout or policing activities primarily to protect the holder's  
21 security interest in the facility; (f) a holder who prepares a  
22 facility for sale, transfer, or assignment or requires a borrower to  
23 prepare a facility for sale, transfer, or assignment; (g) a holder  
24 who operates a facility primarily to protect a security interest, or  
25 requires a borrower to continue to operate, a facility primarily to  
26 protect a security interest; and (h) a prospective holder who, as a  
27 condition of becoming a holder, requires an owner or operator to  
28 conduct an environmental audit, conduct an environmental site  
29 assessment, come into compliance with any applicable laws or  
30 regulations, or conduct remedial actions prior to holding a security  
31 interest is not participating in the management of the facility.

32 (24) "Person" means an individual, firm, corporation,  
33 association, partnership, consortium, joint venture, commercial  
34 entity, state government agency, unit of local government, federal  
35 government agency, or Indian tribe.

36 (25) "Policing activities" means actions the holder takes to  
37 ensure that the borrower complies with the terms of the loan or  
38 security interest or actions the holder takes or requires the  
39 borrower to take to maintain the value of the security. Policing  
40 activities include: Requiring the borrower to conduct remedial

1 actions at the facility during the term of the security interest;  
2 requiring the borrower to comply or come into compliance with  
3 applicable federal, state, and local environmental and other laws,  
4 regulations, and permits during the term of the security interest;  
5 securing or exercising authority to monitor or inspect the facility  
6 including on-site inspections, or to monitor or inspect the  
7 borrower's business or financial condition during the term of the  
8 security interest; or taking other actions necessary to adequately  
9 police the loan or security interest such as requiring a borrower to  
10 comply with any warranties, covenants, conditions, representations,  
11 or promises from the borrower.

12 (26) "Potentially liable person" means any person whom the  
13 department finds, based on credible evidence, to be liable under RCW  
14 70.105D.040 (as recodified by this act). The department shall give  
15 notice to any such person and allow an opportunity for comment before  
16 making the finding, unless an emergency requires otherwise.

17 (27) "Prepare a facility for sale, transfer, or assignment" means  
18 to secure access to the facility; perform routine maintenance on the  
19 facility; remove inventory, equipment, or structures; properly  
20 maintain environmental compliance measures already in place at the  
21 facility; conduct remedial actions to cleanup releases at the  
22 facility; or to perform other similar activities intended to preserve  
23 the value of the facility where the borrower has defaulted on the  
24 loan or otherwise breached the security agreement or after  
25 foreclosure and its equivalents and in anticipation of a pending  
26 sale, transfer, or assignment, primarily to protect the holder's  
27 security interest in the facility. A holder can prepare a facility  
28 for sale, transfer, or assignment for up to one year prior to  
29 foreclosure and its equivalents and still stay within the security  
30 interest exemption in subsection (22) (b) (ii) of this section.

31 (28) "Primarily to protect a security interest" means the indicia  
32 of ownership is held primarily for the purpose of securing payment or  
33 performance of an obligation. The term does not include indicia of  
34 ownership held primarily for investment purposes nor indicia of  
35 ownership held primarily for purposes other than as protection for a  
36 security interest. A holder may have other, secondary reasons, for  
37 maintaining indicia of ownership, but the primary reason must be for  
38 protection of a security interest. Holding indicia of ownership after  
39 foreclosure or its equivalents for longer than five years shall be  
40 considered to be holding the indicia of ownership for purposes other

1 than primarily to protect a security interest. For facilities that  
2 have been acquired through foreclosure or its equivalents prior to  
3 July 23, 1995, this five-year period shall begin as of July 23, 1995.

4 (29) "Prospective purchaser" means a person who is not currently  
5 liable for remedial action at a facility and who proposes to  
6 purchase, redevelop, or reuse the facility.

7 (30) "Public notice" means, at a minimum, adequate notice mailed  
8 to all persons who have made timely request of the department and to  
9 persons residing in the potentially affected vicinity of the proposed  
10 action; mailed to appropriate news media; published in the newspaper  
11 of largest circulation in the city or county of the proposed action;  
12 and opportunity for interested persons to comment.

13 (31) "Redevelopment opportunity zone" means a geographic area  
14 designated under RCW 70.105D.150 (as recodified by this act).

15 (32) "Release" means any intentional or unintentional entry of  
16 any hazardous substance into the environment, including but not  
17 limited to the abandonment or disposal of containers of hazardous  
18 substances.

19 (33) "Remedy" or "remedial action" means any action or  
20 expenditure consistent with the purposes of this chapter to identify,  
21 eliminate, or minimize any threat or potential threat posed by  
22 hazardous substances to human health or the environment including any  
23 investigative and monitoring activities with respect to any release  
24 or threatened release of a hazardous substance and any health  
25 assessments or health effects studies conducted in order to determine  
26 the risk or potential risk to human health.

27 (34) "Security interest" means an interest in a facility created  
28 or established for the purpose of securing a loan or other  
29 obligation. Security interests include deeds of trusts, sellers  
30 interest in a real estate contract, liens, legal, or equitable title  
31 to a facility acquired incident to foreclosure and its equivalents,  
32 and title pursuant to lease financing transactions. Security  
33 interests may also arise from transactions such as sale and  
34 leasebacks, conditional sales, installment sales, trust receipt  
35 transactions, certain assignments, factoring agreements, accounts  
36 receivable financing arrangements, easements, and consignments, if  
37 the transaction creates or establishes an interest in a facility for  
38 the purpose of securing a loan or other obligation.

39 (35) "Workout activities" means those actions by which a holder,  
40 at any time prior to foreclosure and its equivalents, seeks to

1 prevent, cure, or mitigate a default by the borrower or obligor; or  
2 to preserve, or prevent the diminution of, the value of the security.  
3 Workout activities include: Restructuring or renegotiating the terms  
4 of the security interest; requiring payment of additional rent or  
5 interest; exercising forbearance; requiring or exercising rights  
6 pursuant to an assignment of accounts or other amounts owed to an  
7 obligor; requiring or exercising rights pursuant to an escrow  
8 agreement pertaining to amounts owed to an obligor; providing  
9 specific or general financial or other advice, suggestions,  
10 counseling, or guidance; and exercising any right or remedy the  
11 holder is entitled to by law or under any warranties, covenants,  
12 conditions, representations, or promises from the borrower.

13 **Sec. 1307.** RCW 70.105D.030 and 2019 c 422 s 401 and 2019 c 95 s  
14 3 are each reenacted and amended to read as follows:

15 (1) The department may exercise the following powers in addition  
16 to any other powers granted by law:

17 (a) Investigate, provide for investigating, or require  
18 potentially liable persons to investigate any releases or threatened  
19 releases of hazardous substances, including but not limited to  
20 inspecting, sampling, or testing to determine the nature or extent of  
21 any release or threatened release. If there is a reasonable basis to  
22 believe that a release or threatened release of a hazardous substance  
23 may exist, the department's authorized employees, agents, or  
24 contractors may enter upon any property and conduct investigations.  
25 The department shall give reasonable notice before entering property  
26 unless an emergency prevents such notice. The department may by  
27 subpoena require the attendance or testimony of witnesses and the  
28 production of documents or other information that the department  
29 deems necessary;

30 (b) Conduct, provide for conducting, or require potentially  
31 liable persons to conduct remedial actions (including investigations  
32 under (a) of this subsection) to remedy releases or threatened  
33 releases of hazardous substances. In carrying out such powers, the  
34 department's authorized employees, agents, or contractors may enter  
35 upon property. The department must give reasonable notice before  
36 entering property unless an emergency prevents such notice. In  
37 conducting, providing for, or requiring remedial action, the  
38 department must give preference to permanent solutions to the maximum

1 extent practicable and must provide for or require adequate  
2 monitoring to ensure the effectiveness of the remedial action;

3 (c) Indemnify contractors retained by the department for carrying  
4 out investigations and remedial actions, but not for any contractor's  
5 reckless or willful misconduct;

6 (d) Carry out all state programs authorized under the federal  
7 cleanup law and the federal resource, conservation, and recovery act,  
8 42 U.S.C. Sec. 6901 et seq., as amended;

9 (e) Classify substances as hazardous substances for purposes of  
10 RCW 70.105D.020 (as recodified by this act) and classify substances  
11 and products as hazardous substances for purposes of RCW  
12 82.21.020(1);

13 (f) Issue orders or enter into consent decrees or agreed orders  
14 that include, or issue written opinions under RCW 70.105D.180 (as  
15 recodified by this act) that may be conditioned upon, environmental  
16 covenants where necessary to protect human health and the environment  
17 from a release or threatened release of a hazardous substance from a  
18 facility. Prior to establishing an environmental covenant under this  
19 subsection, the department must consult with and seek comment from a  
20 city or county department with land use planning authority for real  
21 property subject to the environmental covenant;

22 (g) Enforce the application of permanent and effective  
23 institutional controls that are necessary for a remedial action to be  
24 protective of human health and the environment and the notification  
25 requirements established in RCW 70.105D.110 (as recodified by this  
26 act), and impose penalties for violations of that section consistent  
27 with RCW 70.105D.050 (as recodified by this act);

28 (h) Require holders to conduct remedial actions necessary to  
29 abate an imminent or substantial endangerment pursuant to RCW  
30 70.105D.020(22)(b)(ii)(C) (as recodified by this act);

31 (i) In fulfilling the objectives of this chapter, the department  
32 must allocate staffing and financial assistance in a manner that  
33 considers both the reduction of human and environmental risks and the  
34 land reuse potential and planning for the facilities to be cleaned  
35 up. This does not preclude the department from allocating resources  
36 to a facility based solely on human or environmental risks;

37 (j) Establish model remedies for common categories of facilities,  
38 types of hazardous substances, types of media, or geographic areas to  
39 streamline and accelerate the selection of remedies for routine types  
40 of cleanups at facilities;



1 (i) When establishing a model remedy, the department must:  
2 (A) Identify the requirements for characterizing a facility to  
3 select a model remedy, the applicability of the model remedy for use  
4 at a facility, and monitoring requirements;  
5 (B) Describe how the model remedy meets clean-up standards and  
6 the requirements for selecting a remedy established by the department  
7 under this chapter; and  
8 (C) Provide public notice and an opportunity to comment on the  
9 proposed model remedy and the conditions under which it may be used  
10 at a facility;  
11 (ii) When developing model remedies, the department must solicit  
12 and consider proposals from qualified persons. The proposals must, in  
13 addition to describing the model remedy, provide the information  
14 required under (j)(i)(A) and (B) of this subsection;  
15 (iii) If a facility meets the requirements for use of a model  
16 remedy, an analysis of the feasibility of alternative remedies is not  
17 required under this chapter. For department-conducted and department-  
18 supervised remedial actions, the department must provide public  
19 notice and consider public comments on the proposed use of a model  
20 remedy at a facility; and  
21 (k) Take any other actions necessary to carry out the provisions  
22 of this chapter, including the power to adopt rules under chapter  
23 34.05 RCW.  
24 (2) The department must immediately implement all provisions of  
25 this chapter to the maximum extent practicable, including  
26 investigative and remedial actions where appropriate. The department  
27 must adopt, and thereafter enforce, rules under chapter 34.05 RCW to:  
28 (a) Provide for public participation, including at least (i)  
29 public notice of the development of investigative plans or remedial  
30 plans for releases or threatened releases and (ii) concurrent public  
31 notice of all compliance orders, agreed orders, enforcement orders,  
32 or notices of violation;  
33 (b) Establish a hazard ranking system for hazardous waste sites;  
34 (c) Provide for requiring the reporting by an owner or operator  
35 of releases of hazardous substances to the environment that may be a  
36 threat to human health or the environment within ninety days of  
37 discovery, including such exemptions from reporting as the department  
38 deems appropriate, however this requirement may not modify any  
39 existing requirements provided for under other laws;

1 (d) Establish reasonable deadlines not to exceed ninety days for  
2 initiating an investigation of a hazardous waste site after the  
3 department receives notice or otherwise receives information that the  
4 site may pose a threat to human health or the environment and other  
5 reasonable deadlines for remedying releases or threatened releases at  
6 the site;

7 (e) Publish and periodically update minimum clean-up standards  
8 for remedial actions at least as stringent as the clean-up standards  
9 under section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621,  
10 and at least as stringent as all applicable state and federal laws,  
11 including health-based standards under state and federal law; and

12 (f) Apply industrial clean-up standards at industrial properties.  
13 Rules adopted under this subsection must ensure that industrial  
14 properties cleaned up to industrial standards cannot be converted to  
15 nonindustrial uses without approval from the department. The  
16 department may require that a property cleaned up to industrial  
17 standards is cleaned up to a more stringent applicable standard as a  
18 condition of conversion to a nonindustrial use. Industrial clean-up  
19 standards may not be applied to industrial properties where hazardous  
20 substances remaining at the property after remedial action pose a  
21 threat to human health or the environment in adjacent nonindustrial  
22 areas.

23 (3) To achieve and protect the state's long-term ecological  
24 health, the department must plan to clean up hazardous waste sites  
25 and prevent the creation of future hazards due to improper disposal  
26 of toxic wastes at a pace that matches the estimated cash resources  
27 in the model toxics control capital account. Estimated cash resources  
28 must consider the annual cash flow requirements of major projects  
29 that receive appropriations expected to cross multiple biennia.

30 (4) Before September 20th of each even-numbered year, the  
31 department must:

32 (a) Develop a comprehensive ten-year financing report in  
33 coordination with all local governments with clean-up  
34 responsibilities that identifies the projected biennial hazardous  
35 waste site remedial action needs that are eligible for funding from  
36 the model toxics control capital account;

37 (b) Work with local governments to develop working capital  
38 reserves to be incorporated in the ten-year financing report;

1 (c) Identify the projected remedial action needs for orphaned,  
2 abandoned, and other clean-up sites that are eligible for funding  
3 from the model toxics control capital account;

4 (d) Project the remedial action need, cost, revenue, and any  
5 recommended working capital reserve estimate to the next biennium's  
6 long-term remedial action needs from the model toxics control capital  
7 account, and submit this information to the appropriate standing  
8 fiscal and environmental committees of the senate and house of  
9 representatives. This submittal must also include a ranked list of  
10 such remedial action projects for the model toxics control capital  
11 account. The submittal must also identify separate budget estimates  
12 for large, multibiennia clean-up projects that exceed ten million  
13 dollars. The department must prepare its ten-year capital budget plan  
14 that is submitted to the office of financial management to reflect  
15 the separate budget estimates for these large clean-up projects and  
16 include information on the anticipated private and public funding  
17 obligations for completion of the relevant projects.

18 (5) By December 1st of each odd-numbered year, the department  
19 must provide the legislature and the public a report of the  
20 department's activities supported by appropriations from the model  
21 toxics control operating, capital, and stormwater accounts. The  
22 report must be prepared and displayed in a manner that allows the  
23 legislature and the public to easily determine the statewide and  
24 local progress made in cleaning up hazardous waste sites under this  
25 chapter. The report must include, at a minimum:

26 (a) The name, location, hazardous waste ranking, and a short  
27 description of each site on the hazardous sites list, and the date  
28 the site was placed on the hazardous waste sites list; and

29 (b) For sites where there are state contracts, grants, loans, or  
30 direct investments by the state:

31 (i) The amount of money from the model toxics control capital  
32 account used to conduct remedial actions at the site and the amount  
33 of that money recovered from potentially liable persons;

34 (ii) The actual or estimated start and end dates and the actual  
35 or estimated expenditures of funds authorized under this chapter for  
36 the following project phases:

37 (A) Emergency or interim actions, if needed;

38 (B) Remedial investigation;

39 (C) Feasibility study and selection of a remedy;

40 (D) Engineering design and construction of the selected remedy;

1 (E) Operation and maintenance or monitoring of the constructed  
2 remedy; and

3 (F) The final completion date.

4 (6) The department must establish a program to identify potential  
5 hazardous waste sites and to encourage persons to provide information  
6 about hazardous waste sites.

7 (7) For all facilities where an environmental covenant has been  
8 required under subsection (1)(f) of this section, including all  
9 facilities where the department has required an environmental  
10 covenant under an order, agreed order, or consent decree, or as a  
11 condition of a written opinion issued under the authority of RCW  
12 70.105D.180 (as recodified by this act), the department must  
13 periodically review the environmental covenant for effectiveness. The  
14 department must conduct a review at least once every five years after  
15 an environmental covenant is recorded.

16 (a) The review must consist of, at a minimum:

17 (i) A review of the title of the real property subject to the  
18 environmental covenant to determine whether the environmental  
19 covenant was properly recorded and, if applicable, amended or  
20 terminated;

21 (ii) A physical inspection of the real property subject to the  
22 environmental covenant to determine compliance with the environmental  
23 covenant, including whether any development or redevelopment of the  
24 real property has violated the terms of the environmental covenant;  
25 and

26 (iii) A review of the effectiveness of the environmental covenant  
27 in limiting or prohibiting activities that may interfere with the  
28 integrity of the remedial action or that may result in exposure to or  
29 migration of hazardous substances. This must include a review of  
30 available monitoring data.

31 (b) If an environmental covenant has been amended or terminated  
32 without proper authority, or if the terms of an environmental  
33 covenant have been violated, or if the environmental covenant is no  
34 longer effective in limiting or prohibiting activities that may  
35 interfere with the integrity of the remedial action or that may  
36 result in exposure to or migration of hazardous substances, then the  
37 department must take any and all appropriate actions necessary to  
38 ensure compliance with the environmental covenant and the policies  
39 and requirements of this chapter.

1       **Sec. 1308.** RCW 70.105D.040 and 2013 2nd sp.s. c 1 s 7 are each  
2 amended to read as follows:

3       (1) Except as provided in subsection (3) of this section, the  
4 following persons are liable with respect to a facility:

5       (a) The owner or operator of the facility;

6       (b) Any person who owned or operated the facility at the time of  
7 disposal or release of the hazardous substances;

8       (c) Any person who owned or possessed a hazardous substance and  
9 who by contract, agreement, or otherwise arranged for disposal or  
10 treatment of the hazardous substance at the facility, or arranged  
11 with a transporter for transport for disposal or treatment of the  
12 hazardous substances at the facility, or otherwise generated  
13 hazardous wastes disposed of or treated at the facility;

14       (d) Any person (i) who accepts or accepted any hazardous  
15 substance for transport to a disposal, treatment, or other facility  
16 selected by such person from which there is a release or a threatened  
17 release for which remedial action is required, unless such facility,  
18 at the time of disposal or treatment, could legally receive such  
19 substance; or (ii) who accepts a hazardous substance for transport to  
20 such a facility and has reasonable grounds to believe that such  
21 facility is not operated in accordance with chapter 70.105 RCW (as  
22 recodified by this act); and

23       (e) Any person who both sells a hazardous substance and is  
24 responsible for written instructions for its use if (i) the substance  
25 is used according to the instructions and (ii) the use constitutes a  
26 release for which remedial action is required at the facility.

27       (2) Each person who is liable under this section is strictly  
28 liable, jointly and severally, for all remedial action costs and for  
29 all natural resource damages resulting from the releases or  
30 threatened releases of hazardous substances. The attorney general, at  
31 the request of the department, is empowered to recover all costs and  
32 damages from persons liable therefor.

33       (3) The following persons are not liable under this section:

34       (a) Any person who can establish that the release or threatened  
35 release of a hazardous substance for which the person would be  
36 otherwise responsible was caused solely by:

37       (i) An act of God;

38       (ii) An act of war; or

39       (iii) An act or omission of a third party (including but not  
40 limited to a trespasser) other than (A) an employee or agent of the

1 person asserting the defense, or (B) any person whose act or omission  
2 occurs in connection with a contractual relationship existing,  
3 directly or indirectly, with the person asserting this defense to  
4 liability. This defense only applies where the person asserting the  
5 defense has exercised the utmost care with respect to the hazardous  
6 substance, the foreseeable acts or omissions of the third party, and  
7 the foreseeable consequences of those acts or omissions;

8 (b) Any person who is an owner, past owner, or purchaser of a  
9 facility and who can establish by a preponderance of the evidence  
10 that at the time the facility was acquired by the person, the person  
11 had no knowledge or reason to know that any hazardous substance, the  
12 release or threatened release of which has resulted in or contributed  
13 to the need for the remedial action, was released or disposed of on,  
14 in, or at the facility. This subsection (3)(b) is limited as follows:

15 (i) To establish that a person had no reason to know, the person  
16 must have undertaken, at the time of acquisition, all appropriate  
17 inquiry into the previous ownership and uses of the property,  
18 consistent with good commercial or customary practice in an effort to  
19 minimize liability. Any court interpreting this subsection (3)(b)  
20 shall take into account any specialized knowledge or experience on  
21 the part of the person, the relationship of the purchase price to the  
22 value of the property if uncontaminated, commonly known or reasonably  
23 ascertainable information about the property, the obviousness of the  
24 presence or likely presence of contamination at the property, and the  
25 ability to detect such contamination by appropriate inspection;

26 (ii) The defense contained in this subsection (3)(b) is not  
27 available to any person who had actual knowledge of the release or  
28 threatened release of a hazardous substance when the person owned the  
29 real property and who subsequently transferred ownership of the  
30 property without first disclosing such knowledge to the transferee;

31 (iii) The defense contained in this subsection (3)(b) is not  
32 available to any person who, by any act or omission, caused or  
33 contributed to the release or threatened release of a hazardous  
34 substance at the facility;

35 (c) Any natural person who uses a hazardous substance lawfully  
36 and without negligence for any personal or domestic purpose in or  
37 near a dwelling or accessory structure when that person is: (i) A  
38 resident of the dwelling; (ii) a person who, without compensation,  
39 assists the resident in the use of the substance; or (iii) a person

1 who is employed by the resident, but who is not an independent  
2 contractor;

3 (d) Any person who, for the purpose of growing food crops,  
4 applies pesticides or fertilizers without negligence and in  
5 accordance with all applicable laws and regulations.

6 (4) There may be no settlement by the state with any person  
7 potentially liable under this chapter except in accordance with this  
8 section.

9 (a) The attorney general may agree to a settlement with any  
10 potentially liable person only if the department finds, after public  
11 notice and any required hearing, that the proposed settlement would  
12 lead to a more expeditious cleanup of hazardous substances in  
13 compliance with clean-up standards under RCW 70.105D.030(2)(e) (as  
14 recodified by this act) and with any remedial orders issued by the  
15 department. Whenever practicable and in the public interest, the  
16 attorney general may expedite such a settlement with persons whose  
17 contribution is insignificant in amount and toxicity. A hearing shall  
18 be required only if at least ten persons request one or if the  
19 department determines a hearing is necessary.

20 (b) A settlement agreement under this section shall be entered as  
21 a consent decree issued by a court of competent jurisdiction.

22 (c) A settlement agreement may contain a covenant not to sue only  
23 of a scope commensurate with the settlement agreement in favor of any  
24 person with whom the attorney general has settled under this section.  
25 Any covenant not to sue shall contain a reopener clause which  
26 requires the court to amend the covenant not to sue if factors not  
27 known at the time of entry of the settlement agreement are discovered  
28 and present a previously unknown threat to human health or the  
29 environment.

30 (d) A party who has resolved its liability to the state under  
31 this section shall not be liable for claims for contribution  
32 regarding matters addressed in the settlement. The settlement does  
33 not discharge any of the other liable parties but it reduces the  
34 total potential liability of the others to the state by the amount of  
35 the settlement.

36 (e) If the state has entered into a consent decree with an owner  
37 or operator under this section, the state shall not enforce this  
38 chapter against any owner or operator who is a successor in interest  
39 to the settling party unless under the terms of the consent decree  
40 the state could enforce against the settling party, if:

1 (i) The successor owner or operator is liable with respect to the  
2 facility solely due to that person's ownership interest or operator  
3 status acquired as a successor in interest to the owner or operator  
4 with whom the state has entered into a consent decree; and

5 (ii) The stay of enforcement under this subsection does not apply  
6 if the consent decree was based on circumstances unique to the  
7 settling party that do not exist with regard to the successor in  
8 interest, such as financial hardship. For consent decrees entered  
9 into before July 27, 1997, at the request of a settling party or a  
10 potential successor owner or operator, the attorney general shall  
11 issue a written opinion on whether a consent decree contains such  
12 unique circumstances. For all other consent decrees, such unique  
13 circumstances shall be specified in the consent decree.

14 (f) Any person who is not subject to enforcement by the state  
15 under (e) of this subsection is not liable for claims for  
16 contribution regarding matters addressed in the settlement.

17 (5)(a) In addition to the settlement authority provided under  
18 subsection (4) of this section, the attorney general may agree to a  
19 settlement with a prospective purchaser, provided that:

20 (i) The settlement will yield substantial new resources to  
21 facilitate cleanup;

22 (ii) The settlement will expedite remedial action at the facility  
23 consistent with the rules adopted under this chapter; and

24 (iii) Based on available information, the department determines  
25 that the redevelopment or reuse of the facility is not likely to  
26 contribute to the existing release or threatened release, interfere  
27 with remedial actions that may be needed at the facility, or increase  
28 health risks to persons at or in the vicinity of the facility.

29 (b) The legislature recognizes that the state does not have  
30 adequate resources to participate in all property transactions  
31 involving contaminated property. The primary purpose of this  
32 subsection (5) is to promote the cleanup and reuse of brownfield  
33 property. The attorney general and the department may give priority  
34 to settlements that will provide a substantial public benefit in  
35 addition to cleanup.

36 (c) A settlement entered under this subsection is governed by  
37 subsection (4) of this section.

38 (6) As an alternative to a settlement under subsection (5) of  
39 this section, the department may enter into an agreed order with a  
40 prospective purchaser of a property within a designated redevelopment



1 opportunity zone. The agreed order is subject to the limitations in  
2 RCW 70.105D.020(1) (as recodified by this act), but stays enforcement  
3 by the department under this chapter regarding remedial actions  
4 required by the agreed order as long as the prospective purchaser  
5 complies with the requirements of the agreed order.

6 (7) Nothing in this chapter affects or modifies in any way any  
7 person's right to seek or obtain relief under other statutes or under  
8 common law, including but not limited to damages for injury or loss  
9 resulting from a release or threatened release of a hazardous  
10 substance. No settlement by the department or remedial action ordered  
11 by a court or the department affects any person's right to obtain a  
12 remedy under common law or other statutes.

13 **Sec. 1309.** RCW 70.105D.050 and 2019 c 422 s 402 are each amended  
14 to read as follows:

15 (1) With respect to any release, or threatened release, for which  
16 the department does not conduct or contract for conducting remedial  
17 action and for which the department believes remedial action is in  
18 the public interest, the director must issue orders or agreed orders  
19 requiring potentially liable persons to provide the remedial action.  
20 Any liable person, or prospective purchaser who has entered into an  
21 agreed order under RCW 70.105D.040(6) (as recodified by this act),  
22 who refuses, without sufficient cause, to comply with an order or  
23 agreed order of the director is liable in an action brought by the  
24 attorney general for:

25 (a) Up to three times the amount of any costs incurred by the  
26 state as a result of the party's refusal to comply; and

27 (b) A civil penalty of up to twenty-five thousand dollars for  
28 each day the party refuses to comply.

29 The treble damages and civil penalty under this subsection apply to  
30 all recovery actions filed on or after March 1, 1989.

31 (2) Any person who incurs costs complying with an order issued  
32 under subsection (1) of this section may petition the department for  
33 reimbursement of those costs. If the department refuses to grant  
34 reimbursement, the person may within thirty days thereafter file suit  
35 and recover costs by proving that he or she was not a liable person  
36 under RCW 70.105D.040 (as recodified by this act) and that the costs  
37 incurred were reasonable.

38 (3) The attorney general must seek, by filing an action if  
39 necessary, to recover the amounts spent by the department for

1 investigative and remedial actions and orders, and agreed orders,  
2 including amounts spent prior to March 1, 1989.

3 (4) The attorney general may bring an action to secure such  
4 relief as is necessary to protect human health and the environment  
5 under this chapter.

6 (5)(a) Any person may commence a civil action to compel the  
7 department to perform any nondiscretionary duty under this chapter.  
8 At least thirty days before commencing the action, the person must  
9 give notice of intent to sue, unless a substantial endangerment  
10 exists. The court may award attorneys' fees and other costs to the  
11 prevailing party in the action.

12 (b) Civil actions under this section and RCW 70.105D.060 (as  
13 recodified by this act) may be brought in the superior court of  
14 Thurston county or of the county in which the release or threatened  
15 release exists.

16 (6) Any person who fails to provide notification of releases  
17 consistent with RCW 70.105D.110 (as recodified by this act) or who  
18 submits false information is liable in an action brought by the  
19 attorney general for a civil penalty of up to five thousand dollars  
20 per day for each day the party refuses to comply.

21 (7) Any person who owns real property or lender holding a  
22 mortgage on real property that is subject to a lien filed under RCW  
23 70.105D.055 (as recodified by this act) may petition the department  
24 to have the lien removed or the amount of the lien reduced. If, after  
25 consideration of the petition and the information supporting the  
26 petition, the department decides to deny the request, the person may,  
27 within ninety days after receipt of the department's denial, file  
28 suit for removal or reduction of the lien. The person is entitled to  
29 removal of a lien filed under RCW 70.105D.055(2)(a) (as recodified by  
30 this act) if they can prove by a preponderance of the evidence that  
31 the person is not a liable party under RCW 70.105D.040 (as recodified  
32 by this act). The person is entitled to a reduction of the amount of  
33 the lien if they can prove by a preponderance of the evidence:

34 (a) For liens filed under RCW 70.105D.055(2)(a) (as recodified by  
35 this act), the amount of the lien exceeds the remedial action costs  
36 the department incurred related to cleanup of the real property; and

37 (b) For liens filed under RCW 70.105D.055(2)(c) (as recodified by  
38 this act), the amount of the lien exceeds the remedial action costs  
39 the department incurred related to cleanup of the real property or  
40 exceeds the increase of the fair market value of the real property

1 solely attributable to the remedial action conducted by the  
2 department.

3 (8) The expenditure of moneys under the model toxics control  
4 operating, capital, and stormwater accounts created in RCW  
5 70.105D.190 through 70.105D.210 (as recodified by this act) does not  
6 alter the liability of any person under this chapter, or the  
7 authority of the department under this chapter, including the  
8 authority to recover those moneys.

9 **Sec. 1310.** RCW 70.105D.055 and 2005 c 211 s 1 are each amended  
10 to read as follows:

11 (1) It is in the public interest for the department to recover  
12 remedial action costs incurred in discharging its responsibility  
13 under this chapter, as these recovered funds can then be applied to  
14 the cleanup of other facilities. Thus, in addition to other cost-  
15 recovery mechanisms provided under this chapter, this section is  
16 intended to facilitate the recovery of state funds spent on remedial  
17 actions by providing the department with lien authority. This will  
18 also prevent a facility owner or mortgagee from gaining a financial  
19 windfall from increased land value resulting from department-  
20 conducted remedial actions at the expense of the state taxpayers.

21 (2) If the state of Washington incurs remedial action costs  
22 relating to a remedial action of real property, and those remedial  
23 action costs are unrecovered by the state of Washington, the  
24 department may file a lien against that real property.

25 (a) Except as provided in (c) of this subsection, liens filed  
26 under this section shall have priority in rank over all other  
27 privileges, liens, monetary encumbrances, or other security interests  
28 affecting the real property, whenever incurred, filed, or recorded,  
29 except for the following liens:

- 30 (i) Local and special district property tax assessments; and  
31 (ii) Mortgage liens recorded before liens or notices of intent to  
32 conduct remedial actions are recorded under this section.

33 (b) Liens filed pursuant to (a) and (c) of this subsection shall  
34 not exceed the remedial action costs incurred by the state.

35 (c) (i) If the real property for which the department has incurred  
36 remedial action costs is abandoned, the department may choose to  
37 limit the amount of the lien to the increase in the fair market value  
38 of the real property that is attributable to a remedial action  
39 conducted by the department. The increase in fair market value shall

1 be determined by subtracting the county assessor's value of the real  
2 property for the most recent year prior to remedial action being  
3 initiated from the value of the real property after remedial action.  
4 The value of the real property after remedial action shall be  
5 determined by the bona fide purchase price of the real property or by  
6 a real estate appraiser retained by the department. Liens limited in  
7 this way have priority in rank over all other privileges, liens,  
8 monetary encumbrances, or other security interests affecting the real  
9 property, whenever incurred, filed, or recorded.

10 (ii) For the purposes of this subsection, "abandoned" means there  
11 has not been significant business activity on the real property for  
12 three years or property taxes owed on the real property are three  
13 years in arrears prior to the department incurring costs attributable  
14 to this lien.

15 (d) The department shall, when notifying potentially liable  
16 persons of their potential liability under RCW 70.105D.040 (as  
17 recodified by this act), include a notice stating that if the  
18 department incurs remedial action costs relating to the remediation  
19 of real property and the costs are not recovered by the department,  
20 the department may file a lien against that real property under this  
21 section.

22 (e) Except for emergency remedial actions, the department must  
23 provide notice to the following persons before initiating remedial  
24 actions conducted by persons under contract to the department on real  
25 property on which a lien may be filed under this section:

26 (i) The real property owner;

27 (ii) Mortgagees;

28 (iii) Lienholders of record;

29 (iv) Persons known to the department to be conducting remedial  
30 actions at the facility at the time of such notice; and

31 (v) Persons known to the department to be under contract to  
32 conduct remedial actions at the facility at the time of such notice.

33 For emergency remedial actions, this notice shall be provided  
34 within thirty days after initiation of the emergency remedial  
35 actions.

36 (f) The department may record a copy of the notice in (e) of this  
37 subsection, along with a legal description of the property on which  
38 the remedial action will take place, with the county auditor in the  
39 county where the real property is located. If the department

1 subsequently files a lien, the effective date of the lien will be the  
2 date this notice was recorded.

3 (3) Before filing a lien under this section, the department shall  
4 give the owner of real property on which the lien is to be filed and  
5 mortgagees and lienholders of record a notice of its intent to file a  
6 lien:

7 (a) The notice required under this subsection (3) must be sent by  
8 certified mail to the real property owner and mortgagees of record at  
9 the addresses listed in the recorded documents. If the real property  
10 owner is unknown or if a mailed notice is returned as undeliverable,  
11 the department shall provide notice by posting a legal notice in the  
12 newspaper of largest circulation in the county (~~(in which)~~) in  
13 which the site is located. The notice shall provide:

14 (i) A statement of the purpose of the lien;

15 (ii) A brief description of the real property to be affected by  
16 the lien;

17 (iii) A statement of the remedial action costs incurred by the  
18 state related to the real property affected by the lien;

19 (iv) A brief statement of facts showing probable cause that the  
20 real property is the subject of the remedial action costs incurred by  
21 the department; and

22 (v) The time period following service or other notice during  
23 which any recipient of the notice whose legal rights may be affected  
24 by the lien may comment on the notice.

25 (b) Any comments on the notice must be received by the department  
26 on or before thirty days following service or other provision of the  
27 notice of intent to file a lien.

28 (c) If no comments are received by the department, the lien may  
29 be filed on the real property immediately.

30 (d) If the department receives any comments on the lien, the  
31 department shall determine if there is probable cause for filing the  
32 certificate of lien. If the department determines there is probable  
33 cause, the department may file the lien. Any further challenge to the  
34 lien may only occur at the times specified under RCW 70.105D.060 (as  
35 recodified by this act).

36 (e) If the department has reason to believe that exigent  
37 circumstances require the filing of a lien prior to giving notice  
38 under this subsection (3), or prior to the expiration of the time  
39 period for comments, the department may file the lien immediately.  
40 For the purposes of this subsection (3), exigent circumstances

1 include, but are not limited to, an imminent bankruptcy filing by the  
2 real property owner, or the imminent transfer or sale of the real  
3 property subject to lien by the real property owner, or both.

4 (4) A lien filed under this section is effective when a statement  
5 of lien is filed with the county auditor in the county where the real  
6 property is located. The statement of lien must include a description  
7 of the real property subject to lien and the amount of the lien.

8 (5) Unless the department determines it is in the public interest  
9 to remove the lien, the lien continues until the liability for the  
10 remedial action costs have been satisfied through sale of the real  
11 property, foreclosure, or other means agreed to by the department.  
12 Any action for foreclosure of the lien shall be brought by the  
13 attorney general in a civil action in the court having jurisdiction  
14 and in the manner prescribed for the judicial foreclosure of a  
15 mortgage.

16 (6) (a) This section does not apply to real property owned by a  
17 local government or special purpose district or real property used  
18 solely for residential purposes and consisting of four residential  
19 units or less at the time the lien is recorded. This limitation does  
20 not apply to illegal drug manufacturing and storage sites under  
21 chapter 64.44 RCW.

22 (b) If the real property owner has consented to the department  
23 filing a lien on the real property, then only subsection (3) (a) (i)  
24 through (iii) of this section requiring notice to mortgagees and  
25 lienholders of record apply.

26 **Sec. 1311.** RCW 70.105D.060 and 2007 c 104 s 20 are each amended  
27 to read as follows:

28 The department's investigative and remedial decisions under RCW  
29 70.105D.030 and 70.105D.050 (as recodified by this act), its  
30 decisions regarding filing a lien under RCW 70.105D.055 (as  
31 recodified by this act), and its decisions regarding liable persons  
32 under RCW 70.105D.020, 70.105D.040, 70.105D.050, and 70.105D.055 (as  
33 recodified by this act) shall be reviewable exclusively in superior  
34 court and only at the following times: (1) In a cost recovery suit  
35 under RCW 70.105D.050(3) (as recodified by this act); (2) in a suit  
36 by the department to enforce an order or an agreed order, or seek a  
37 civil penalty under this chapter; (3) in a suit for reimbursement  
38 under RCW 70.105D.050(2) (as recodified by this act); (4) in a suit  
39 by the department to compel investigative or remedial action; (5) in

1 a citizen's suit under RCW 70.105D.050(5) (as recodified by this  
2 act); and (6) in a suit for removal or reduction of a lien under RCW  
3 70.105D.050(7) (as recodified by this act). Except in suits for  
4 reduction or removal of a lien under RCW 70.105D.050(7) (as  
5 recodified by this act), the court shall uphold the department's  
6 actions unless they were arbitrary and capricious. In suits for  
7 reduction or removal of a lien under RCW 70.105D.050(7) (as  
8 recodified by this act), the court shall review such suits pursuant  
9 to the standards set forth in RCW 70.105D.050(7) (as recodified by  
10 this act).

11 **Sec. 1312.** RCW 70.105D.080 and 1997 c 406 s 6 are each amended  
12 to read as follows:

13 Except as provided in RCW 70.105D.040(4) (d) and (f) (as  
14 recodified by this act), a person may bring a private right of  
15 action, including a claim for contribution or for declaratory relief,  
16 against any other person liable under RCW 70.105D.040 (as recodified  
17 by this act) for the recovery of remedial action costs. In the  
18 action, natural resource damages paid to the state under this chapter  
19 may also be recovered. Recovery shall be based on such equitable  
20 factors as the court determines are appropriate. Remedial action  
21 costs shall include reasonable attorneys' fees and expenses. Recovery  
22 of remedial action costs shall be limited to those remedial actions  
23 that, when evaluated as a whole, are the substantial equivalent of a  
24 department-conducted or department-supervised remedial action.  
25 Substantial equivalence shall be determined by the court with  
26 reference to the rules adopted by the department under this chapter.  
27 An action under this section may be brought after remedial action  
28 costs are incurred but must be brought within three years from the  
29 date remedial action confirms cleanup standards are met or within one  
30 year of May 12, 1993, whichever is later. The prevailing party in  
31 such an action shall recover its reasonable attorneys' fees and  
32 costs. This section applies to all causes of action regardless of  
33 when the cause of action may have arisen. To the extent a cause of  
34 action has arisen prior to May 12, 1993, this section applies  
35 retroactively, but in all other respects it applies prospectively.

36 **Sec. 1313.** RCW 70.105D.090 and 2003 c 39 s 30 are each amended  
37 to read as follows:

1 (1) A person conducting a remedial action at a facility under a  
2 consent decree, order, or agreed order, and the department when it  
3 conducts a remedial action, are exempt from the procedural  
4 requirements of chapters 70.94 (as recodified by this act), 70.95 (as  
5 recodified by this act), 70.105 (as recodified by this act), 77.55,  
6 90.48, and 90.58 RCW, and the procedural requirements of any laws  
7 requiring or authorizing local government permits or approvals for  
8 the remedial action. The department shall ensure compliance with the  
9 substantive provisions of chapters 70.94 (as recodified by this act),  
10 70.95 (as recodified by this act), 70.105 (as recodified by this  
11 act), 77.55, 90.48, and 90.58 RCW, and the substantive provisions of  
12 any laws requiring or authorizing local government permits of  
13 approvals. The department shall establish procedures for ensuring  
14 that such remedial actions comply with the substantive requirements  
15 adopted pursuant to such laws, and shall consult with the state  
16 agencies and local governments charged with implementing these laws.  
17 The procedures shall provide an opportunity for comment by the public  
18 and by the state agencies and local governments that would otherwise  
19 implement the laws referenced in this section. Nothing in this  
20 section is intended to prohibit implementing agencies from charging a  
21 fee to the person conducting the remedial action to defray the costs  
22 of services rendered relating to the substantive requirements for the  
23 remedial action.

24 (2) An exemption in this section or in RCW 70.94.335 (as  
25 recodified by this act), 70.95.270 (as recodified by this act),  
26 70.105.116 (as recodified by this act), (~~77.55.030~~) 77.55.061,  
27 90.48.039, and 90.58.355 shall not apply if the department determines  
28 that the exemption would result in loss of approval from a federal  
29 agency necessary for the state to administer any federal law,  
30 including the federal resource conservation and recovery act, the  
31 federal clean water act, the federal clean air act, and the federal  
32 coastal zone management act. Such a determination by the department  
33 shall not affect the applicability of the exemptions to other  
34 statutes specified in this section.

35 **Sec. 1314.** RCW 70.105D.110 and 2019 c 95 s 5 are each amended to  
36 read as follows:

37 (1) Except as provided in subsection (5) of this section, any  
38 owner or operator of a facility that is actively transitioning from  
39 operating under a federal permit for treatment, storage, or disposal



1 of hazardous waste issued under 42 U.S.C. Sec. 6925 to operating  
2 under the provisions of this chapter, who has information that a  
3 hazardous substance has been released to the environment at the owner  
4 or operator's facility that may be a threat to human health or the  
5 environment, shall issue a notice to the department within ninety  
6 days. The notice shall include a description of any remedial actions  
7 planned, completed, or underway.

8 (2) The notice must be posted in a visible, publicly accessible  
9 location on the facility, to remain in place until all remedial  
10 actions except confirmational monitoring are complete.

11 (3) After receiving the notice from the facility, the department  
12 must review the notice and mail a summary of its contents, along with  
13 any additional information deemed appropriate by the department, to:

14 (a) Each residence and landowner of a residence whose property  
15 boundary is within three hundred feet of the boundary of the property  
16 where the release occurred or if the release occurred from a pipeline  
17 or other facility that does not have a property boundary, within  
18 three hundred feet of the actual release;

19 (b) Each business and landowner of a business whose property  
20 boundary is within three hundred feet of the boundary of the property  
21 where the release occurred;

22 (c) Each residence, landowner of a residence, and business with a  
23 property boundary within the area where hazardous substances have  
24 come to be located as a result of the release;

25 (d) Neighborhood associations and community organizations  
26 representing an area within one mile of the facility and recognized  
27 by the city or county with jurisdiction within this area;

28 (e) The city, county, and local health district with jurisdiction  
29 within the areas described in (a), (b), and (c) of this subsection;  
30 and

31 (f) The department of health.

32 (4) A notice produced by a facility shall provide the following  
33 information:

34 (a) The common name of any hazardous substances released and, if  
35 available, the chemical abstract service registry number of these  
36 substances;

37 (b) The address of the facility where the release occurred;

38 (c) The date the release was discovered;

39 (d) The cause and date of the release, if known;

1 (e) The remedial actions being taken or planned to address the  
2 release;

3 (f) The potential health and environmental effects of the  
4 hazardous substances released; and

5 (g) The name, address, and telephone number of a contact person  
6 at the facility where the release occurred.

7 (5) The following releases are exempt from the notification  
8 requirements in this section:

9 (a) Application of pesticides and fertilizers for their intended  
10 purposes and according to label instructions;

11 (b) The lawful and nonnegligent use of hazardous household  
12 substances by a natural person for personal or domestic purposes;

13 (c) The discharge of hazardous substances in compliance with  
14 permits issued under chapter 70.94 (as recodified by this act),  
15 90.48, or 90.56 RCW;

16 (d) De minimis amounts of any hazardous substance leaked or  
17 discharged onto the ground;

18 (e) The discharge of hazardous substances to a permitted waste  
19 water treatment facility or from a permitted waste water collection  
20 system or treatment facility as allowed by a facility's discharge  
21 permit;

22 (f) Any releases originating from a single-family or multifamily  
23 residence, including but not limited to the discharge of oil from a  
24 residential home heating oil tank with the capacity of five hundred  
25 gallons or less;

26 (g) Any spill on a public road, street, or highway or to surface  
27 waters of the state that has previously been reported to the United  
28 States coast guard and the state division of emergency management  
29 under chapter 90.56 RCW;

30 (h) Any release of hazardous substances to the air;

31 (i) Any release that occurs on agricultural land, including land  
32 used to grow trees for the commercial production of wood or wood  
33 fiber, that is at least five acres in size, when the effects of the  
34 release do not come within three hundred feet of any property  
35 boundary. For the purposes of this subsection, agricultural land  
36 includes incidental uses that are compatible with agricultural or  
37 silvicultural purposes, including, but not limited to, land used for  
38 the housing of the owner, operator, or employees, structures used for  
39 the storage or repair of equipment, machinery, and chemicals, and any  
40 paths or roads on the land; and

1 (j) Releases that, before January 1, 2003, have been previously  
2 reported to the department, or remediated in compliance with a  
3 settlement agreement under RCW 70.105D.040(4) (as recodified by this  
4 act) or enforcement order or agreed order issued under this chapter  
5 or have been the subject of an opinion from the department under RCW  
6 70.105D.180 (as recodified by this act) that no further remedial  
7 action is required.

8 An exemption from the notification requirements of this section  
9 does not exempt the owner or operator of a facility from any other  
10 notification or reporting requirements, or imply a release from  
11 liability under this chapter.

12 (6) If a significant segment of the community to be notified  
13 speaks a language other than English, an appropriate translation of  
14 the notice must also be posted and mailed to the department in  
15 accordance with the requirements of this section.

16 (7) The facility where the release occurred is responsible for  
17 reimbursing the department within thirty days for the actual costs  
18 associated with the production and mailing of the notices under this  
19 section.

20 **Sec. 1315.** RCW 70.105D.130 and 2019 c 422 s 413 are each amended  
21 to read as follows:

22 (1) The cleanup settlement account is created in the state  
23 treasury. The account is not intended to replace the model toxics  
24 control capital account established under RCW 70.105D.200 (as  
25 recodified by this act). All receipts from the sources identified in  
26 subsection (2) of this section must be deposited into the account.  
27 Moneys in the account may be spent only after appropriation.  
28 Expenditures from the account may be used only as identified in  
29 subsection (4) of this section.

30 (2) The following receipts must be deposited into the cleanup  
31 settlement account:

32 (a) Receipts from settlements or court orders that direct payment  
33 to the account and resolve a person's liability or potential  
34 liability under this chapter for either or both of the following:

35 (i) Conducting future remedial action at a specific facility, if  
36 it is not feasible to require the person to conduct the remedial  
37 action based on the person's financial insolvency, limited ability to  
38 pay, or insignificant contribution under RCW 70.105D.040(4) (a) (as  
39 recodified by this act);

1 (ii) Assessing or addressing the injury to natural resources  
2 caused by the release of a hazardous substance from a specific  
3 facility; and

4 (b) Receipts from investment of the moneys in the account.

5 (3) If a settlement or court order does not direct payment of  
6 receipts described in subsection (2)(a) of this section into the  
7 cleanup settlement account, then the receipts from any payment to the  
8 state must be deposited into the model toxics control capital  
9 account.

10 (4) Expenditures from the cleanup settlement account may only be  
11 used to conduct remedial actions at the specific facility or to  
12 assess or address the injury to natural resources caused by the  
13 release of hazardous substances from that facility for which the  
14 moneys were deposited in the account. Conducting remedial actions or  
15 assessing or addressing injury to natural resources includes direct  
16 expenditures and indirect expenditures such as department oversight  
17 costs. During the 2009-2011 fiscal biennium, the legislature may  
18 transfer excess fund balances in the account into the state  
19 efficiency and restructuring account. Transfers of excess fund  
20 balances made under this section may be made only to the extent  
21 amounts transferred with required repayments do not impair the  
22 ten-year spending plan administered by the department of ecology for  
23 environmental remedial actions dedicated for any designated clean-up  
24 site associated with the Everett smelter and Tacoma smelter,  
25 including plumes, or former Asarco mine sites. The cleanup settlement  
26 account must be repaid with interest under provisions of the state  
27 efficiency and restructuring account.

28 (5) The department must track moneys received, interest earned,  
29 and moneys expended separately for each facility.

30 (6) After the department determines that all remedial actions at  
31 a specific facility, and all actions assessing or addressing injury  
32 to natural resources caused by the release of hazardous substances  
33 from that facility, are completed, including payment of all related  
34 costs, any moneys remaining for the specific facility must be  
35 transferred to the model toxics control capital account established  
36 under RCW 70.105D.200 (as recodified by this act).

37 (7) The department must provide the office of financial  
38 management and the fiscal committees of the legislature with a report  
39 by October 31st of each year regarding the activity within the  
40 cleanup settlement account during the previous fiscal year.

1       **Sec. 1316.** RCW 70.105D.140 and 2019 c 422 s 414 are each amended  
2 to read as follows:

3       (1) The brownfield redevelopment trust fund account is created in  
4 the state treasury. All receipts from the sources identified in  
5 subsection (2) of this section must be deposited into the account.  
6 Moneys in the account may be spent only after appropriation.  
7 Expenditures from the account may be used only as identified in  
8 subsection (4) of this section.

9       (2) The following receipts must be deposited into the brownfield  
10 redevelopment trust fund account:

11       (a) Moneys appropriated by the legislature to the account for a  
12 specific redevelopment opportunity zone established under RCW  
13 70.105D.150 (as recodified by this act) or a specific brownfield  
14 renewal authority established under RCW 70.105D.160 (as recodified by  
15 this act);

16       (b) Moneys voluntarily deposited in the account for a specific  
17 redevelopment opportunity zone or a specific brownfield renewal  
18 authority; and

19       (c) Receipts from settlements or court orders that direct payment  
20 to the account for a specific redevelopment opportunity zone to  
21 resolve a person's liability or potential liability under this  
22 chapter.

23       (3) If a settlement or court order does not direct payment of  
24 receipts described in subsection (2)(c) of this section into the  
25 brownfield redevelopment trust fund account, then the receipts from  
26 any payment to the state must be deposited into the model toxics  
27 control capital account established under RCW 70.105D.200 (as  
28 recodified by this act).

29       (4) Expenditures from the brownfield redevelopment trust fund  
30 account may only be used for the purposes of remediation and cleanup  
31 at the specific redevelopment opportunity zone or specific brownfield  
32 renewal authority for which the moneys were deposited in the account.

33       (5) The department must track moneys received, interest earned,  
34 and moneys expended separately for each facility.

35       (6) The account must retain its interest earnings in accordance  
36 with RCW 43.84.092.

37       (7) The local government designating the redevelopment  
38 opportunity zone under RCW 70.105D.150 (as recodified by this act) or  
39 the associated brownfield renewal authority created under RCW

1 70.105D.160 (as recodified by this act) must be the beneficiary of  
2 the deposited moneys.

3 (8) All expenditures must be used to conduct remediation and  
4 cleanup consistent with a plan for the remediation and cleanup of the  
5 properties or facilities approved by the department under this  
6 chapter. All expenditures must meet the eligibility requirements for  
7 the use by local governments under the rules for remedial action  
8 grants adopted by the department under this chapter, including  
9 requirements for the expenditure of nonstate match funding.

10 (9) Beginning October 31, 2015, the department must provide a  
11 biennial report to the office of financial management and the  
12 legislature regarding the activity for each specific redevelopment  
13 opportunity zone or specific brownfield renewal authority for which  
14 specific legislative appropriation was provided in the previous two  
15 fiscal years.

16 (10) After the department determines that all remedial actions  
17 within the redevelopment opportunity zone identified in the plan  
18 approved under subsection (8) of this section are completed,  
19 including payment of all cost reasonably attributable to the remedial  
20 actions and cleanup, any remaining moneys must be transferred to the  
21 model toxics control capital account established under RCW  
22 70.105D.200 (as recodified by this act).

23 (11) If the department determines that substantial progress has  
24 not been made on the plan approved under subsection (8) of this  
25 section for a redevelopment opportunity zone or specific brownfield  
26 renewal authority for which moneys were deposited in the account  
27 within six years, or that the brownfield renewal authority is no  
28 longer a viable entity, then all remaining moneys must be transferred  
29 to the model toxics control operating account established under RCW  
30 70.105D.190 (as recodified by this act).

31 (12) The department is authorized to adopt rules to implement  
32 this section.

33 **Sec. 1317.** RCW 70.105D.160 and 2013 2nd sp.s. c 1 s 5 are each  
34 amended to read as follows:

35 (1) A city, county, or port district may establish by resolution  
36 a brownfield renewal authority for the purpose of guiding and  
37 implementing the cleanup and reuse of properties within a designated  
38 redevelopment opportunity zone. Any combination of cities, counties,  
39 and port districts may establish a brownfield renewal authority

1 through an interlocal agreement under chapter 39.34 RCW, and the  
2 brownfield renewal authority may exercise those powers as are  
3 authorized under chapter 39.34 RCW and under this chapter.

4 (2) A brownfield renewal authority must be governed by a board of  
5 directors selected as determined by the resolution or interlocal  
6 agreement establishing the authority.

7 (3) A brownfield renewal authority must be a separate legal  
8 entity and be deemed a municipal corporation. It has the power to:  
9 Sue and be sued; receive, account for, and disburse funds; employ  
10 personnel; and acquire or dispose of any interest in real or personal  
11 property within a redevelopment opportunity zone in the furtherance  
12 of the authority purposes. A brownfield renewal authority has the  
13 power to contract indebtedness and to issue and sell general  
14 obligation bonds pursuant to and in the manner provided for general  
15 county bonds in chapters 36.67 and 39.46 RCW and other applicable  
16 statutes, and to issue revenue bonds pursuant to and in the manner  
17 provided for revenue bonds in chapter 36.67 RCW and other applicable  
18 statutes.

19 (4) If the department determines that substantial progress has  
20 not been made on the plan approved under RCW 70.105D.140 (as  
21 recodified by this act) by the brownfield renewal authority within  
22 six years of a city, county, or port district establishing a  
23 brownfield renewal authority, the department may require dissolution  
24 of the brownfield renewal authority. Upon dissolution of the  
25 brownfield renewal authority, except as provided in RCW 70.105D.140  
26 (as recodified by this act), all assets and liabilities transfer to  
27 the city, town, or port district establishing the brownfield renewal  
28 authority.

29 **Sec. 1318.** RCW 70.105D.180 and 2019 c 95 s 2 are each amended to  
30 read as follows:

31 (1) The department may establish a program to provide informal  
32 advice and assistance on the administrative and technical  
33 requirements of this chapter to persons who are conducting or  
34 otherwise interested in conducting independent remedial actions at  
35 facilities where there is a suspected or confirmed release of  
36 hazardous substances.

37 (a) Any advice or assistance is advisory only and is not binding  
38 on the department.

1 (b) As part of this advice and assistance, the department may  
2 provide written opinions on whether the independent remedial actions  
3 or proposals for those actions meet the substantive requirements of  
4 this chapter or whether the department believes further remedial  
5 action is necessary at the facility.

6 (c) Nothing in this chapter may be construed to preclude the  
7 department from issuing a written opinion on whether further remedial  
8 action is necessary at any portion of the real property located  
9 within a facility, even if further remedial action is still necessary  
10 elsewhere at the same facility. A written opinion on a portion of a  
11 facility must also provide an opinion on the status of the facility  
12 as a whole.

13 (2) The department may collect, from persons requesting advice  
14 and assistance under the program, all costs incurred by the  
15 department in providing advice and assistance.

16 (a) To collect its costs, the department may use either a cost  
17 recovery structure or a fee structure, or both.

18 (i) A fee structure may include either a single fee or a series  
19 of fees for individual services.

20 (ii) The department may calculate fees based on the complexity of  
21 the contaminated site and other site-specific factors determined by  
22 the department.

23 (iii) The department may establish a separate fee and cost  
24 recovery structure for providing expedited advice and assistance  
25 under subsection (3) of this section.

26 (b) The department may waive collection of costs if the person  
27 requesting technical advice and assistance under the program commits  
28 to remediate contaminated real property for development of affordable  
29 housing, as determined by the department. Prior to waiving costs, the  
30 department must consider the requestor's ability to pay and the  
31 potential public benefit of the development. To ensure the real  
32 property is used for affordable housing, the department may file a  
33 lien against the real property pursuant to RCW 70.105D.055 (as  
34 recodified by this act), require the person to record an interest in  
35 the real property in accordance with RCW 64.04.130, or use other  
36 means deemed by the department to be no less protective of the  
37 affordable housing use and the interests of the department.

38 (c) Except when providing expedited advice and assistance under  
39 subsection (3) of this section, the department may also waive  
40 collection of costs:



1 (i) For providing technical assistance in support of public  
2 participation;

3 (ii) For providing written opinions on a cleanup that qualifies  
4 for and appropriately uses a model remedy; or

5 (iii) Based on a person's ability to pay. If costs are waived,  
6 the department may file a lien against the real property for which  
7 the department has incurred the costs pursuant to RCW 70.105D.055 (as  
8 recodified by this act).

9 (3) The department may offer an expedited process for providing  
10 informal advice and assistance under the program. Except as provided  
11 under subsection (2)(b) of this section, the department must collect,  
12 from persons requesting expedited advice and assistance, all costs  
13 incurred by the department in providing the advice and assistance.  
14 The department may establish conditions for requesting expedited  
15 advice and assistance.

16 (4) The department may adopt rules to implement the program. To  
17 ensure that the adoption of rules will not delay the implementation  
18 of independent remedial actions, the department may implement the  
19 cost waiver and expedited process specified in subsections (2)(b) and  
20 (3) of this section through interpretive guidance pending adoption of  
21 rules.

22 (5) The department must track the number of requests for reviews  
23 of planned or completed independent remedial actions under the  
24 program and establish performance measures to track how quickly the  
25 department is able to respond to those requests. The department's  
26 tracking system must include a category for tracking the length of  
27 time that elapses between the submission of a request for expedited  
28 advice and assistance on an independent remedial action at a facility  
29 under subsection (3) of this section and the issuance of a letter on  
30 the sufficiency of the cleanup at the facility.

31 (6) The state, the department, and officers and employees of the  
32 state are immune from all liability, and no cause of action of any  
33 nature may arise from any act or omission in providing, or failing to  
34 provide, informal advice and assistance under the program.

35 (7) The voluntary cleanup account is created in the state  
36 treasury. All receipts from the fees collected and costs recovered  
37 under the expedited process in subsection (3) of this section must be  
38 deposited into the account. Moneys in the account may be spent only  
39 after appropriation. Expenditures from the account may be used only  
40 to support the expedited process in subsection (3) of this section.

1 If the department suspends the expedited process, any moneys  
2 remaining in the account may be used to carry out the purposes of the  
3 program. The account must retain its interest earnings in accordance  
4 with RCW 43.84.092.

5 **Sec. 1319.** RCW 70.105D.190 and 2019 c 422 s 202 are each amended  
6 to read as follows:

7 (1) The model toxics control operating account is hereby created  
8 in the state treasury.

9 (2) Moneys in the model toxics control operating account must be  
10 used only to carry out the purposes of this chapter, including but  
11 not limited to the following:

12 (a) The state's responsibility for hazardous waste planning,  
13 management, regulation, enforcement, technical assistance, and public  
14 education required under chapter 70.105 RCW (as recodified by this  
15 act);

16 (b) The state's responsibility for solid waste planning,  
17 management, regulation, enforcement, technical assistance, and public  
18 education required under chapter 70.95 RCW (as recodified by this  
19 act);

20 (c) The hazardous waste clean-up program required under this  
21 chapter;

22 (d) State matching funds required under federal cleanup law;

23 (e) Financial assistance for local programs and plans, including  
24 local solid waste financial assistance, in accordance with chapters  
25 70.76, 70.95, 70.95C, 70.95I, and 70.105 RCW (as recodified by this  
26 act);

27 (f) State government programs for the safe reduction, recycling,  
28 or disposal of paint and hazardous wastes from households, small  
29 businesses, and agriculture;

30 (g) Oil and hazardous materials spill prevention, preparedness,  
31 training, and response activities;

32 (h) Water and environmental health protection and monitoring  
33 programs;

34 (i) Programs authorized under chapter 70.146 RCW (as recodified  
35 by this act);

36 (j) A public participation program;

37 (k) Development and demonstration of alternative management  
38 technologies designed to carry out the hazardous waste management  
39 priorities of RCW 70.105.150 (as recodified by this act);

1 (l) State agriculture and health programs for the safe use,  
2 reduction, recycling, or disposal of pesticides;

3 (m) Funding requirements to maintain receipt of federal funds  
4 under the federal solid waste disposal act (42 U.S.C. Sec. 6901 et  
5 seq.);

6 (n) Air quality programs and actions for reducing public exposure  
7 to toxic air pollution; and

8 (o) Petroleum-based plastic or expanded polystyrene foam debris  
9 clean-up activities in fresh or marine waters.

10 (3) Except for unanticipated receipts under RCW 43.79.260 through  
11 43.79.282, moneys in model toxics control operating account may be  
12 spent only after appropriation by statute.

13 (4) One percent of the moneys collected under RCW 82.21.030 must  
14 be allocated only for public participation grants to persons who may  
15 be adversely affected by a release or threatened release of a  
16 hazardous substance and to not-for-profit public interest  
17 organizations. The primary purpose of these grants is to facilitate  
18 the participation by persons and organizations in the investigation  
19 and remedying of releases or threatened releases of hazardous  
20 substances and to implement the state's solid and hazardous waste  
21 management priorities. No grant may exceed sixty thousand dollars.  
22 Grants may be renewed annually. Moneys appropriated for public  
23 participation that are not expended at the close of any biennium  
24 revert to the model toxics control operating account.

25 (5) The department must adopt rules for grant or loan issuance  
26 and performance.

27 **Sec. 1320.** RCW 70.105D.200 and 2019 c 422 s 203 are each amended  
28 to read as follows:

29 (1) The model toxics control capital account is hereby created in  
30 the state treasury.

31 (2) In addition to the funds deposited into the model toxics  
32 control capital account required under RCW 82.21.030, the following  
33 moneys must be deposited into the model toxics control capital  
34 account:

35 (a) The costs of remedial actions recovered under this chapter,  
36 except as provided under RCW 70.105D.180(7) (as recodified by this  
37 act);

38 (b) Penalties collected or recovered under this chapter; and

1 (c) Any other money appropriated or transferred to the account by  
2 the legislature.

3 (3) Moneys in the model toxics control capital account must be  
4 used for the improvement, rehabilitation, remediation, and cleanup of  
5 toxic sites and other capital-related expenditures for programs and  
6 activities identified in subsection (4) of this section.

7 (4) Moneys in the model toxics control capital account may be  
8 used only for capital projects and activities that carry out the  
9 purposes of this chapter and for financial assistance to local  
10 governments or other persons to carry out those projects or  
11 activities, including but not limited to the following, generally in  
12 descending order of priority:

13 (a) Remedial actions, including the following generally in  
14 descending order of priority:

15 (i) Extended grant agreements entered into under subsection  
16 (5)(a) of this section;

17 (ii) Grants or loans to local governments for remedial actions,  
18 including planning for adaptive reuse of properties as provided for  
19 under subsection (5)(d) of this section. The department must  
20 prioritize funding of remedial actions at:

21 (A) Facilities on the department's hazardous sites list with a  
22 high hazard ranking for which there is an approved remedial action  
23 work plan or an equivalent document under federal cleanup law;

24 (B) Brownfield properties within a redevelopment opportunity zone  
25 if the local government is a prospective purchaser of the property  
26 and there is a department-approved remedial action work plan or  
27 equivalent document under the federal cleanup law;

28 (iii) Department-conducted remedial actions;

29 (iv) Grants to persons intending to remediate contaminated real  
30 property for development of affordable housing;

31 (v) Public funding to assist potentially liable persons to pay  
32 for the costs of remedial action in compliance with clean-up  
33 standards under RCW 70.105D.030(2)(e) (as recodified by this act) if:

34 (A) The amount and terms of the funding are established under a  
35 settlement agreement under RCW 70.105D.040(4) (as recodified by this  
36 act); and

37 (B) The director has found that the funding will achieve both a  
38 substantially more expeditious or enhanced cleanup than would  
39 otherwise occur, and the prevention or mitigation of unfair economic  
40 hardship;

1 (vi) Public funding to assist prospective purchasers to pay for  
2 the costs of remedial action in compliance with clean-up standards  
3 under RCW 70.105D.030(2) (e) (as recodified by this act) if:

4 (A) The facility is located within a redevelopment opportunity  
5 zone designated under RCW 70.105D.150 (as recodified by this act);

6 (B) The amount and terms of the funding are established under a  
7 settlement agreement under RCW 70.105D.040(5) (as recodified by this  
8 act); and

9 (C) The director has found the funding will achieve a  
10 substantially more expeditious or enhanced cleanup than would  
11 otherwise occur, provide a public benefit in addition to cleanup  
12 commensurate with the scope of the public funding; and meet any  
13 additional criteria established in rule by the department; and

14 (vii) To expedite multiparty clean-up efforts, purchase of  
15 remedial action cost-cap insurance;

16 (b) Grants, or loans, or contracts to local governments for solid  
17 waste plans and programs under chapters 70.95, 70.95C, 70.95I,  
18 70.95G, 70.95M, and 70.105 RCW (as recodified by this act). Funds  
19 must be allocated consistent with priorities and matching  
20 requirements in the respective chapters;

21 (c) Toxic air pollutant reduction programs, including grants or  
22 loans to local governments for woodstoves and diesel;

23 (d) Grants, loans, or contracts to local governments for  
24 hazardous waste plans and programs under chapters 70.76 and 70.105  
25 RCW (as recodified by this act), including chemical action plan  
26 implementation. Funds must be allocated consistent with priorities  
27 and matching requirements in the respective chapters; and

28 (e) Petroleum-based plastic or expanded polystyrene foam debris  
29 clean-up activities in fresh or marine waters.

30 (5) The department may establish and administer a program to  
31 provide grants and loans to local governments for remedial actions,  
32 including planning for adaptive reuse of contaminated properties. The  
33 department may not award a grant or loan for a remedial action unless  
34 the local government has obtained all of the required permits for the  
35 action within one year of the effective date of the enacted budget.  
36 To expedite cleanups throughout the state, the department may use the  
37 following strategies when providing grants to local governments under  
38 this subsection:

39 (a) Enter into an extended grant agreement with a local  
40 government conducting remedial actions at a facility where those

1 actions extend over multiple biennia and the total eligible cost of  
2 those actions exceeds twenty million dollars. The agreement is  
3 subject to the following limitations:

4 (i) The initial duration of such an agreement may not exceed ten  
5 years. The department may extend the duration of such an agreement  
6 upon finding substantial progress has been made on remedial actions  
7 at the facility;

8 (ii) Extended grant agreements may not exceed fifty percent of  
9 the total eligible remedial action costs at the facility; and

10 (iii) The department may not allocate future funding to an  
11 extended grant agreement unless the local government has demonstrated  
12 to the department that funds awarded under the agreement during the  
13 previous biennium have been substantially expended or contracts have  
14 been entered into to substantially expend the funds;

15 (b) Enter into a grant agreement with a local government  
16 conducting a remedial action that provides for periodic reimbursement  
17 of remedial action costs as they are incurred as established in the  
18 agreement;

19 (c) Enter into a grant agreement with a local government prior to  
20 it acquiring a property or obtaining necessary access to conduct  
21 remedial actions, provided the agreement is conditioned upon the  
22 local government acquiring the property or obtaining the access in  
23 accordance with a schedule specified in the agreement;

24 (d) Provide integrated planning grants to local governments to  
25 fund studies necessary to facilitate remedial actions at brownfield  
26 properties and adaptive reuse of properties following remediation.  
27 Eligible activities include, but are not limited to: Environmental  
28 site assessments; remedial investigations; health assessments;  
29 feasibility studies; site planning; community involvement; land use  
30 and regulatory analyses; building and infrastructure assessments;  
31 economic and fiscal analyses; and any environmental analyses under  
32 chapter 43.21C RCW;

33 (e) Provide grants to local governments for remedial actions  
34 related to area-wide groundwater contamination. To receive the  
35 funding, the local government does not need to be a potentially  
36 liable person or be required to seek reimbursement of grant funds  
37 from a potentially liable person;

38 (f) The director may alter grant matching requirements to create  
39 incentives for local governments to expedite cleanups when one of the  
40 following conditions exists:

1 (i) Funding would prevent or mitigate unfair economic hardship  
2 imposed by the clean-up liability;

3 (ii) Funding would create new substantial economic development,  
4 public recreational opportunities, or habitat restoration  
5 opportunities that would not otherwise occur; or

6 (iii) Funding would create an opportunity for acquisition and  
7 redevelopment of brownfield property under RCW 70.105D.040(5) (as  
8 recodified by this act) that would not otherwise occur; and

9 (g) When pending grant applications under subsection (4)(d) and  
10 (e) of this section exceed the amount of funds available, designated  
11 redevelopment opportunity zones must receive priority for  
12 distribution of available funds.

13 (6) Except for unanticipated receipts under RCW 43.79.260 through  
14 43.79.282, moneys in model toxics control capital account may be  
15 spent only after appropriation by statute.

16 **Sec. 1321.** RCW 70.105D.210 and 2019 c 422 s 204 are each amended  
17 to read as follows:

18 (1) The model toxics control stormwater account is hereby created  
19 in the state treasury.

20 (2) Moneys in the model toxics control stormwater account must be  
21 used for operating and capital programs, activities, and projects  
22 identified in subsection (3) of this section directly relating to  
23 stormwater pollution control.

24 (3) Moneys in the model toxics control stormwater account must be  
25 used only to carry out the operating and capital programs,  
26 activities, and projects directly relating to stormwater activities  
27 under RCW 70.105D.190 and 70.105D.200 (as recodified by this act),  
28 including but not limited to the following:

29 (a) Stormwater pollution control projects and activities that  
30 protect or preserve existing remedial actions or prevent hazardous  
31 clean-up sites;

32 (b) Stormwater financial assistance to local governments that  
33 assist in compliance to the purposes of this chapter.

34 (4) Except for unanticipated receipts under RCW 43.79.260 through  
35 43.79.282, moneys in the model toxics control stormwater account may  
36 be spent only after appropriation by statute.

37 **Sec. 1322.** RCW 70.106.030 and 1974 ex.s. c 49 s 3 are each  
38 amended to read as follows:

1 The definitions in RCW 70.106.040 through 70.106.090 (as  
2 recodified by this act) unless the context otherwise requires shall  
3 govern the construction of this chapter.

4 **Sec. 1323.** RCW 70.106.070 and 1974 ex.s. c 49 s 7 are each  
5 amended to read as follows:

6 "Package" means the immediate container or wrapping in which any  
7 household substance is contained for consumption, use, or storage by  
8 individuals in or about the household, and, for purposes of RCW  
9 70.106.110(1)(b) (as recodified by this act), also means any outer  
10 container or wrapping used in the retail display of any such  
11 substance to consumers. Such term does not include:

12 (1) Any shipping container or wrapping used solely for the  
13 transportation of any household substance in bulk or in quantity to  
14 manufacturers, packers, or processors, or to wholesale or retail  
15 distributors thereof; or

16 (2) Any shipping container or outer wrapping used by retailers to  
17 ship or deliver any household substance to consumers unless it is the  
18 only such container or wrapping.

19 **Sec. 1324.** RCW 70.106.100 and 2012 c 117 s 419 are each amended  
20 to read as follows:

21 (1) The director may establish in accordance with the provisions  
22 of this chapter, by regulation, standards for the special packaging  
23 of any household substance if he or she finds that:

24 (a) The degree or nature of the hazard to children in the  
25 availability of such substance, by reason of its packaging is such  
26 that special packaging is required to protect children from serious  
27 personal injury or serious illness resulting from handling, using, or  
28 ingesting such substance; and

29 (b) The special packaging to be required by such standard is  
30 technically feasible, practicable, and appropriate for such  
31 substance.

32 (2) In establishing a standard under this section, the director  
33 shall consider:

34 (a) The reasonableness of such standard;

35 (b) Available scientific, medical, and engineering data  
36 concerning special packaging and concerning childhood accidental  
37 ingestions, illness, and injury caused by household substances;



1 (c) The manufacturing practices of industries affected by this  
2 chapter; and

3 (d) The nature and use of the household substance.

4 (3) In carrying out the provisions of this chapter, the director  
5 shall publish his or her findings, his or her reasons therefor, and  
6 citation of the sections of statutes which authorize his or her  
7 action.

8 (4) Nothing in this chapter authorizes the director to prescribe  
9 specific packaging designs, product content, package quantity, or,  
10 with the exception of authority granted in RCW 70.106.110(1)(b) (as  
11 recodified by this act), labeling. In the case of a household  
12 substance for which special packaging is required pursuant to a  
13 regulation under this section, the director may in such regulation  
14 prohibit the packaging of such substance in packages which he or she  
15 determines are unnecessarily attractive to children.

16 (5) The director shall cause the regulations promulgated under  
17 this chapter to conform with the requirements or exemptions of the  
18 federal hazardous substances act and with the regulations or  
19 interpretations promulgated pursuant thereto.

20 **Sec. 1325.** RCW 70.106.110 and 2012 c 117 s 420 are each amended  
21 to read as follows:

22 (1) For the purpose of making any household substance which is  
23 subject to a standard established under RCW 70.106.100 (as recodified  
24 by this act) readily available to elderly persons or persons with  
25 disabilities unable to use such substance when packaged in compliance  
26 with such standard, the manufacturer or packer, as the case may be,  
27 may package any household substance, subject to such a standard, in  
28 packaging of a single size which does not comply with such standard  
29 if:

30 (a) The manufacturer or packer also supplies such substance in  
31 packages which comply with such standard; and

32 (b) The packages of such substance which do not meet such  
33 standard bear conspicuous labeling stating: "This package for  
34 households without young children"; except that the director may by  
35 regulation prescribe a substitute statement to the same effect for  
36 packaging too small to accommodate such labeling.

37 (2) In the case of a household substance which is subject to such  
38 a standard and which is dispensed pursuant to an order of a  
39 physician, dentist, or other licensed medical practitioner authorized

1 to prescribe, such substance may be dispensed in noncomplying  
2 packages only when directed in such order or when requested by the  
3 purchaser.

4 (3) In the case of a household substance subject to such a  
5 standard which is packaged under subsection (1) of this section in a  
6 noncomplying package, if the director determines that such substance  
7 is not also being supplied by a manufacturer or packer in popular  
8 size packages which comply with such standard, he or she may, after  
9 giving the manufacturer or packer an opportunity to comply with the  
10 purposes of this chapter, by order require such substance to be  
11 packaged by such manufacturer or packer exclusively in special  
12 packaging complying with such standard if he or she finds, after  
13 opportunity for hearing, that such exclusive use of special packaging  
14 is necessary to accomplish the purposes of this chapter.

15 **Sec. 1326.** RCW 70.107.070 and 1987 c 330 s 749 are each amended  
16 to read as follows:

17 Any rule adopted under this chapter relating to the operation of  
18 motor vehicles on public highways shall be administered according to  
19 testing and inspection procedures adopted by rule by the state  
20 patrol. Violation of any motor vehicle performance standard adopted  
21 pursuant to this chapter shall be a misdemeanor, enforced by such  
22 authorities and in such manner as violations of chapter 46.37 RCW.  
23 Violations subject to the provisions of this section shall be exempt  
24 from the provisions of RCW 70.107.050 (as recodified by this act).

25 **Sec. 1327.** RCW 70.116.050 and 1995 c 376 s 7 are each amended to  
26 read as follows:

27 (1) Each purveyor within the boundaries of a critical water  
28 supply service area shall develop a water system plan for the  
29 purveyor's future service area if such a plan has not already been  
30 developed: PROVIDED, That nonmunicipally owned public water systems  
31 are exempt from the planning requirements of this chapter, except for  
32 the establishment of service area boundaries if they have no plans  
33 for water service beyond their existing service area: PROVIDED  
34 FURTHER, That if the county legislative authority permits a change in  
35 development that will increase the demand for water service of such a  
36 system beyond the existing system's ability to provide minimum water  
37 service, the purveyor shall develop a water system plan in accordance  
38 with this section. The establishment of future service area

1 boundaries shall be in accordance with RCW 70.116.070 (as recodified  
2 by this act).

3 (2) After the boundaries of a critical water supply service area  
4 have been established pursuant to RCW 70.116.040 (as recodified by  
5 this act), the committee established in RCW 70.116.040 (as recodified  
6 by this act) shall participate in the development of a coordinated  
7 water system plan for the designated area. Such a plan shall  
8 incorporate all water system plans developed pursuant to subsection  
9 (1) of this section. The plan shall provide for maximum integration  
10 and coordination of public water system facilities consistent with  
11 the protection and enhancement of the public health and well-being.  
12 Decisions of the committee shall be by majority vote of those present  
13 at meetings of the committee.

14 (3) Those portions of a critical water supply service area not  
15 yet served by a public water system shall have a coordinated water  
16 system plan developed by existing purveyors based upon permitted  
17 densities in county plans, ordinances, and/or growth policies for a  
18 minimum of five years beyond the date of establishment of the  
19 boundaries of the critical water supply service area.

20 (4) To insure that the plan incorporates the proper designs to  
21 protect public health, the secretary shall adopt regulations pursuant  
22 to chapter 34.05 RCW concerning the scope and content of coordinated  
23 water system plans, and shall ensure, as minimum requirements, that  
24 such plans:

25 (a) Are reviewed by the appropriate local governmental agency to  
26 insure that the plan is not inconsistent with the land use plans,  
27 shoreline master programs, and/or developmental policies of the  
28 general purpose local government or governments whose jurisdiction  
29 the water system plan affects.

30 (b) Recognize all water resource plans, water quality plans, and  
31 water pollution control plans which have been adopted by units of  
32 local, regional, and state government.

33 (c) Incorporate the fire protection standards developed pursuant  
34 to RCW 70.116.080 (as recodified by this act).

35 (d) Identify the future service area boundaries of the public  
36 water system or systems included in the plan within the critical  
37 water supply service area.

38 (e) Identify feasible emergency inter-ties between adjacent  
39 purveyors.

1 (f) Include satellite system management requirements consistent  
2 with RCW 70.116.134 (as recodified by this act).

3 (g) Include policies and procedures that generally address  
4 failing water systems for which counties may become responsible under  
5 RCW 43.70.195.

6 (5) If a "water general plan" for a critical water supply service  
7 area or portion thereof has been prepared pursuant to chapter 36.94  
8 RCW and such a plan meets the requirements of subsections (1) and (4)  
9 of this section, such a plan shall constitute the coordinated water  
10 system plan for the applicable geographical area.

11 (6) The committee established in RCW 70.116.040 (as recodified by  
12 this act) may develop and utilize a mechanism for addressing disputes  
13 that arise in the development of the coordinated water system plan.

14 (7) Prior to the submission of a coordinated water system plan to  
15 the secretary for approval pursuant to RCW 70.116.060 (as recodified  
16 by this act), the legislative authorities of the counties in which  
17 the critical water supply service area is located shall hold a public  
18 hearing thereon and shall determine the plan's consistency with  
19 subsection (4) of this section. If within sixty days of receipt of  
20 the plan, the legislative authorities find any segment of a proposed  
21 service area of a purveyor's plan or any segment of the coordinated  
22 water system plan to be inconsistent with any current land use plans,  
23 shoreline master programs, and/or developmental policies of the  
24 general purpose local government or governments whose jurisdiction  
25 the water system plan affects, the secretary shall not approve that  
26 portion of the plan until the inconsistency is resolved between the  
27 local government and the purveyor. If no comments have been received  
28 from the legislative authorities within sixty days of receipt of the  
29 plan, the secretary may consider the plan for approval.

30 (8) Any county legislative authority may adopt an abbreviated  
31 plan for the provision of water supplies within its boundaries that  
32 includes provisions for service area boundaries, minimum design  
33 criteria, and review process. The elements of the abbreviated plan  
34 shall conform to the criteria established by the department under  
35 subsection (4) of this section and shall otherwise be consistent with  
36 other adopted land use and resource plans. The county legislative  
37 authority may, in lieu of the committee required under RCW 70.116.040  
38 (as recodified by this act), and the procedures authorized in this  
39 section, utilize an advisory committee that is representative of the  
40 water utilities and local governments within its jurisdiction to

1 assist in the preparation of the abbreviated plan, which may be  
2 adopted by resolution and submitted to the secretary for approval.  
3 Purveyors within the boundaries covered by the abbreviated plan need  
4 not develop a water system plan, except to the extent required by the  
5 secretary or state board of health under other authority. Any  
6 abbreviated plan adopted by a county legislative authority pursuant  
7 to this subsection shall be subject to the same provisions contained  
8 in RCW 70.116.060 (as recodified by this act) for coordinated water  
9 system plans that are approved by the secretary.

10 **Sec. 1328.** RCW 70.116.060 and 1995 c 376 s 2 are each amended to  
11 read as follows:

12 (1) A coordinated water system plan shall be submitted to the  
13 secretary for design approval within two years of the establishment  
14 of the boundaries of a critical water supply service area.

15 (2) The secretary shall review the coordinated water system plan  
16 and, to the extent the plan is consistent with the requirements of  
17 this chapter and regulations adopted hereunder, shall approve the  
18 plan, provided that the secretary shall not approve those portions of  
19 a coordinated water system plan that fail to meet the requirements  
20 for future service area boundaries until any boundary dispute is  
21 resolved as set forth in RCW 70.116.070 (as recodified by this act).

22 (3) Following the approval of a coordinated water system plan by  
23 the secretary:

24 (a) All purveyors constructing or proposing to construct public  
25 water system facilities within the area covered by the plan shall  
26 comply with the plan.

27 (b) No other purveyor shall establish a public water system  
28 within the area covered by the plan, unless the local legislative  
29 authority determines that existing purveyors are unable to provide  
30 the service in a timely and reasonable manner, pursuant to guidelines  
31 developed by the secretary. An existing purveyor is unable to provide  
32 the service in a timely manner if the water cannot be provided to an  
33 applicant for water within one hundred twenty days unless specified  
34 otherwise by the local legislative authority. If such a determination  
35 is made, the local legislative authority shall require the new public  
36 water system to be constructed in accordance with the construction  
37 standards and specifications embodied in the coordinated water system  
38 plan approved for the area. The service area boundaries in the

1 coordinated plan for the affected utilities shall be revised to  
2 reflect the decision of the local legislative authority.

3 (4) The secretary may deny proposals to establish or to expand  
4 any public water system within a critical water supply service area  
5 for which there is not an approved coordinated water system plan at  
6 any time after two years of the establishment of the critical water  
7 supply service area: PROVIDED, That service connections shall not be  
8 considered expansions.

9 (5) The affected legislative authorities may develop and utilize  
10 a mechanism for addressing disputes that arise in the implementation  
11 of the coordinated water system plan after the plan has been approved  
12 by the secretary.

13 (6) After adoption of the initial coordinated water system plan,  
14 the local legislative authority or the secretary may determine that  
15 the plan should be updated or revised. The legislative authority may  
16 initiate an update at any time, but the secretary may initiate an  
17 update no more frequently than once every five years. The update may  
18 encompass all or a portion of the plan, with the scope of the update  
19 to be determined by the secretary and the legislative authority. The  
20 process for the update shall be the one prescribed in RCW 70.116.050  
21 (as recodified by this act).

22 (7) The provisions of subsection (3) of this section shall not  
23 apply in any county for which a coordinated water system plan has not  
24 been approved under subsection (2) of this section.

25 (8) If the secretary initiates an update or revision of a  
26 coordinated water system plan, the state shall pay for the cost of  
27 updating or revising the plan.

28 **Sec. 1329.** RCW 70.116.070 and 1995 c 376 s 13 are each amended  
29 to read as follows:

30 (1) The proposed service area boundaries of public water systems  
31 within the critical water supply service area that are required to  
32 submit water system plans under this chapter shall be identified in  
33 the system's plan. The local legislative authority, or its planning  
34 department or other designee, shall review the proposed boundaries to  
35 determine whether the proposed boundaries of one or more systems  
36 overlap. The boundaries determined by the local legislative authority  
37 not to overlap shall be incorporated into the coordinated water  
38 system plan. Where any overlap exists, the local legislative

1 authority may attempt to resolve the conflict through procedures  
2 established under RCW 70.116.060(5) (as recodified by this act).

3 (2) Any final decision by a local legislative authority regarding  
4 overlapping service areas, or any unresolved disputes regarding  
5 service area boundaries, may be appealed or referred to the secretary  
6 in writing for resolution. After receipt of an appeal or referral,  
7 the secretary shall hold a public hearing thereon. The secretary  
8 shall provide notice of the hearing by certified mail to each  
9 purveyor involved in the dispute, to each county legislative  
10 authority having jurisdiction in the area and to the public. The  
11 secretary shall provide public notice pursuant to the provisions of  
12 chapter 65.16 RCW. Such notice shall be given at least twenty days  
13 prior to the hearing. The hearing may be continued from time to time  
14 and, at the termination thereof, the secretary may restrict the  
15 expansion of service of any purveyor within the area if the secretary  
16 finds such restriction is necessary to provide the greatest  
17 protection of the public health and well-being.

18 **Sec. 1330.** RCW 70.118.060 and 1994 c 281 s 3 are each amended to  
19 read as follows:

20 (1) After July 1, 1994, a person may not use, sell, or distribute  
21 a chemical additive to on-site sewage disposal systems.

22 (2) After January 1, 1996, no person shall use, sell, or  
23 distribute any on-site sewage disposal additive whose ingredients  
24 have not been approved by the department.

25 (3) Each manufacturer of an on-site sewage disposal system  
26 additive that is sold, advertised, or distributed in the state shall  
27 submit the following information to the department: (a) The name and  
28 address of the company; (b) the name of the product; (c) the complete  
29 product formulation; (d) the location where the product is  
30 manufactured; (e) the intended method of product application; and (f)  
31 a request that the product be reviewed.

32 (4) The department shall adopt rules providing the criteria,  
33 review, and decision-making procedures to be used in reviewing on-  
34 site sewage disposal additives for use, sale, or distribution in the  
35 state. The criteria shall be designed to determine whether the  
36 additive has an adverse effect on public health or water quality. The  
37 department may charge a fee sufficient to cover the costs of  
38 evaluating the additive, including the development of criteria and  
39 review procedures. The fee schedule shall be established by rule.

1 (5) The department shall issue a decision as to whether a product  
2 registered pursuant to subsection (3) of this section is approved or  
3 denied within forty-five days of receiving a complete evaluation as  
4 required pursuant to subsection (4) of this section.

5 (6) Manufacturers shall reregister their product as provided in  
6 subsection (3) of this section each time their product formulation  
7 changes. The department may require a new approval for products  
8 registered under this subsection prior to allowing the use, sale, or  
9 distribution within the state.

10 (7) The department may contract with private laboratories for the  
11 performance of any duties necessary to carry out the purpose of this  
12 section.

13 (8) The attorney general or appropriate city or county  
14 prosecuting attorney is authorized to bring an appropriate action to  
15 enjoin any violation of the prohibition on the sale or distribution  
16 of additives, or to enjoin any violation of the conditions in RCW  
17 70.118.080 (as recodified by this act).

18 (9) The department is responsible for providing written  
19 notification to additives manufacturers of the provisions of this  
20 section and RCW 70.118.070 and 70.118.080 (as recodified by this  
21 act). The notification shall be provided no later than thirty days  
22 after April 1, 1994. Within thirty days of notification from the  
23 department, manufacturers shall provide the same notification to  
24 their distributors, wholesalers, and retail customers.

25 **Sec. 1331.** RCW 70.118.070 and 1994 c 281 s 4 are each amended to  
26 read as follows:

27 The department shall hold confidential any information obtained  
28 pursuant to RCW 70.118.060 (as recodified by this act) when shown by  
29 any manufacturer that such information, if made public, would divulge  
30 confidential business information, methods, or processes entitled to  
31 protection as trade secrets of the manufacturer.

32 **Sec. 1332.** RCW 70.118.080 and 1994 c 281 s 5 are each amended to  
33 read as follows:

34 (1) Each manufacturer of a certified and approved additive  
35 product advertised, sold, or distributed in the state shall:

36 (a) Make no claims relating to the elimination of the need for  
37 septic tank pumping or proper septic tank maintenance;



1 (b) List the components of additive products on the product  
2 label, along with information regarding instructions for use and  
3 precautions;

4 (c) Make no false statements, design, or graphic representation  
5 relative to an additive product that is inconsistent with RCW  
6 70.118.060, 70.118.070 (as recodified by this act), or this section;  
7 and

8 (d) Make no claims, either direct or implied, about the  
9 performance of the product based on state approval of its  
10 ingredients.

11 (2) A violation of this section is an unfair act or practice in  
12 violation of the consumer protection act, chapter 19.86 RCW.

13 **Sec. 1333.** RCW 70.118.130 and 2007 c 343 s 9 are each amended to  
14 read as follows:

15 A local health officer who is responsible for administering and  
16 enforcing regulations regarding on-site sewage disposal systems is  
17 authorized to issue civil penalties for violations of those  
18 regulations under the same limitations and requirements imposed on  
19 the department under RCW 70.118B.050 (as recodified by this act),  
20 except that the amount of a penalty shall not exceed one thousand  
21 dollars per day for every violation, and judgments shall be entered  
22 in the name of the local health jurisdiction and penalties shall be  
23 placed into the general fund or funds of the entity or entities  
24 operating the local health jurisdiction.

25 **Sec. 1334.** RCW 70.118A.020 and 2006 c 18 s 2 are each amended to  
26 read as follows:

27 The definitions in this section apply throughout this chapter  
28 unless the context clearly requires otherwise.

29 (1) "Board" means the state board of health.

30 (2) "Department" means the department of health.

31 (3) "Failing" means a condition of an existing on-site sewage  
32 disposal system or component that threatens the public health by  
33 inadequately treating sewage, or by creating a potential for direct  
34 or indirect contact between sewage and the public. Examples of a  
35 failing on-site sewage disposal system include:

36 (a) Sewage on the surface of the ground;

37 (b) Sewage backing up into a structure caused by slow soil  
38 absorption of septic tank effluent;

- 1 (c) Sewage leaking from a sewage tank or collection system;  
2 (d) Cesspools or seepage pits where evidence of groundwater or  
3 surface water quality degradation exists;  
4 (e) Inadequately treated effluent contaminating groundwater or  
5 surface water; or  
6 (f) Noncompliance with standards stipulated on the permit.

7 (4) "Local health officer" or "local health jurisdiction" means  
8 the local health officers and local health jurisdictions in the  
9 following counties bordering Puget Sound: Clallam, Island, Kitsap,  
10 Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-  
11 Pierce, Thurston, and Whatcom.

12 (5) "Marine recovery area" means an area of definite boundaries  
13 where the local health officer, or the department in consultation  
14 with the health officer, determines that additional requirements for  
15 existing on-site sewage disposal systems may be necessary to reduce  
16 potential failing systems or minimize negative impacts of on-site  
17 sewage disposal systems.

18 (6) "Marine recovery area on-site strategy" or "on-site strategy"  
19 means a local health jurisdiction's on-site sewage disposal system  
20 strategy required under RCW 70.118A.050 (as recodified by this act).  
21 This strategy is a component of the on-site program management plan  
22 required under RCW 70.118A.030 (as recodified by this act).

23 (7) "On-site sewage disposal system" means an integrated system  
24 of components, located on or nearby the property it serves, that  
25 conveys, stores, treats, or provides subsurface soil treatment and  
26 dispersal of sewage. It consists of a collection system, a treatment  
27 component or treatment sequence, and a soil dispersal component. An  
28 on-site sewage disposal system also refers to a holding tank sewage  
29 system or other system that does not have a soil dispersal component.  
30 For purposes of this chapter, the term "on-site sewage disposal  
31 system" does not include any system regulated by a water quality  
32 discharge permit issued under chapter 90.48 RCW.

33 (8) "Unknown system" means an on-site sewage disposal system that  
34 was installed without the knowledge or approval of the local health  
35 jurisdiction, including those that were installed before such  
36 approval was required.

37 **Sec. 1335.** RCW 70.118A.040 and 2006 c 18 s 4 are each amended to  
38 read as follows:

1 (1) In developing on-site program management plans required under  
2 RCW 70.118A.030 (as recodified by this act), the local health officer  
3 shall propose a marine recovery area for those land areas where  
4 existing on-site sewage disposal systems are a significant factor  
5 contributing to concerns associated with:

6 (a) Shellfish growing areas that have been threatened or  
7 downgraded by the department under chapter 69.30 RCW;

8 (b) Marine waters that are listed by the department of ecology  
9 under section 303(d) of the federal clean water act (33 U.S.C. Sec.  
10 1251 et seq.) for low-dissolved oxygen or fecal coliform; or

11 (c) Marine waters where nitrogen has been identified as a  
12 contaminant of concern by the local health officer.

13 (2) In determining the boundaries for a marine recovery area, the  
14 local health officer shall assess and include those land areas where  
15 existing on-site sewage disposal systems may affect water quality in  
16 the marine recovery area.

17 (3) Determinations made by the local health officer under this  
18 section, including identification of nitrogen as a contaminant of  
19 concern, will be based on published guidance developed by the  
20 department. The guidance must be designed to ensure the proper use of  
21 available scientific and technical data. The health officer shall  
22 document the basis for these determinations when plans are submitted  
23 to the department.

24 (4) After July 1, 2007, the local health officer may designate  
25 additional marine recovery areas meeting the criteria of this  
26 section, according to new information. Where the department  
27 recommends the designation of a marine recovery area or expansion of  
28 a designated marine recovery area, the local health officer shall  
29 notify the department of its decision concerning the recommendation  
30 within ninety days of receipt of the recommendation.

31 **Sec. 1336.** RCW 70.118A.050 and 2006 c 18 s 5 are each amended to  
32 read as follows:

33 (1) The local health officer of a local health jurisdiction where  
34 a marine recovery area has been proposed under RCW 70.118A.040 (as  
35 recodified by this act) shall develop and approve a marine recovery  
36 area on-site strategy that includes designation of marine recovery  
37 areas to guide the local health jurisdiction in developing and  
38 managing all existing on-site sewage disposal systems within marine  
39 recovery areas within its jurisdiction. The on-site strategy must be

1 a component of the program management plan required under RCW  
2 70.118A.030 (as recodified by this act). The department may grant an  
3 extension of twelve months where a local health jurisdiction has  
4 demonstrated substantial progress toward completing its on-site  
5 strategy.

6 (2) An on-site strategy for a marine recovery area must specify  
7 how the local health jurisdiction will by July 1, 2012, and  
8 thereafter, find:

9 (a) Existing failing systems and ensure that system owners make  
10 necessary repairs; and

11 (b) Unknown systems and ensure that they are inspected as  
12 required to ensure that they are functioning properly, and repaired,  
13 if necessary.

14 **Sec. 1337.** RCW 70.118A.070 and 2006 c 18 s 7 are each amended to  
15 read as follows:

16 (1) The on-site program management plans of local health  
17 jurisdictions required under RCW 70.118A.030 (as recodified by this  
18 act) must be submitted to the department by July 1, 2007, and be  
19 reviewed to determine if they contain all necessary elements. The  
20 department shall provide in writing to the local board of health its  
21 review of the completeness of the plan. The board may adopt  
22 additional criteria by rule for approving plans.

23 (2) In reviewing the on-site strategy component of the plan, the  
24 department shall ensure that all required elements, including  
25 designation of any marine recovery area, have been addressed.

26 (3) Within thirty days of receiving an on-site strategy, the  
27 department shall either approve the on-site strategy or provide in  
28 writing the reasons for not approving the strategy and recommend  
29 changes. If the department does not approve the on-site strategy, the  
30 local health officer must amend and resubmit the plan to the  
31 department for approval.

32 (4) Upon receipt of department approval or after thirty days  
33 without notification, whichever comes first, the local health officer  
34 shall implement the on-site strategy.

35 (5) If the department denies approval of an on-site strategy, the  
36 local health officer may appeal the denial to the board. The board  
37 must make a final determination concerning the denial.

38 (6) The department shall assist local health jurisdictions in:

1 (a) Developing written on-site program management plans required  
2 by RCW 70.118A.030 (as recodified by this act);

3 (b) Identifying reasonable methods for finding unknown systems;  
4 and

5 (c) Developing or enhancing electronic data systems that will  
6 enable each local health jurisdiction to actively manage all on-site  
7 sewage disposal systems within their jurisdictions, with priority  
8 given to those on-site sewage disposal systems that are located in or  
9 which could affect designated marine recovery areas.

10 **Sec. 1338.** RCW 70.118A.080 and 2006 c 18 s 8 are each amended to  
11 read as follows:

12 (1) The department shall enter into a contract with each local  
13 health jurisdiction subject to the requirements of this chapter to  
14 implement plans developed under this chapter, and to develop or  
15 enhance electronic data systems required by this chapter. The  
16 contract must include state funding assistance to the local health  
17 jurisdiction from funds appropriated to the department for this  
18 purpose.

19 (2) The contract must require, at a minimum, that within a marine  
20 recovery area, the local health jurisdiction:

21 (a) Show progressive improvement in finding failing systems;

22 (b) Show progressive improvement in working with on-site sewage  
23 disposal system owners to make needed system repairs;

24 (c) Is actively taking steps to find previously unknown systems  
25 and ensuring that they are inspected as required and repaired if  
26 necessary;

27 (d) Show progressive improvement in the percentage of on-site  
28 sewage disposal systems that are included in an electronic data  
29 system; and

30 (e) Of those on-site sewage disposal systems in the electronic  
31 data system, show progressive improvement in the percentage that have  
32 had required inspections.

33 (3) The contract must also include provisions for state  
34 assistance in updating the plan. Beginning July 1, 2012, the contract  
35 may adopt revised compliance dates, including those in RCW  
36 70.118A.050 (as recodified by this act), where the local health  
37 jurisdiction has demonstrated substantial progress in updating the  
38 on-site strategy.

1 (4) The department shall convene a work group for the purpose of  
2 making recommendations to the appropriate committees of the  
3 legislature for the development of certification or licensing of  
4 maintenance specialists. The work group shall make its recommendation  
5 with consideration given to the 1998 report to the legislature  
6 entitled "On-Site Wastewater Certification Work Group" as it pertains  
7 to maintenance specialists. The work group may give priority to  
8 appropriate levels of certification or licensure of maintenance  
9 specialists who work in the Puget Sound basin.

10 **Sec. 1339.** RCW 70.118A.090 and 2006 c 18 s 9 are each amended to  
11 read as follows:

12 The provisions of this chapter are supplemental to all other  
13 authorities governing on-site sewage disposal systems, including  
14 chapter 70.118 RCW (as recodified by this act) and rules adopted  
15 under that chapter.

16 **Sec. 1340.** RCW 70.118B.005 and 2007 c 343 s 1 are each amended  
17 to read as follows:

18 The legislature finds that:

19 (1) Protection of the environment and public health requires  
20 properly designed, operated, and maintained on-site sewage systems.  
21 Failure of those systems can pose certain health and environmental  
22 hazards if sewage leaks above ground or if untreated sewage reaches  
23 surface or groundwater.

24 (2) Chapter 70.118A RCW (as recodified by this act) provides a  
25 framework for ongoing management of on-site sewage systems located in  
26 marine recovery areas and regulated by local health jurisdictions  
27 under state board of health rules. This chapter will provide a  
28 framework for comprehensive management of large on-site sewage  
29 systems statewide.

30 (3) The primary purpose of this chapter is to establish, in a  
31 single state agency, comprehensive regulation of the design,  
32 operation, and maintenance of large on-site sewage systems, and their  
33 operators, that provides both public health and environmental  
34 protection. To accomplish these purposes, this chapter provides for:

35 (a) The permitting and continuing oversight of large on-site  
36 sewage systems;

1 (b) The establishment by the department of standards and rules  
2 for the siting, design, construction, installation, operation,  
3 maintenance, and repair of large on-site sewage systems; and

4 (c) The enforcement by the department of the standards and rules  
5 established under this chapter.

6 **Sec. 1341.** RCW 70.118B.020 and 2007 c 343 s 3 are each amended  
7 to read as follows:

8 (1) For the protection of human health and the environment the  
9 department shall:

10 (a) Establish and provide for the comprehensive regulation of  
11 large on-site sewage systems including, but not limited to, system  
12 siting, design, construction, installation, operation, maintenance,  
13 and repair;

14 (b) Control and prevent pollution of streams, lakes, rivers,  
15 ponds, inland waters, salt waters, water courses, and other surface  
16 and underground waters of the state of Washington, except to the  
17 extent authorized by permits issued under this chapter;

18 (c) Issue annual operating permits for large on-site sewage  
19 systems based on the system's ability to function properly in  
20 compliance with the applicable comprehensive regulatory requirements;  
21 and

22 (d) Enforce the large on-site sewage system requirements.

23 (2) Large on-site sewage systems permitted by the department may  
24 not be used for treatment and disposal of industrial wastewater or  
25 combined sanitary sewer and stormwater systems.

26 (3) The work group convened under RCW 70.118A.080(4) (as  
27 recodified by this act) to make recommendations to the appropriate  
28 committees of the legislature for the development of certification or  
29 licensing of maintenance specialists shall include recommendations  
30 for the development of certification or licensing of large on-site  
31 (~~(sewage)~~) sewage system operators.

32 **Sec. 1342.** RCW 70.118B.030 and 2007 c 343 s 4 are each amended  
33 to read as follows:

34 (1) A person may not install or operate a large on-site sewage  
35 system without an operating permit as provided in this chapter after  
36 July 1, 2009. The owner of the system is responsible for obtaining a  
37 permit.

1 (2) The department shall issue operating permits in accordance  
2 with the rules adopted under RCW 70.118B.040 (as recodified by this  
3 act).

4 (3) The department shall ensure the system meets all applicable  
5 siting, design, construction, and installation requirements prior to  
6 issuing an initial operating permit. Prior to renewing an operating  
7 permit, the department may review the performance of the system to  
8 determine compliance with rules and any permit conditions.

9 (4) At the time of initial permit application or at the time of  
10 permit renewal the department shall impose those permit conditions,  
11 requirements for system improvements, and compliance schedules as it  
12 determines are reasonable and necessary to ensure that the system  
13 will be operated and maintained properly. Each application must be  
14 accompanied by a fee as established in rules adopted by the  
15 department.

16 (5) Operating permits shall be issued for a term of one year, and  
17 shall be renewed annually, unless the operator fails to apply for a  
18 new permit or the department finds good cause to deny the application  
19 for renewal.

20 (6) Each permit may be issued only for the site and owner named  
21 in the application. Permits are not transferable or assignable except  
22 with the written approval of the department.

23 (7) The department may deny an application for a permit or  
24 modify, suspend, or revoke a permit in any case in which it finds  
25 that the permit was obtained by fraud or there is or has been a  
26 failure, refusal, or inability to comply with the requirements of  
27 this chapter or the standards or rules adopted under this chapter.  
28 RCW 43.70.115 governs notice of denial, revocation, suspension, or  
29 modification and provides the right to an adjudicative proceeding to  
30 the permit applicant or permittee.

31 (8) For systems with design flows of more than fourteen thousand  
32 five hundred gallons per day, the department shall adopt rules to  
33 ensure adequate public notice and opportunity for review and comment  
34 on initial large on-site sewage system permit applications and  
35 subsequent permit applications to increase the volume of waste  
36 disposal or change effluent characteristics. The rules must include  
37 provisions for notice of final decisions. Methods for providing  
38 notice may include ~~((electronic))~~ email, posting on the department's  
39 internet site, publication in a local newspaper, press releases,



1 mailings, or other means of notification the department determines  
2 appropriate.

3 (9) A person aggrieved by the issuance of an initial permit, or  
4 by the issuance of a subsequent permit to increase the volume of  
5 waste disposal or to change effluent characteristics, for systems  
6 with design flows of more than fourteen thousand five hundred gallons  
7 per day, has the right to an adjudicative proceeding. The application  
8 for an adjudicative proceeding must be in writing, state the basis  
9 for contesting the action, include a copy of the decision, be served  
10 on and received by the department within twenty-eight days of receipt  
11 of notice of the final decision, and be served in a manner that shows  
12 proof of receipt. An adjudicative proceeding conducted under this  
13 subsection is governed by chapter 34.05 RCW.

14 (10) Any permit issued by the department of ecology for a large  
15 on-site sewage system under chapter 90.48 RCW is valid until it first  
16 expires after July 22, 2007. The system owner shall apply for an  
17 operating permit at least one hundred twenty days prior to expiration  
18 of the department of ecology permit.

19 (11) Systems required to meet operator certification requirements  
20 under chapter 70.95B RCW (as recodified by this act) must continue to  
21 meet those requirements as a condition of the department operating  
22 permit.

23 **Sec. 1343.** RCW 70.119.030 and 2009 c 221 s 2 are each amended to  
24 read as follows:

25 (1) A public water system shall have a certified operator if:  
26 (a) It is a group A water system; or  
27 (b) It is a public water system using a surface water source or a  
28 groundwater source under the direct influence of surface water.

29 (2) The certified operators shall be in charge of the technical  
30 direction of a water system's operation, or an operating shift of  
31 such a system, or a major segment of a system necessary for  
32 monitoring or improving the quality of water. The operator shall be  
33 certified as provided in RCW 70.119.050 (as recodified by this act).

34 (3) A certified operator may provide required services to more  
35 than one system or to a group of systems. The amount of time that a  
36 certified operator shall be required to be present at any given  
37 system shall be based upon the time required to properly operate and  
38 maintain the public water system as designed and constructed in  
39 accordance with RCW 43.20.050. The employing or appointing officials

1 shall designate the position or positions requiring mandatory  
2 certification within their individual systems and shall assure that  
3 such certified operators are responsible for the system's technical  
4 operation.

5 (4) The department shall, in establishing by rule or otherwise  
6 the requirements for public water systems with fewer than one hundred  
7 connections, phase in such requirements in order to assure that (a)  
8 an adequate number of certified operators are available to serve the  
9 additional systems, (b) the systems have adequate notice and time to  
10 plan for securing the services of a certified operator, (c) the  
11 department has the additional data and other administrative capacity,  
12 (d) adequate training is available to certify additional operators as  
13 necessary, and (e) any additional requirements under federal law are  
14 satisfied. The department shall require certified operators for all  
15 group A systems as necessary to conform to federal law or  
16 implementing rules or guidelines. Unless necessary to conform to  
17 federal law, rules, or guidelines, the department shall not require a  
18 certified operator for a system with fewer than one hundred  
19 connections unless that system is determined by the department to be  
20 in significant noncompliance with operational, monitoring, or water  
21 quality standards that would put the public health at risk, as  
22 defined by the department by rule, or has, or is required to have,  
23 water treatment facilities other than simple disinfection.

24 **Sec. 1344.** RCW 70.119.050 and 1995 c 269 s 2905 are each amended  
25 to read as follows:

26 The secretary shall adopt such rules and regulations as may be  
27 necessary for the administration of this chapter and shall enforce  
28 such rules and regulations. The rules and regulations shall include  
29 provisions establishing minimum qualifications and procedures for the  
30 certification of operators, criteria for determining the kind and  
31 nature of continuing educational requirements for renewal of  
32 certification under RCW 70.119.100(2) (as recodified by this act),  
33 and provisions for classifying water purification plants and  
34 distribution systems.

35 Rules and regulations adopted under the provisions of this  
36 section shall be adopted in accordance with the provisions of chapter  
37 34.05 RCW.

1       **Sec. 1345.** RCW 70.119.060 and 1991 c 305 s 4 are each amended to  
2 read as follows:

3       The secretary shall further categorize all public water systems  
4 with regard to the size, type, source of water, and other relevant  
5 physical conditions affecting purification plants and distribution  
6 systems to assist in identifying the skills, knowledge and experience  
7 required for the certification of operators for each category of such  
8 systems, to assure the protection of the public health and  
9 conservation and protection of the state's water resources as  
10 required under RCW 70.119.010 (as recodified by this act), and to  
11 implement the provisions of the state safe drinking water act in  
12 chapter 70.119A RCW (as recodified by this act). In categorizing all  
13 public water systems for the purpose of implementing these provisions  
14 of state law, the secretary shall take into consideration economic  
15 impacts as well as the degree and nature of any public health risk.

16       **Sec. 1346.** RCW 70.119.070 and 1983 c 292 s 5 are each amended to  
17 read as follows:

18       The secretary is authorized, when taking action pursuant to RCW  
19 70.119.050 and 70.119.060 (as recodified by this act), to consider  
20 generally applicable criteria and guidelines developed by a  
21 nationally recognized association of certification authorities and  
22 commonly accepted national guidelines and standards.

23       **Sec. 1347.** RCW 70.119.090 and 1991 c 305 s 5 are each amended to  
24 read as follows:

25       Certificates shall be issued without examination under the  
26 following conditions:

27       (1) Certificates shall be issued without application fee to  
28 operators who, on January 1, 1978, hold certificates of competency  
29 attained under the voluntary certification program sponsored jointly  
30 by the state department of social and health services, health  
31 services division, and the Pacific Northwest section of the American  
32 water works association.

33       (2) Certification shall be issued to persons certified by a  
34 governing body or owner of a public water system to have been the  
35 operators of a purification plant or distribution system on January  
36 1, 1978, but only to those who are required to be certified under RCW  
37 70.119.030(1) (as recodified by this act). A certificate so issued

1 shall be valid for operating any plant or system of the same  
2 classification and same type of water source.

3 (3) A nonrenewable certificate, temporary in nature, may be  
4 issued to an operator for a period not to exceed twelve months to  
5 fill a vacated position required to have a certified operator. Only  
6 one such certificate may be issued subsequent to each instance of  
7 vacation of any such position.

8 **Sec. 1348.** RCW 70.119.100 and 1993 c 306 s 1 are each amended to  
9 read as follows:

10 The issuance and renewal of a certificate shall be subject to the  
11 following conditions:

12 (1) Except as provided in RCW 70.119.090 (as recodified by this  
13 act), a certificate shall be issued if the operator has  
14 satisfactorily passed a written examination, has paid the department  
15 an application fee as established by the department under RCW  
16 70.119.160 (as recodified by this act), and has met the requirements  
17 specified in the rules and regulations as authorized by this chapter.

18 (2) Every certificate shall be renewed annually upon the payment  
19 of a fee as established by the department under RCW 70.119.160 (as  
20 recodified by this act) and satisfactory evidence is presented to the  
21 secretary that the operator has fulfilled the continuing education  
22 requirements as prescribed by rule of the department.

23 (3) The secretary shall notify operators who fail to renew their  
24 certificates before the end of the year that their certificates are  
25 temporarily valid for two months following the end of the certificate  
26 year. Certificates not renewed during the two month period shall be  
27 invalid and the secretary shall so notify the holders of such  
28 certificates.

29 (4) An operator who has failed to renew a certificate pursuant to  
30 the provisions of this section, may reapply for certification and the  
31 secretary may require the operator to meet the requirements  
32 established for new applicants.

33 **Sec. 1349.** RCW 70.119.120 and 1993 c 306 s 2 are each amended to  
34 read as follows:

35 To carry out the provisions and purposes of this chapter, the  
36 secretary is authorized and empowered to:

37 (1) Receive financial and technical assistance from the federal  
38 government and other public or private agencies.

1 (2) Participate in related programs of the federal government,  
2 other state, interstate agencies, or other public or private agencies  
3 or organizations.

4 (3) Assess fees determined pursuant to RCW 70.119.160 (as  
5 recodified by this act) on public water systems to support the  
6 waterworks operator certification program.

7 **Sec. 1350.** RCW 70.119.130 and 2009 c 221 s 6 are each amended to  
8 read as follows:

9 Any person, including any operator or any firm, association,  
10 corporation, municipal corporation, or other governmental subdivision  
11 or agency who, after thirty days' written notice, operates a public  
12 water system which is not in compliance with RCW 70.119.030(1) (as  
13 recodified by this act), shall be guilty of a misdemeanor. Each month  
14 of such operation out of compliance with RCW 70.119.030(1) (as  
15 recodified by this act) shall constitute a separate offense. Upon  
16 conviction, violators shall be fined an amount not exceeding one  
17 hundred dollars for each offense. It shall be the duty of the  
18 prosecuting attorney or the attorney general, as appropriate, to  
19 secure injunctions of continuing violations of any provisions of this  
20 chapter or the rules and regulations adopted under this chapter.

21 **Sec. 1351.** RCW 70.119.150 and 1993 c 306 s 3 are each amended to  
22 read as follows:

23 The waterworks operator certification account is created in the  
24 general fund of the state treasury. All fees paid pursuant to RCW  
25 70.119.100 (as recodified by this act), 70.119.120(3) (as recodified  
26 by this act), and any other receipts realized in the administration  
27 of this chapter shall be deposited in the waterworks operator  
28 certification account. Moneys in the account shall be spent only  
29 after appropriation. Moneys from the account shall be used by the  
30 department of health to carry out the purposes of the waterworks  
31 operator certification program.

32 **Sec. 1352.** RCW 70.119.170 and 2009 c 221 s 3 are each amended to  
33 read as follows:

34 (1) Backflow assembly testers and cross-connection control  
35 specialists must hold a valid certificate and must be certified as  
36 provided by rule as adopted under the authority of RCW 70.119.050 (as  
37 recodified by this act).

1 (2) Backflow assembly testers who maintain or repair backflow  
2 assemblies, devices, or air gaps inside a building are subject to  
3 certification under chapter 18.106 RCW.

4 **Sec. 1353.** RCW 70.119A.020 and 2009 c 495 s 3 are each reenacted  
5 and amended to read as follows:

6 Unless the context clearly requires otherwise, the following  
7 definitions apply throughout this chapter:

8 (1) "Area-wide waivers" means a waiver granted by the department  
9 as a result of a geographically based testing program meeting  
10 required provisions of the federal safe drinking water act.

11 (2) "Department" means the department of health.

12 (3) "Federal safe drinking water act" means the federal safe  
13 drinking water act, 42 U.S.C. Sec. 300f et seq., as now in effect or  
14 hereafter amended.

15 (4) "Group A public water system" means a public water system  
16 with fifteen or more service connections, regardless of the number of  
17 people; or a system serving an average of twenty-five or more people  
18 per day for sixty or more days within a calendar year, regardless of  
19 the number of service connections; or a system serving one thousand  
20 or more people for two or more consecutive days.

21 (5) "Group B public water system" means a public water system  
22 that does not meet the definition of a group A public water system.

23 (6) "Local board of health" means the city, town, county, or  
24 district board of health.

25 (7) "Local health jurisdiction" means an entity created under  
26 chapter 70.05, 70.08, or 70.46 RCW which provides public health  
27 services to persons within the area.

28 (8) "Local health officer" means the legally qualified physician  
29 who has been appointed as the health officer for the city, town,  
30 county, or district public health department.

31 (9) "Order" means a written direction to comply with a provision  
32 of the regulations adopted under RCW 43.20.050(2) (a) and (b) or  
33 70.119.050 (as recodified by this act) or to take an action or a  
34 series of actions to comply with the regulations.

35 (10) "Person" includes, but is not limited to, natural persons,  
36 municipal corporations, governmental agencies, firms, companies,  
37 mutual or cooperative associations, institutions, and partnerships.  
38 It also means the authorized agents of any such entities.

1 (11) "Public health emergency" means a declaration by an  
2 authorized health official of a situation in which either illness, or  
3 exposure known to cause illness, is occurring or is imminent.

4 (12) "Public water system" means any system, excluding a system  
5 serving only one single-family residence and a system with four or  
6 fewer connections all of which serve residences on the same farm,  
7 providing water for human consumption through pipes or other  
8 constructed conveyances, including any collection, treatment,  
9 storage, or distribution facilities under control of the purveyor and  
10 used primarily in connection with the system; and collection or  
11 pretreatment storage facilities not under control of the purveyor but  
12 primarily used in connection with the system, including:

13 (a) Any collection, treatment, storage, and distribution  
14 facilities under control of the purveyor and used primarily in  
15 connection with such system; and

16 (b) Any collection or pretreatment storage facilities not under  
17 control of the purveyor which are primarily used in connection with  
18 such system.

19 (13) "Purveyor" means any agency or subdivision of the state or  
20 any municipal corporation, firm, company, mutual or cooperative  
21 association, institution, partnership, or person or any other entity,  
22 that owns or operates a public water system. It also means the  
23 authorized agents of any such entities.

24 (14) "Regulations" means rules adopted to carry out the purposes  
25 of this chapter.

26 (15) "Secretary" means the secretary of the department of health.

27 (16) "State board of health" is the board created by RCW  
28 43.20.030.

29 **Sec. 1354.** RCW 70.119A.030 and 1993 c 305 s 1 are each amended  
30 to read as follows:

31 (1) The secretary or his or her designee or the local health  
32 officer may declare a public health emergency. As limited by RCW  
33 70.119A.040 (as recodified by this act), the department may impose  
34 penalties for violations of laws or regulations that are determined  
35 to be a public health emergency.

36 (2) As limited by RCW 70.119A.040 (as recodified by this act),  
37 the department may impose penalties for violation of laws or rules  
38 regulating public water systems and administered by the department of  
39 health.

1       **Sec. 1355.** RCW 70.119A.050 and 2009 c 495 s 4 are each amended  
2 to read as follows:

3       Each local board of health that is enforcing the regulations  
4 regarding public water systems is authorized to impose and collect  
5 civil penalties for violations within the area of its responsibility  
6 under the same limitations and requirements imposed upon the  
7 department by RCW 70.119A.030 and 70.119A.040 (as recodified by this  
8 act), except that judgment shall be entered in the name of the local  
9 board and penalties shall be placed into the general fund of the  
10 county, city, or town operating the local board of health.

11       **Sec. 1356.** RCW 70.119A.060 and 2009 c 495 s 5 are each amended  
12 to read as follows:

13       (1) To assure safe and reliable public drinking water and to  
14 protect the public health:

15       (a) Public water systems shall comply with all applicable  
16 federal, state, and local rules; and

17       (b) Group A public water systems shall:

18       (i) Protect the water sources used for drinking water;

19       (ii) Provide treatment adequate to assure that the public health  
20 is protected;

21       (iii) Provide and effectively operate and maintain public water  
22 system facilities;

23       (iv) Plan for future growth and assure the availability of safe  
24 and reliable drinking water;

25       (v) Provide the department with the current names, addresses, and  
26 telephone numbers of the owners, operators, and emergency contact  
27 persons for the system, including any changes to this information,  
28 and provide to users the name and twenty-four hour telephone number  
29 of an emergency contact person; and

30       (vi) Take whatever investigative or corrective action is  
31 necessary to assure that a safe and reliable drinking water supply is  
32 continuously available to users.

33       (2) No new public water system may be approved or created unless:

34       (a) It is owned or operated by a satellite system management agency  
35 established under RCW 70.116.134 (as recodified by this act) and the  
36 satellite system management system complies with financial viability  
37 requirements of the department; or (b) a satellite management system  
38 is not available and it is determined that the new system has  
39 sufficient management and financial resources to provide safe and



1 reliable service. The approval of any new system that is not owned by  
2 a satellite system management agency shall be conditioned upon future  
3 management or ownership by a satellite system management agency, if  
4 such management or ownership can be made with reasonable economy and  
5 efficiency, or upon periodic review of the system's operational  
6 history to determine its ability to meet the department's financial  
7 viability and other operating requirements. The department and local  
8 health jurisdictions shall enforce this requirement under authority  
9 provided under this chapter, chapter 70.116 (as recodified by this  
10 act), or 70.05 RCW, or other authority governing the approval of new  
11 water systems by the department or a local jurisdiction.

12 (3) The department and local health jurisdictions shall carry out  
13 the rules and regulations of the state board of health adopted  
14 pursuant to RCW 43.20.050(2) (a) and (b) and other rules adopted by  
15 the department relating to public water systems.

16 **Sec. 1357.** RCW 70.119A.110 and 2011 c 102 s 1 are each amended  
17 to read as follows:

18 (1) No person may operate a group A public water system unless  
19 the person first submits an application to the department and  
20 receives an operating permit as provided in this section. A new  
21 application must be submitted upon any change in ownership of the  
22 system.

23 (2) The department may require that each application include the  
24 information that is reasonable and necessary to determine that the  
25 system complies with applicable standards and requirements of the  
26 federal safe drinking water act, state law, and rules adopted by the  
27 department or by the state board of health.

28 (3) Following its review of the application, its supporting  
29 material, and any information received by the department in its  
30 investigation of the application, the department shall issue or deny  
31 the operating permit. The department shall act on initial permit  
32 applications as expeditiously as possible, and shall in all cases  
33 either grant or deny the application within one hundred twenty days  
34 of receipt of the application or of any supplemental information  
35 required to complete the application. The applicant for a permit  
36 shall be entitled to file an appeal in accordance with chapter 34.05  
37 RCW if the department denies the initial or subsequent applications  
38 or imposes conditions or requirements upon the operator. Any operator

1 of a public water system that requests a hearing may continue to  
2 operate the system until a decision is issued after the hearing.

3 (4) At the time of initial permit application or at the time of  
4 permit renewal the department may impose such permit conditions,  
5 requirements for system improvements, and compliance schedules as it  
6 determines are reasonable and necessary to ensure that the system  
7 will provide a safe and reliable water supply to its users.

8 (5) Operating permits shall be issued for a term of one year, and  
9 shall be renewed annually, unless the operator fails to apply for a  
10 new permit or the department finds good cause to deny the application  
11 for renewal.

12 (6) Each application shall be accompanied by an annual fee.

13 (7) The department shall adopt rules, in accordance with chapter  
14 34.05 RCW, necessary to implement this section.

15 (8) The department shall establish by rule categories of annual  
16 operating permit fees based on system size, complexity, and number of  
17 service connections. Fees charged must be sufficient to cover, but  
18 may not exceed, the costs to the department of administering a  
19 program for safe and reliable drinking water. The department shall  
20 use operating permit fees to monitor and enforce compliance by group  
21 A public water systems with state and federal laws that govern  
22 planning, water use efficiency, design, construction, operation,  
23 maintenance, financing, management, and emergency response.

24 (9) The annual per-connection fee may not exceed one dollar and  
25 fifty cents. The department shall phase-in implementation of any  
26 annual fee increase greater than ten percent, and shall establish the  
27 schedule for implementation by rule. Rules established by the  
28 department prior to 2020 must limit the annual operating permit fee  
29 for any public water system to no greater than one hundred thousand  
30 dollars.

31 (10) The department shall notify existing public water systems of  
32 the requirements of RCW 70.119A.030, 70.119A.060 (as recodified by  
33 this act), and this section at least one hundred twenty days prior to  
34 the date that an application for a permit is required pursuant to RCW  
35 70.119A.030, 70.119A.060 (as recodified by this act), and this  
36 section.

37 (11) The department shall issue one operating permit to any  
38 approved satellite system management agency. Operating permit fees  
39 for approved satellite system management agencies must be established  
40 by the department by rule. Rules established by the department must

1 set a single fee based on the total number of connections for all  
2 group A public water systems owned by a satellite management agency.

3 (12) For purposes of this section, "group A public water system"  
4 and "system" mean those water systems with fifteen or more service  
5 connections, regardless of the number of people; or a system serving  
6 an average of twenty-five or more people per day for sixty or more  
7 days within a calendar year, regardless of the number of service  
8 connections.

9 **Sec. 1358.** RCW 70.119A.120 and 1991 c 304 s 6 are each amended  
10 to read as follows:

11 The safe drinking water account is created in the general fund of  
12 the state treasury. All receipts from the operating permit fees  
13 required to be paid under RCW 70.119A.110 (as recodified by this act)  
14 shall be deposited into the account. Moneys in the account may be  
15 spent only after appropriation. Expenditures from the account may be  
16 used by the department of health to carry out the purposes of chapter  
17 304, Laws of 1991 and to carry out contracts with local governments  
18 in accordance with this chapter.

19 **Sec. 1359.** RCW 70.119A.190 and 2008 c 214 s 2 are each amended  
20 to read as follows:

21 Subject to the availability of amounts appropriated for this  
22 specific purpose, the department shall provide financial assistance  
23 through a water system acquisition and rehabilitation program, hereby  
24 created. The program shall be jointly administered with the public  
25 works board and the department of (~~community, trade, and economic~~  
26 ~~development~~) commerce. The agencies shall adopt guidelines for the  
27 program using as a model the procedures and criteria of the drinking  
28 water revolving loan program authorized under RCW 70.119A.170 (as  
29 recodified by this act). All financing provided through the program  
30 must be in the form of grants that partially cover project costs. The  
31 maximum grant to any eligible entity may not exceed twenty-five  
32 percent of the funds allocated to the appropriation in any fiscal  
33 year.

34 **Sec. 1360.** RCW 70.120.010 and 2011 c 171 s 108 are each amended  
35 to read as follows:

36 Unless the context clearly requires otherwise, the definitions in  
37 this section apply throughout this chapter.

1 (1) "Department" means the department of ecology.

2 (2) "Director" means the director of the department of ecology.

3 (3) "Fleet" means a group of fifteen or more motor vehicles  
4 registered in the same name and whose owner has been assigned a fleet  
5 identifier code by the department of licensing.

6 (4) "Motor vehicle" means any self-propelled vehicle required to  
7 be licensed pursuant to chapter 46.16A RCW.

8 (5) "Motor vehicle dealer" means a motor vehicle dealer, as  
9 defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70  
10 RCW.

11 (6) "Person" means an individual, firm, public or private  
12 corporation, association, partnership, political subdivision of the  
13 state, municipality, or governmental agency.

14 (7) The terms "air contaminant," "air pollution," "air quality  
15 standard," "ambient air," "emission," and "emission standard" have  
16 the meanings given them in RCW 70.94.030 (as recodified by this act).

17 **Sec. 1361.** RCW 70.120.070 and 1998 c 342 s 2 are each amended to  
18 read as follows:

19 (1) Any person:

20 (a) Whose motor vehicle is tested pursuant to this chapter and  
21 fails to comply with the emission standards established for the  
22 vehicle; and

23 (b) Who, following such a test, expends more than one hundred  
24 dollars on a 1980 or earlier model year motor vehicle or expends more  
25 than one hundred fifty dollars on a 1981 or later model year motor  
26 vehicle for repairs solely devoted to meeting the emission standards  
27 and that are performed by a certified emission specialist authorized  
28 by RCW 70.120.020(2)(a) (as recodified by this act); and

29 (c) Whose vehicle fails a retest, may be issued a certificate of  
30 acceptance if (i) the vehicle has been in use for more than five  
31 years or fifty thousand miles, and (ii) any component of the vehicle  
32 installed by the manufacturer for the purpose of reducing emissions,  
33 or its appropriate replacement, is installed and operative.

34 To receive the certificate, the person must document compliance  
35 with (b) and (c) of this subsection to the satisfaction of the  
36 department.

37 Should any provision of (b) of this subsection be disapproved by  
38 the administrator of the United States environmental protection

1 agency, all vehicles shall be required to expend at least four  
2 hundred fifty dollars to qualify for a certificate of acceptance.

3 (2) Persons who fail the initial tests shall be provided with:

4 (a) Information regarding the availability of federal warranties  
5 and certified emission specialists;

6 (b) Information on the availability and procedure for acquiring  
7 license trip-permits;

8 (c) Information on the availability and procedure for receiving a  
9 certificate of acceptance; and

10 (d) The local phone number of the department's local vehicle  
11 specialist.

12 **Sec. 1362.** RCW 70.120.080 and 1991 c 199 s 205 are each amended  
13 to read as follows:

14 The director may authorize an owner or lessee of a fleet of motor  
15 vehicles, or the owner's or lessee's agent, to inspect the vehicles  
16 in the fleet and issue certificates of compliance for the vehicles in  
17 the fleet if the director determines that: (1) The director's  
18 inspection procedures will be complied with; and (2) certificates  
19 will be issued only to vehicles in the fleet that meet emission and  
20 equipment standards adopted under RCW 70.120.150 (as recodified by  
21 this act) and only when appropriate.

22 In addition, the director may authorize an owner or lessee of one  
23 or more diesel motor vehicles with a gross vehicle weight rating in  
24 excess of eight thousand five hundred pounds, or the owner's or  
25 lessee's agent, to inspect the vehicles and issue certificates of  
26 compliance for the vehicles. The inspections shall be conducted in  
27 compliance with inspection procedures adopted by the department and  
28 certificates of compliance shall only be issued to vehicles that meet  
29 emission and equipment standards adopted under RCW 70.120.150 (as  
30 recodified by this act).

31 The director shall establish by rule the fee for fleet or diesel  
32 inspections provided for in this section. The fee shall be set at an  
33 amount necessary to offset the department's cost to administer the  
34 fleet and diesel inspection program authorized by this section.

35 Owners, leaseholders, or their agents conducting inspections  
36 under this section shall pay only the fee established in this section  
37 and not be subject to fees under RCW 70.120.170(4) (as recodified by  
38 this act).

1       **Sec. 1363.** RCW 70.120.120 and 1991 c 199 s 206 are each amended  
2 to read as follows:

3       The director shall adopt rules implementing and enforcing this  
4 chapter in accordance with chapter 34.05 RCW. The department shall  
5 take into account when considering proposed modifications of emission  
6 contributing boundaries, as provided for in RCW 70.120.150(6) (as  
7 recodified by this act), alternative transportation control and motor  
8 vehicle emission reduction measures that are required by local  
9 municipal corporations for the purpose of satisfying federal emission  
10 guidelines.

11       **Sec. 1364.** RCW 70.120.130 and 1979 ex.s. c 163 s 14 are each  
12 amended to read as follows:

13       The authority granted by this chapter to the director and the  
14 department for controlling vehicle emissions is supplementary to the  
15 department's authority to control air pollution pursuant to chapter  
16 70.94 RCW (as recodified by this act).

17       **Sec. 1365.** RCW 70.120.190 and 1991 c 199 s 210 are each amended  
18 to read as follows:

19       (1) Motor vehicle dealers selling a used vehicle not under a new  
20 vehicle warranty shall include a notice in each vehicle purchase  
21 order form that reads as follows: "The owner of a vehicle may be  
22 required to spend up to (a dollar amount established under RCW  
23 70.120.070 (as recodified by this act)) for repairs if the vehicle  
24 does not meet the vehicle emission standards under this chapter.  
25 Unless expressly warranted by the motor vehicle dealer, the dealer is  
26 not warranting that this vehicle will pass any emission tests  
27 required by federal or state law."

28       (2) The signature of the purchaser on the notice required under  
29 subsection (1) of this section shall constitute a valid disclaimer of  
30 any implied warranty by the dealer as to a vehicle's compliance with  
31 any emission standards.

32       (3) The disclosure requirement of subsection (1) of this section  
33 applies to all motor vehicle dealers located in counties where state  
34 emission inspections are required.

35       **Sec. 1366.** RCW 70.120A.010 and 2010 c 76 s 1 are each amended to  
36 read as follows:

1 (1) Pursuant to the federal clean air act, the legislature adopts  
2 the California motor vehicle emission standards in Title 13 of the  
3 California Code of Regulations, effective January 1, 2005, except as  
4 provided in this chapter. The department of ecology shall adopt rules  
5 to implement the emission standards of the state of California for  
6 passenger cars, light duty trucks, and medium duty passenger  
7 vehicles, and shall amend the rules from time to time, to maintain  
8 consistency with the California motor vehicle emission standards and  
9 42 U.S.C. Sec. 7507 (section 177 of the federal clean air act).  
10 Notwithstanding other provisions of this chapter, the department of  
11 ecology shall not adopt the zero emission vehicle program regulations  
12 contained in Title 13 section 1962 of the California Code of  
13 Regulations effective January 1, 2005. During rule development, the  
14 department of ecology shall convene an advisory group composed of  
15 industry and consumer group representatives. Any proposed rules or  
16 changes to rules shall be subject to review and comment by the  
17 advisory group, prior to rule adoption. The order of adoption for the  
18 rules required in this section shall include the signature of the  
19 governor. The rules shall be effective only for those model years for  
20 which the state of Oregon has adopted the California motor vehicle  
21 emission standards. This section does not limit the department of  
22 ecology's authority to regulate motor vehicle emissions for any other  
23 class of vehicle.

24 (2) Motor vehicles with a model year equal to or later than the  
25 first model year for which new vehicles sold to Washington state  
26 residents are required to comply with California motor vehicle  
27 emission standards are exempt from emission inspections under chapter  
28 70.120 RCW (as recodified by this act).

29 (3) The provisions of this chapter do not apply with respect to  
30 the use by a resident of this state of a motor vehicle acquired and  
31 used while the resident is a member of the armed services and is  
32 stationed outside this state pursuant to military orders.

33 **Sec. 1367.** RCW 70.120A.020 and 2005 c 295 s 3 are each amended  
34 to read as follows:

35 (1) In recognition of the provisions of the federal clean air act  
36 which require a minimum phase-in period of three model years for  
37 adoption of California motor vehicle emission standards, the  
38 implementing rules shall include a system of early credits and  
39 banking for manufacturers for zero emission vehicles produced and

1 sold earlier than the implementation date for the standards in  
2 Washington. Beginning with the model year in which the new standards  
3 become effective, each manufacturer's fleet of passenger cars and  
4 light duty trucks delivered for sale in the state of Washington shall  
5 proportionately conform to the zero emission vehicle requirements of  
6 Title 13 of the California Code of Regulations, including early  
7 credit and banking provisions set forth in Title 13 of the Code of  
8 California Regulations using Washington specific vehicle numbers. A  
9 manufacturer shall be given early Washington zero emission vehicle  
10 credits proportionally equivalent to the zero emission vehicle  
11 credits possessed by the requesting manufacturer for use in the state  
12 of California on January 1st of the model year the California  
13 standards become effective in Washington.

14 (2) In addition, an alternative means of compliance with the  
15 requirements of subsection (1) of this section shall be created in  
16 the implementing rules provided for in RCW 70.120A.010 (as recodified  
17 by this act). The alternative means of compliance shall allow a  
18 manufacturer to earn Washington zero emission vehicle credits  
19 beginning with the 2005 model year. The alternative means of  
20 compliance shall be developed to be consistent in concept with the  
21 alternative compliance systems developed for the states of  
22 Connecticut, New York, and Maine as they adopted the zero emission  
23 vehicle provisions of the California motor vehicle standards and  
24 shall contain a Washington multiplier consistent with the multipliers  
25 in those systems. The implementing rules shall require timely  
26 notification by the manufacturer to the department of ecology of an  
27 election to use the alternative means of compliance.

28 **Sec. 1368.** RCW 70.121.020 and 1991 c 3 s 372 are each amended to  
29 read as follows:

30 Unless the context clearly requires a different meaning, the  
31 definitions in this section apply throughout this chapter.

32 (1) "Department" means the department of health.

33 (2) "Secretary" means the secretary of health.

34 (3) "Site" means the restricted area as defined by the United  
35 States nuclear regulatory commission.

36 (4) "Tailings" means the residue remaining after extraction of  
37 uranium or thorium from the ore whether or not the residue is left in  
38 piles, but shall not include ore bodies nor ore stock piles.



1 (5) "License" means a radioactive materials license issued under  
2 chapter 70.98 RCW (as recodified by this act) and the rules adopted  
3 under chapter 70.98 RCW (as recodified by this act).

4 (6) "Termination of license" means the cancellation of the  
5 license after permanent cessation of operations. Temporary  
6 interruptions or suspensions of production due to economic or other  
7 conditions are not a permanent cessation of operations.

8 (7) "Milling" means grinding, cutting, working, or concentrating  
9 ore which has been extracted from the earth by mechanical  
10 (conventional) or chemical (in situ) processes.

11 (8) "Obligor-licensee" means any person who obtains a license to  
12 operate a uranium or thorium mill in the state of Washington or any  
13 person who owns the property on which the mill operates and who owes  
14 money to the state for the licensing fee, for reclamation of the  
15 site, for perpetual surveillance and maintenance of the site, or for  
16 any other obligation owed the state under this chapter.

17 (9) "Statement of claim" means the document recorded or filed  
18 pursuant to this chapter, which names an obligor-licensee, names the  
19 state as obligee, describes the obligation owed to the state, and  
20 describes property owned by the obligor-licensee on which a lien will  
21 attach for the benefit of the state, and which creates the lien when  
22 filed.

23 **Sec. 1369.** RCW 70.121.050 and 2012 c 187 s 8 are each amended to  
24 read as follows:

25 On a quarterly basis on and after January 1, 1980, there shall be  
26 levied and the department shall collect a charge of five cents per  
27 pound on each pound of uranium or thorium compound milled out of the  
28 raw ore. All moneys paid to the department from these charges shall  
29 be deposited in a special security fund in the treasury of the state  
30 of Washington to be known as the "radiation perpetual maintenance  
31 fund." This security fund shall be used by the department when a  
32 licensee has ceased to operate and the site may still contain, or  
33 have associated with the site at which the licensed activity was  
34 conducted in spite of full compliance with RCW 70.121.030 (as  
35 recodified by this act), radioactive material which will require  
36 further maintenance, surveillance, or other care. If, with respect to  
37 a licensee, the department determines that the estimated total of  
38 these charges will be less than or greater than that required to  
39 defray the estimated cost of administration of this responsibility,

1 the department may prescribe such an increased or decreased charge as  
2 is considered necessary for this purpose. If, at termination of the  
3 license, the department determines that by the applicable standards  
4 and practices then in effect, the charges which have been collected  
5 from the licensee and earnings generated therefrom are in excess of  
6 the amount required to defray the cost of this responsibility, the  
7 department may refund the excess portion to the licensee. If, at  
8 termination of the license or cessation of operation, the department  
9 determines, by the applicable standards and practices then in effect,  
10 that the charges which have been collected from the licensee and  
11 earnings generated therefrom are together insufficient to defray the  
12 cost of this responsibility, the department may collect the excess  
13 portion from the licensee.

14 **Sec. 1370.** RCW 70.121.060 and 1979 ex.s. c 110 s 6 are each  
15 amended to read as follows:

16 In order to provide for the proper care and surveillance of sites  
17 under RCW 70.121.050 (as recodified by this act), the state may  
18 acquire by gift or transfer from any government agency, corporation,  
19 partnership, or person, all lands, buildings, and grounds necessary  
20 to fulfill the purposes of this chapter. Any such gift or transfer  
21 shall be subject to approval by the department. In exercising the  
22 authority of this section, the department shall take into  
23 consideration the status of the ownership of the land and interests  
24 therein and the ability of the licensee to transfer title and custody  
25 thereof to the state.

26 **Sec. 1371.** RCW 70.121.070 and 1979 ex.s. c 110 s 7 are each  
27 amended to read as follows:

28 Recognizing the uncertainty of the existence of a person or  
29 corporation in perpetuity, and recognizing that ultimate  
30 responsibility to protect the public health and safety must be  
31 reposed in a solvent government, without regard to the existence of  
32 any particular agency or department thereof, all lands, buildings,  
33 and grounds acquired by the state under RCW 70.121.060 (as recodified  
34 by this act) shall be owned in fee simple by the state and dedicated  
35 in perpetuity to the purposes stated in RCW 70.121.060 (as recodified  
36 by this act). All radioactive material received at a site and located  
37 therein at the time of acquisition of ownership by the state shall  
38 become the property of the state.

1       **Sec. 1372.** RCW 70.121.080 and 1979 ex.s. c 110 s 8 are each  
2 amended to read as follows:

3       If a person licensed by any governmental agency other than the  
4 state or if any other governmental agency desires to transfer a site  
5 to the state for the purpose of administering or providing perpetual  
6 care, a lump sum payment shall be made to the radiation perpetual  
7 maintenance fund. The amount of the deposit shall be determined by  
8 the department taking into consideration the factors stated in RCW  
9 70.121.050 (as recodified by this act).

10       **Sec. 1373.** RCW 70.121.110 and 1987 c 184 s 6 are each amended to  
11 read as follows:

12       A bond shall be accepted by the department if it is a bond issued  
13 by a fidelity or surety company admitted to do business in the state  
14 of Washington and the fidelity or surety company is found by the  
15 state finance commission to be financially secure at licensing and  
16 licensing renewals, if it is a personal bond secured by such  
17 collateral as the secretary deems satisfactory and in accordance with  
18 RCW 70.121.100 (as recodified by this act), or if it is a cash bond.

19       **Sec. 1374.** RCW 70.138.010 and 1987 c 528 s 1 are each amended to  
20 read as follows:

21       The legislature finds:

22       (1) Solid wastes generated in the state are to be managed in the  
23 following order of descending priority: (a) Waste reduction; (b)  
24 recycling; (c) treatment; (d) energy recovery or incineration; (e)  
25 solidification/stabilization; and (f) landfill.

26       (2) Special incinerator ash residues from the incineration of  
27 municipal solid waste that would otherwise be regulated as hazardous  
28 wastes need a separate regulatory scheme in order to (a) ease the  
29 permitting and reporting requirements of chapter 70.105 RCW (as  
30 recodified by this act), the state hazardous waste management act,  
31 and (b) supplement the environmental protection provisions of chapter  
32 70.95 RCW (as recodified by this act), the state solid waste  
33 management act.

34       (3) Raw garbage poses significant environmental and public health  
35 risks. Municipal solid waste incineration constitutes a higher waste  
36 management priority than the land disposal of untreated municipal  
37 solid waste due to its reduction of waste volumes and environmental  
38 health risks.

1 It is therefore the purpose of this chapter to establish  
2 management requirements for special incinerator ash that otherwise  
3 would be regulated as hazardous waste under chapter 70.105 RCW (as  
4 recodified by this act), the hazardous waste management act.

5 **Sec. 1375.** RCW 70.138.020 and 1987 c 528 s 2 are each amended to  
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Department" means the department of ecology.

10 (2) "Director" means the director of the department of ecology or  
11 the director's designee.

12 (3) "Dispose" or "disposal" means the treatment, utilization,  
13 processing, or final deposit of special incineration ash.

14 (4) "Generate" means any act or process which produces special  
15 incinerator ash or which first causes special incinerator ash to  
16 become subject to regulation.

17 (5) "Management" means the handling, storage, collection,  
18 transportation, and disposal of special incinerator ash.

19 (6) "Person" means any person, firm, association, county, public  
20 or municipal or private corporation, agency, or other entity  
21 whatsoever.

22 (7) "Facility" means all structures, other appurtenances,  
23 improvements, and land used for recycling, storing, treating, or  
24 disposing of special incinerator ash.

25 (8) "Special incinerator ash" means ash residues resulting from  
26 the operation of incinerator or energy recovery facilities managing  
27 municipal solid waste, including solid waste from residential,  
28 commercial, and industrial establishments, if the ash residues (a)  
29 would otherwise be regulated as hazardous wastes under chapter 70.105  
30 RCW (as recodified by this act); and (b) are not regulated as a  
31 hazardous waste under the federal resource conservation and recovery  
32 act, 42 U.S.C. Sec. 6901 et seq.

33 **Sec. 1376.** RCW 70.138.030 and 1987 c 528 s 3 are each amended to  
34 read as follows:

35 (1) Prior to managing special incinerator ash, persons who  
36 generate special incinerator ash shall develop plans for managing the  
37 special incinerator ash. These plans shall:

1 (a) Identify procedures for all aspects relating to the  
2 management of the special incinerator ash that are necessary to  
3 protect employees, human health, and the environment;

4 (b) Identify alternatives for managing solid waste prior to  
5 incineration for the purpose of (i) reducing the toxicity of the  
6 special incinerator ash; and (ii) reducing the quantity of the  
7 special incinerator ash;

8 (c) Establish a process for submittal of an annual report to the  
9 department disclosing the results of a testing program to identify  
10 the toxic properties of the special incinerator ash as necessary to  
11 ensure that the procedures established in the plans submitted  
12 pursuant to this chapter are adequate to protect employees, human  
13 health, and the environment; and

14 (d) Comply with the rules established by the department in  
15 accordance with this section.

16 (2) Prior to managing any special incinerator ash, any person  
17 required to develop a plan pursuant to subsection (1) of this section  
18 shall submit the plan to the department for review and approval.  
19 Prior to approving a plan, the department shall find that the plan  
20 complies with the provisions of this chapter, including any rules  
21 adopted under this chapter. Approval may be conditioned upon  
22 additional requirements necessary to protect employees, human health,  
23 and the environment, including special management requirements, waste  
24 segregation, or treatment techniques such as neutralization,  
25 detoxification, and solidification/stabilization.

26 (3) The department shall give notice of receipt of a proposed  
27 plan to interested persons and the public and shall accept public  
28 comment for a minimum of thirty days. The department shall approve,  
29 approve with conditions, or reject the plan submitted pursuant to  
30 this section within ninety days of submittal.

31 (4) Prior to accepting any special incinerator ash for disposal,  
32 persons owning or operating facilities for the disposal of the  
33 incinerator ash shall apply to the department for a permit. The  
34 department shall issue a permit if the disposal will provide adequate  
35 protection of human health and the environment. Prior to issuance of  
36 any permit, the department shall find that the facility meets the  
37 requirements of chapter 70.95 RCW (as recodified by this act) and any  
38 rules adopted under this chapter. The department may place conditions  
39 on the permit to include additional requirements necessary to protect  
40 employees, human health, and the environment, including special

1 management requirements, waste segregation, or treatment techniques  
2 such as neutralization, detoxification, and solidification/  
3 stabilization.

4 (5) The department shall give notice of its receipt of a permit  
5 application to interested persons and the public and shall accept  
6 public comment for a minimum of thirty days. The department shall  
7 issue, issue with conditions, or deny the permit within ninety days  
8 of submittal.

9 (6) The department shall adopt rules to implement the provisions  
10 of this chapter. The rules shall (a) establish minimum requirements  
11 for the management of special incinerator ash as necessary to protect  
12 employees, human health, and the environment, (b) clearly define the  
13 elements of the plans required by this chapter, and (c) require  
14 special incinerator ash to be disposed at facilities that are  
15 operating in compliance with this chapter.

16 **Sec. 1377.** RCW 70.142.050 and 1991 c 3 s 375 are each amended to  
17 read as follows:

18 Public water supply systems as defined by RCW 70.119.020 (as  
19 recodified by this act) that the state board of health or local  
20 health department determines do not comply with the water quality  
21 standards applicable to the system shall immediately initiate  
22 preparation of a corrective plan designed to meet or exceed the  
23 minimum standards for submission to the department of health. The  
24 owner of such system shall within one year take any action required  
25 to bring the water into full compliance with the standards. The  
26 department of health may require compliance as promptly as necessary  
27 to abate an immediate public health threat or may extend the period  
28 of compliance if substantial new construction is required: PROVIDED  
29 FURTHER, That the extension shall be granted only upon a  
30 determination by the department, after a public hearing, that the  
31 extension will not pose an imminent threat to public health. Each  
32 such system shall include a notice identifying the water quality  
33 standards exceeded, and the amount by which the water tested exceeded  
34 the standards, in all customer bills mailed after such determination.  
35 The notification shall continue until water quality tests conducted  
36 in accordance with this chapter establish that the system meets or  
37 exceeds the minimum standards.

1       **Sec. 1378.** RCW 70.146.030 and 2009 c 479 s 53 are each amended  
2 to read as follows:

3       The department may make grants or loans to public bodies,  
4 including grants to public bodies as cost-sharing moneys in any case  
5 where federal, local, or other funds are made available on a cost-  
6 sharing basis, for water pollution control facilities and activities,  
7 or for purposes of assisting a public body to obtain an ownership  
8 interest in water pollution control facilities and/or to defray a  
9 part of the payments made by a public body to a service provider  
10 under a service agreement entered into pursuant to RCW 70.150.060 (as  
11 recodified by this act), within the purposes of this chapter and for  
12 related administrative expenses. No more than three percent of the  
13 moneys may be used by the department to pay for the administration of  
14 the grant and loan program authorized by this chapter.

15       **Sec. 1379.** RCW 70.146.060 and 2009 c 479 s 55 are each amended  
16 to read as follows:

17       Funds provided for facilities and activities under this chapter  
18 may be used for payments to a service provider under a service  
19 agreement pursuant to RCW 70.150.060 (as recodified by this act). If  
20 funds are to be used for such payments, the department may make  
21 periodic disbursements to a public body or may make a single lump sum  
22 disbursement. Disbursements of funds with respect to a facility owned  
23 or operated by a service provider shall be equivalent in value to  
24 disbursements that would otherwise be made if that facility were  
25 owned or operated by a public body. Payments under this chapter for  
26 waste disposal and management facilities made to public bodies  
27 entering into service agreements pursuant to RCW 70.150.060 (as  
28 recodified by this act) shall not exceed amounts paid to public  
29 bodies not entering into service agreements.

30       **Sec. 1380.** RCW 70.146.070 and 2013 c 275 s 4 are each amended to  
31 read as follows:

32       (1) When making grants or loans for water pollution control  
33 facilities, the department shall consider the following:

34       (a) The protection of water quality and public health;

35       (b) The cost to residential ratepayers if they had to finance  
36 water pollution control facilities without state assistance;

37       (c) Actions required under federal and state permits and  
38 compliance orders;

1 (d) The level of local fiscal effort by residential ratepayers  
2 since 1972 in financing water pollution control facilities;

3 (e) Except as otherwise conditioned by RCW 70.146.110 (as  
4 recodified by this act), whether the entity receiving assistance is a  
5 Puget Sound partner, as defined in RCW 90.71.010;

6 (f) Whether the project is referenced in the action agenda  
7 developed by the Puget Sound partnership under RCW 90.71.310;

8 (g) Except as otherwise provided in RCW 70.146.120 (as recodified  
9 by this act), and effective one calendar year following the  
10 development and statewide availability of model evergreen community  
11 management plans and ordinances under RCW 35.105.050, whether the  
12 project is sponsored by an entity that has been recognized, and what  
13 gradation of recognition was received, in the evergreen community  
14 recognition program created in RCW 35.105.030;

15 (h) The extent to which the applicant county or city, or if the  
16 applicant is another public body, the extent to which the county or  
17 city in which the applicant public body is located, has established  
18 programs to mitigate nonpoint pollution of the surface or  
19 subterranean water sought to be protected by the water pollution  
20 control facility named in the application for state assistance; and

21 (i) The recommendations of the Puget Sound partnership, created  
22 in RCW 90.71.210, and any other board, council, commission, or group  
23 established by the legislature or a state agency to study water  
24 pollution control issues in the state.

25 (2) Except where necessary to address a public health need or  
26 substantial environmental degradation, a county, city, or town  
27 planning under RCW 36.70A.040 may not receive a grant or loan for  
28 water pollution control facilities unless it has adopted a  
29 comprehensive plan, including a capital facilities plan element, and  
30 development regulations as required by RCW 36.70A.040. A county,  
31 city, or town that has adopted a comprehensive plan and development  
32 regulations as provided in RCW 36.70A.040 may request a grant or loan  
33 for water pollution control facilities. This subsection does not  
34 require any county, city, or town planning under RCW 36.70A.040 to  
35 adopt a comprehensive plan or development regulations before  
36 requesting a grant or loan under this chapter if such request is made  
37 before the expiration of the time periods specified in RCW  
38 36.70A.040. A county, city, or town planning under RCW 36.70A.040  
39 that has not adopted a comprehensive plan and development regulations  
40 within the time periods specified in RCW 36.70A.040 is not prohibited



1 from receiving a grant or loan under this chapter if the  
2 comprehensive plan and development regulations are adopted as  
3 required by RCW 36.70A.040 before the department executes a  
4 contractual agreement for the grant or loan.

5 (3) Whenever the department is considering awarding grants or  
6 loans for public facilities to special districts requesting funding  
7 for a proposed facility located in a county, city, or town planning  
8 under RCW 36.70A.040, it shall consider whether the county, city, or  
9 town planning under RCW 36.70A.040 in whose planning jurisdiction the  
10 proposed facility is located has adopted a comprehensive plan and  
11 development regulations as required by RCW 36.70A.040.

12 (4) After January 1, 2010, any project designed to address the  
13 effects of water pollution on Puget Sound may be funded under this  
14 chapter only if the project is not in conflict with the action agenda  
15 developed by the Puget Sound partnership under RCW 90.71.310.

16 **Sec. 1381.** RCW 70.146.100 and 2010 1st sp.s. c 37 s 948 are each  
17 amended to read as follows:

18 (1) The water quality capital account is created in the state  
19 treasury. Moneys in the water quality capital account may be spent  
20 only after appropriation.

21 (2) Expenditures from the water quality capital account may only  
22 be used: (a) To make grants or loans to public bodies, including  
23 grants to public bodies as cost-sharing moneys in any case where  
24 federal, local, or other moneys are made available on a cost-sharing  
25 basis, for the capital component of water pollution control  
26 facilities and activities; (b) for purposes of assisting a public  
27 body to obtain an ownership interest in water pollution control  
28 facilities; or (c) to defray any part of the capital component of the  
29 payments made by a public body to a service provider under a service  
30 agreement entered into under RCW 70.150.060 (as recodified by this  
31 act). During the 2009-2011 fiscal biennium, the legislature may  
32 transfer from the water quality capital account to the state general  
33 fund such amounts as reflect the excess fund balance of the account.

34 **Sec. 1382.** RCW 70.146.110 and 2007 c 341 s 27 are each amended  
35 to read as follows:

36 When making grants or loans for water pollution control  
37 facilities under RCW 70.146.070 (as recodified by this act), the  
38 department shall give preference only to Puget Sound partners, as

1 defined in RCW 90.71.010, in comparison to other entities that are  
2 eligible to be included in the definition of Puget Sound partner.  
3 Entities that are not eligible to be a Puget Sound partner due to  
4 geographic location, composition, exclusion from the scope of the  
5 action agenda developed by the Puget Sound partnership under RCW  
6 90.71.310, or for any other reason, shall not be given less  
7 preferential treatment than Puget Sound partners.

8       **Sec. 1383.** RCW 70.148.020 and 2019 c 413 s 7034 are each amended  
9 to read as follows:

10       (1) The pollution liability insurance program trust account is  
11 established in the custody of the state treasurer. All funds  
12 appropriated for this chapter and all premiums collected for  
13 reinsurance shall be deposited in the account. Except as provided in  
14 chapter 70.340 RCW (as recodified by this act), expenditures from the  
15 account shall be used exclusively for the purposes of this chapter  
16 including payment of costs of administering the pollution liability  
17 insurance and underground storage tank community assistance programs.  
18 Expenditures for payment of administrative and operating costs of the  
19 agency are subject to the allotment procedures under chapter 43.88  
20 RCW and may be made only after appropriation by statute. No  
21 appropriation is required for other expenditures from the account.

22       (2) Each calendar quarter, the director shall report to the  
23 insurance commissioner the loss and surplus reserves required for the  
24 calendar quarter. The director shall notify the department of revenue  
25 of this amount by the fifteenth day of each calendar quarter.

26       (3) During the 2019-2021 fiscal biennium, the legislature may  
27 make appropriations from the pollution liability insurance program  
28 trust account for the leaking tank model remedies activity.

29       (4) This section expires July 1, 2030.

30       **Sec. 1384.** RCW 70.148.025 and 1995 c 20 s 12 are each amended to  
31 read as follows:

32       The director shall provide reinsurance through the pollution  
33 liability insurance program trust account to the heating oil  
34 pollution liability protection program under chapter 70.149 RCW (as  
35 recodified by this act).

36       **Sec. 1385.** RCW 70.148.070 and 1990 c 64 s 8 are each amended to  
37 read as follows:

1 (1) In selecting an insurer to provide pollution liability  
2 insurance coverage to owners and operators of underground storage  
3 tanks, the director shall evaluate bids based upon criteria  
4 established by the director that shall include:

5 (a) The insurer's ability to underwrite pollution liability  
6 insurance;

7 (b) The insurer's ability to settle pollution liability claims  
8 quickly and efficiently;

9 (c) The insurer's estimate of underwriting and claims adjustment  
10 expenses;

11 (d) The insurer's estimate of premium rates for providing  
12 coverage;

13 (e) The insurer's ability to manage and invest premiums; and

14 (f) The insurer's ability to provide risk management guidance to  
15 insureds.

16 The director shall select the bidder most qualified to provide  
17 insurance consistent with this chapter and need not select the bidder  
18 submitting the least expensive bid. The director may consider bids by  
19 groups of insurers and management companies who propose to act in  
20 concert in providing coverage and who otherwise meet the requirements  
21 of this chapter.

22 (2) The successful bidder shall agree to provide liability  
23 insurance coverage to owners and operators of underground storage  
24 tanks for third party bodily injury and property damage and  
25 corrective action consistent with the following minimum standards:

26 (a) The insurer shall provide coverage for defense costs.

27 (b) The insurer shall collect a deductible from the insured for  
28 corrective action in an amount approved by the director.

29 (c) The insurer shall provide coverage for accidental releases in  
30 the amount of five hundred thousand dollars per occurrence and one  
31 million dollars annual aggregate but no more than one million dollars  
32 per occurrence and two million dollars annual aggregate exclusive of  
33 defense costs.

34 (d) The insurer shall require insurance applicants to meet at  
35 least the following underwriting standards before issuing coverage to  
36 the applicant:

37 (i) The applicant must be in compliance with statutes,  
38 ordinances, rules, regulations, and orders governing the ownership  
39 and operation of underground storage tanks as identified by the  
40 director by rule; and

1 (ii) The applicant must exercise adequate underground storage  
2 tank risk management as specified by the director by rule.

3 (e) The insurer may exclude coverage for losses arising before  
4 the effective date of coverage, and the director may adopt rules  
5 establishing standards for determining whether a loss was incurred  
6 before the effective date of coverage.

7 (f) The insurer may exclude coverage for bodily injury, property  
8 damage, and corrective action as permitted by the director by rule.

9 (g) The insurer shall use a variable rate schedule approved by  
10 the director taking into account tank type, tank age, and other  
11 factors specified by the director.

12 (3) The director shall adopt all rules necessary to implement  
13 this section. In developing and adopting rules governing rates,  
14 deductibles, underwriting standards, and coverage conditions,  
15 limitations, and exclusions, the director shall balance the owner and  
16 operator's need for coverage with the need to maintain the actuarial  
17 integrity of the program, shall take into consideration the economic  
18 impact of the discontinued use of a storage tank upon the affected  
19 community, and shall consult with the standing technical advisory  
20 committee established under RCW 70.148.030(3) (as recodified by this  
21 act). In developing and adopting rules governing coverage exclusions  
22 affecting corrective action, the director shall consult with the  
23 Washington state department of ecology.

24 (4) Notwithstanding the definitions contained in RCW 70.148.010  
25 (as recodified by this act), the director may permit an insurer to  
26 use different words or phrases describing the coverage provided under  
27 the program. In permitting such deviations from the definitions  
28 contained in RCW 70.148.010 (as recodified by this act), the director  
29 shall consider the regulations adopted by the United States  
30 environmental protection agency requiring financial responsibility by  
31 owners and operators of underground petroleum storage tanks.

32 (5) Owners and operators of underground storage tanks or sites  
33 containing underground storage tanks where a preexisting release has  
34 been identified or where the owner or operator knows of a preexisting  
35 release are eligible for coverage under the program subject to the  
36 following conditions:

37 (a) The owner or operator must have a plan for proceeding with  
38 corrective action; and

39 (b) If the owner or operator files a claim with the insurer, the  
40 owner or operator has the burden of proving that the claim is not

1 related to a preexisting release until the owner or operator  
2 demonstrates to the satisfaction of the director that corrective  
3 action has been completed.

4 (6) When a reinsurance contract has been entered into by the  
5 agency and insurance companies, the director shall notify the  
6 department of ecology of the letting of the contract. Within thirty  
7 days of that notification, the department of ecology shall notify all  
8 known owners and operators of petroleum underground storage tanks  
9 that appropriate levels of financial responsibility must be  
10 established by October 26, 1990, in accordance with federal  
11 environmental protection agency requirements, and that insurance  
12 under the program is available. All owners and operators of petroleum  
13 underground storage tanks must also be notified that declaration of  
14 method of financial responsibility or intent to seek to be insured  
15 under the program must be made to the state by November 1, 1990. If  
16 the declaration of method of financial responsibility is not made by  
17 November 1, 1990, the department of ecology shall, pursuant to  
18 chapter 90.76 RCW (as recodified by this act), prohibit the owner or  
19 operator of an underground storage tank from obtaining a tank tag or  
20 receiving petroleum products until such time as financial  
21 responsibility has been established.

22 **Sec. 1386.** RCW 70.149.030 and 2017 c 23 s 3 are each amended to  
23 read as follows:

24 The definitions in this section apply throughout this chapter  
25 unless the context clearly requires otherwise.

26 (1) "Accidental release" means a sudden or nonsudden release of  
27 heating oil, occurring after July 23, 1995, from operating a heating  
28 oil tank that results in bodily injury, property damage, or a need  
29 for corrective action, neither expected nor intended by the owner or  
30 operator.

31 (2) "Bodily injury" means bodily injury, sickness, or disease  
32 sustained by a person, including death at any time, resulting from  
33 the injury, sickness, or disease.

34 (3) (a) "Corrective action" means those actions reasonably  
35 required to be undertaken by the insured to remove, treat,  
36 neutralize, contain, or clean up an accidental release in order to  
37 comply with a statute, ordinance, rule, regulation, directive, order,  
38 or similar legal requirement, in effect at the time of an accidental  
39 release, of the United States, the state of Washington, or a

1 political subdivision of the United States or the state of  
2 Washington. "Corrective action" includes, where agreed to in writing,  
3 in advance by the insurer, action to remove, treat, neutralize,  
4 contain, or clean up an accidental release to avert, reduce, or  
5 eliminate the liability of the insured for corrective action, bodily  
6 injury, or property damage. "Corrective action" also includes actions  
7 reasonably necessary to monitor, assess, and evaluate an accidental  
8 release.

9 (b) "Corrective action" does not include:

10 (i) Replacement or repair of heating oil tanks or other  
11 receptacles; or

12 (ii) Replacement or repair of piping, connections, and valves of  
13 tanks or other receptacles.

14 (4) "Defense costs" include the costs of legal representation,  
15 expert fees, and related costs and expenses incurred in defending  
16 against claims or actions brought by or on behalf of:

17 (a) The United States, the state of Washington, or a political  
18 subdivision of the United States or state of Washington to require  
19 corrective action or to recover costs of corrective action; or

20 (b) A third party for bodily injury or property damage caused by  
21 an accidental release.

22 (5) "Director" means the director of the Washington state  
23 pollution liability insurance agency or the director's appointed  
24 representative.

25 (6) "Environmental covenant" has the same meaning as defined in  
26 RCW 64.70.020.

27 (7) "Facility" has the same meaning as defined in RCW 70.105D.020  
28 (as recodified by this act).

29 (8) "Heating oil" means any petroleum product used for space  
30 heating in oil-fired furnaces, heaters, and boilers, including stove  
31 oil, diesel fuel, or kerosene. "Heating oil" does not include  
32 petroleum products used as fuels in motor vehicles, marine vessels,  
33 trains, buses, aircraft, or any off-highway equipment not used for  
34 space heating, or for industrial processing or the generation of  
35 electrical energy.

36 (9) "Heating oil tank" means a tank and its connecting pipes,  
37 whether above or below ground, or in a basement, with pipes connected  
38 to the tank for space heating of human living or working space on the  
39 premises where the tank is located. "Heating oil tank" does not  
40 include a decommissioned or abandoned heating oil tank, or a tank

1 used solely for industrial process heating purposes or generation of  
2 electrical energy.

3 (10) "Independent remedial action" has the same meaning as  
4 defined in RCW 70.105D.020 (as recodified by this act).

5 (11) "Occurrence" means an accident, including continuous or  
6 repeated exposure to conditions, that results in a release from a  
7 heating oil tank.

8 (12) "Owner or operator" means a person in control of, or having  
9 responsibility for, the daily operation of a petroleum storage tank  
10 system.

11 (13) "Petroleum" means any petroleum-based substance including  
12 crude oil or any fraction that is liquid at standard conditions of  
13 temperature and pressure. The term "petroleum" includes, but is not  
14 limited to, petroleum and petroleum-based substances comprised of a  
15 complex blend of hydrocarbons, such as motor fuels, jet fuels,  
16 distillate fuel oils, residual fuel oils, lubricants, petroleum  
17 solvents, used oils, and heating oils. The term "petroleum" does not  
18 include propane, asphalt, or any other petroleum product that is not  
19 liquid at standard conditions of temperature and pressure. Standard  
20 conditions of temperature and pressure are at sixty degrees  
21 Fahrenheit and 14.7 pounds per square inch absolute.

22 (14) "Petroleum storage tank system" means a storage tank system  
23 that contains petroleum or a mixture of petroleum with de minimis  
24 quantities of other substances. The systems include those containing  
25 motor fuels, jet fuels, distillate fuel oils, residual fuel oils,  
26 lubricants, petroleum solvents, used oils, and heating oils.  
27 "Petroleum storage tank system" does not include any storage tank  
28 system regulated under chapter 70.105 RCW (as recodified by this  
29 act).

30 (15) "Pollution liability insurance agency" means the Washington  
31 state pollution liability insurance agency.

32 (16) "Property damage" means:

33 (a) Physical injury to, destruction of, or contamination of  
34 tangible property, including the loss of use of the property  
35 resulting from the injury, destruction, or contamination; or

36 (b) Loss of use of tangible property that has not been physically  
37 injured, destroyed, or contaminated but has been evacuated, withdrawn  
38 from use, or rendered inaccessible because of an accidental release.

39 (17) "Release" means a spill, leak, emission, escape, or leaching  
40 into the environment.

1 (18) "Remedial action" has the same meaning as defined in RCW  
2 70.105D.020 (as recodified by this act).

3 (19) "Remedial action costs" means reasonable costs that are  
4 attributable to or associated with a remedial action.

5 (20) "Tank" means a stationary device, designed to contain an  
6 accumulation of heating oil, that is constructed primarily of  
7 nonearthen materials such as concrete, steel, fiberglass, or plastic  
8 that provides structural support.

9 (21) "Third-party liability" means the liability of a heating oil  
10 tank owner to another person due to property damage or personal  
11 injury that results from a leak or spill.

12 **Sec. 1387.** RCW 70.149.040 and 2018 c 194 s 3 are each amended to  
13 read as follows:

14 The director shall:

15 (1) Design a program, consistent with RCW 70.149.120 (as  
16 recodified by this act), for providing pollution liability insurance  
17 for heating oil tanks that provides up to sixty thousand dollars per  
18 occurrence coverage and aggregate limits, not to exceed fifteen  
19 million dollars each calendar year, and protects the state of  
20 Washington from unwanted or unanticipated liability for accidental  
21 release claims;

22 (2) Administer, implement, and enforce the provisions of this  
23 chapter. To assist in administration of the program, the director is  
24 authorized to appoint up to two employees who are exempt from the  
25 civil service law, chapter 41.06 RCW, and who shall serve at the  
26 pleasure of the director;

27 (3) Administer the heating oil pollution liability trust account,  
28 as established under RCW 70.149.070 (as recodified by this act);

29 (4) Employ and discharge, at his or her discretion, agents,  
30 attorneys, consultants, companies, organizations, and employees as  
31 deemed necessary, and to prescribe their duties and powers, and fix  
32 their compensation;

33 (5) Adopt rules under chapter 34.05 RCW as necessary to carry out  
34 the provisions of this chapter;

35 (6) Design and from time to time revise a reinsurance contract  
36 providing coverage to an insurer or insurers meeting the requirements  
37 of this chapter. The director is authorized to provide reinsurance  
38 through the pollution liability insurance program trust account;



1 (7) Solicit bids from insurers and select an insurer to provide  
2 pollution liability insurance for third-party bodily injury and  
3 property damage, and corrective action to owners and operators of  
4 heating oil tanks;

5 (8) Register, and design a means of accounting for, operating  
6 heating oil tanks;

7 (9) Implement a program to provide advice and technical  
8 assistance on the administrative and technical requirements of this  
9 chapter and chapter 70.105D RCW (as recodified by this act) to  
10 persons who are conducting or otherwise interested in independent  
11 remedial actions at facilities where there is a suspected or  
12 confirmed release from the following petroleum storage tank systems:  
13 A heating oil tank; a decommissioned heating oil tank; an abandoned  
14 heating oil tank; or a petroleum storage tank system identified by  
15 the department of ecology based on the relative risk posed by the  
16 release to human health and the environment, as determined under  
17 chapter 70.105D RCW (as recodified by this act), or other factors  
18 identified by the department of ecology.

19 (a) Such advice or assistance is advisory only, and is not  
20 binding on the pollution liability insurance agency or the department  
21 of ecology. As part of this advice and assistance, the pollution  
22 liability insurance agency may provide written opinions on whether  
23 independent remedial actions or proposals for these actions meet the  
24 substantive requirements of chapter 70.105D RCW (as recodified by  
25 this act), or whether the pollution liability insurance agency  
26 believes further remedial action is necessary at the facility. As  
27 part of this advice and assistance, the pollution liability insurance  
28 agency may also observe independent remedial actions.

29 (b) The agency is authorized to collect, from persons requesting  
30 advice and assistance, the costs incurred by the agency in providing  
31 such advice and assistance. The costs may include travel costs and  
32 expenses associated with review of reports and preparation of written  
33 opinions and conclusions. Funds from cost reimbursement must be  
34 deposited in the heating oil pollution liability trust account.

35 (c) The state of Washington, the pollution liability insurance  
36 agency, and its officers and employees are immune from all liability,  
37 and no cause of action arises from any act or omission in providing,  
38 or failing to provide, such advice, opinion, conclusion, or  
39 assistance;

1 (10) Establish a public information program to provide  
2 information regarding liability, technical, and environmental  
3 requirements associated with active and abandoned heating oil tanks;

4 (11) Monitor agency expenditures and seek to minimize costs and  
5 maximize benefits to ensure responsible financial stewardship;

6 (12) Study if appropriate user fees to supplement program funding  
7 are necessary and develop recommendations for legislation to  
8 authorize such fees;

9 (13) Establish requirements, including deadlines not to exceed  
10 ninety days, for reporting to the pollution liability insurance  
11 agency a suspected or confirmed release from a heating oil tank,  
12 including a decommissioned or abandoned heating oil tank, that may  
13 pose a threat to human health or the environment by the owner or  
14 operator of the heating oil tank or the owner of the property where  
15 the release occurred;

16 (14) Within ninety days of receiving information and having a  
17 reasonable basis to believe that there may be a release from a  
18 heating oil tank, including decommissioned or abandoned heating oil  
19 tanks, that may pose a threat to human health or the environment,  
20 perform an initial investigation to determine at a minimum whether  
21 such a release has occurred and whether further remedial action is  
22 necessary under chapter 70.105D RCW (as recodified by this act). The  
23 initial investigation may include, but is not limited to, inspecting,  
24 sampling, or testing. The director may retain contractors to perform  
25 an initial investigation on the agency's behalf;

26 (15) For any written opinion issued under subsection (9) of this  
27 section requiring an environmental covenant as part of the remedial  
28 action, consult with, and seek comment from, a city or county  
29 department with land use planning authority for real property subject  
30 to the environmental covenant prior to the property owner recording  
31 the environmental covenant; and

32 (16) For any property where an environmental covenant has been  
33 established as part of the remedial action approved under subsection  
34 (9) of this section, periodically review the environmental covenant  
35 for effectiveness. The director shall perform a review at least once  
36 every five years after an environmental covenant is recorded.

37 **Sec. 1388.** RCW 70.149.070 and 2017 c 23 s 5 are each amended to  
38 read as follows:

1 (1) The heating oil pollution liability trust account is created  
2 in the custody of the state treasurer. All receipts from the  
3 pollution liability insurance fee collected under RCW 70.149.080 (as  
4 recodified by this act) and reinsurance premiums shall be deposited  
5 into the account. Expenditures from the account may be used only for  
6 the purposes set out under this chapter. Only the director or the  
7 director's designee may authorize expenditures from the account. The  
8 account is subject to allotment procedures under chapter 43.88 RCW,  
9 but no appropriation is required for expenditures.

10 (2) Money in the account may be used by the director for the  
11 following purposes:

12 (a) Corrective action costs;

13 (b) Third-party liability claims;

14 (c) Costs associated with claims administration;

15 (d) Purchase of an insurance policy to cover all registered  
16 heating oil tanks, and reinsurance of the policy; and

17 (e) Administrative expenses of the program, including personnel,  
18 equipment, supplies, and providing advice and technical assistance.

19 **Sec. 1389.** RCW 70.149.120 and 2007 c 240 s 2 are each amended to  
20 read as follows:

21 (1) The pollution liability insurance agency shall identify  
22 design criteria for heating oil tanks that provide superior  
23 protection against future leaks as compared to standard steel tank  
24 designs. Any tank designs identified under this section must either  
25 be constructed with fiberglass or offer at least an equivalent level  
26 of protection against leaks as a standard fiberglass design.

27 (2) The pollution liability insurance agency shall reimburse any  
28 owner or operator, who is participating in the program created in  
29 this chapter and who has experienced an occurrence or remedial  
30 action, for the difference in price between a standard steel heating  
31 tank and a new heating oil tank that satisfies the design standards  
32 identified under subsection (1) of this section, if the owner or  
33 operator chooses or is required to replace his or her tank at the  
34 time of the occurrence or remedial action.

35 (3) Any new heating oil tank reimbursement provided under this  
36 section must be funded within the amount of per occurrence coverage  
37 provided to the owner or operator under RCW 70.149.040 (as recodified  
38 by this act).

1       **Sec. 1390.** RCW 70.150.030 and 1986 c 244 s 3 are each amended to  
2 read as follows:

3       (1) Public bodies may enter into agreements with service  
4 providers for the furnishing of service in connection with water  
5 pollution control facilities pursuant to the process set forth in RCW  
6 70.150.040 (as recodified by this act). The agreements may provide  
7 that a public body pay a minimum periodic fee in consideration of the  
8 service actually available without regard to the amount of service  
9 actually used during all or any part of the contractual period.  
10 Agreements may be for a term not to exceed forty years or the life of  
11 the facility, whichever is longer, and may be renewable.

12       (2) The source of funds to meet periodic payment obligations  
13 assumed by a public body pursuant to an agreement permitted under  
14 this section may be paid from taxes, or solely from user fees,  
15 charges, or other revenues pledged to the payment of the periodic  
16 obligations, or any of these sources.

17       **Sec. 1391.** RCW 70.150.070 and 2007 c 494 s 505 are each amended  
18 to read as follows:

19       RCW 70.150.030 through 70.150.060 (as recodified by this act)  
20 shall be deemed to provide an additional method for the provision of  
21 services from and in connection with facilities and shall be regarded  
22 as supplemental and additional to powers conferred by other state  
23 laws and by federal laws.

24       **Sec. 1392.** RCW 70.164.020 and 2015 c 50 s 2 are each amended to  
25 read as follows:

26       The definitions in this section apply throughout this chapter  
27 unless the context clearly requires otherwise.

28       (1) "Department" means the department of commerce.

29       (2) "Direct outreach" means:

30       (a) The use of door-to-door contact, community events, and other  
31 methods of direct interaction with customers to inform them of energy  
32 efficiency and weatherization opportunities; and

33       (b) The performance of energy audits.

34       (3) "Energy audit" means an analysis of a dwelling unit to  
35 determine the need for cost-effective energy conservation measures as  
36 determined by the department.

37       (4) "Healthy housing improvements" means increasing the health  
38 and safety of a home by integrating energy efficiency activities and

1 indoor environmental quality measures, consistent with the  
2 weatherization plus health initiative of the federal department of  
3 energy and the healthy housing principles adopted by the federal  
4 department of housing and urban development.

5 (5) "Household" means an individual or group of individuals  
6 living in a dwelling unit as defined by the department.

7 (6) "Low income" means household income as defined by the  
8 department, provided that the definition may not exceed eighty  
9 percent of median household income, adjusted for household size, for  
10 the county in which the dwelling unit to be weatherized is located.

11 (7) "Nonutility sponsor" means any sponsor other than a public  
12 service company, municipality, public utility district, mutual or  
13 cooperative, furnishing gas or electricity used to heat low-income  
14 residences.

15 (8) "Residence" means a dwelling unit as defined by the  
16 department.

17 (9) "Sponsor" means any entity that submits a proposal under RCW  
18 70.164.040 (as recodified by this act), including but not limited to  
19 any local community action agency, tribal nation, community service  
20 agency, or any other participating agency or any public service  
21 company, municipality, public utility district, mutual or  
22 cooperative, or any combination of such entities that jointly submits  
23 a proposal.

24 (10) "Sponsor match" means the share of the cost of  
25 weatherization to be paid by the sponsor.

26 (11) "Sustainable residential weatherization" or "weatherization"  
27 means activities that use funds administered by the department for  
28 one or more of the following: (a) Energy and resource conservation;  
29 (b) energy efficiency improvements; (c) repairs, indoor air quality  
30 improvements, and health and safety improvements; and (d) client  
31 education. Funds administered by the department for activities  
32 authorized under this subsection may only be used for the  
33 preservation of a dwelling unit occupied by a low-income household  
34 and must, to the extent feasible, be used to support and advance  
35 sustainable technologies.

36 (12) "Weatherizing agency" means any approved department grantee,  
37 tribal nation, or any public service company, municipality, public  
38 utility district, mutual or cooperative, or other entity that bears  
39 the responsibility for ensuring the performance of weatherization of

1 residences under this chapter and has been approved by the  
2 department.

3 **Sec. 1393.** RCW 70.164.030 and 2010 c 287 s 3 are each amended to  
4 read as follows:

5 (1) The low-income weatherization and structural rehabilitation  
6 assistance account is created in the state treasury. All moneys from  
7 the money distributed to the state pursuant to *Exxon v. United*  
8 *States*, 561 F.Supp. 816 (1983), affirmed 773 F.2d 1240 (1985), or any  
9 other oil overcharge settlements or judgments distributed by the  
10 federal government, that are allocated to the low-income  
11 weatherization and structural rehabilitation assistance account shall  
12 be deposited in the account. The department may accept such gifts,  
13 grants, and endowments from public or private sources as may be made  
14 from time to time, in trust or otherwise, and shall deposit such  
15 funds in the account. Any moneys received from sponsor match payments  
16 shall be deposited in the account. The legislature may also  
17 appropriate moneys to the account. Moneys in the account shall be  
18 spent pursuant to appropriation and only for the purposes and in the  
19 manner provided in RCW 70.164.040 (as recodified by this act). Any  
20 moneys appropriated that are not spent by the department shall return  
21 to the account.

22 (2) The purposes of the low-income weatherization and structural  
23 rehabilitation assistance account are to:

24 (a) Maximize the number of energy efficient residential  
25 structures in the state;

26 (b) Achieve the greatest possible expected monetary and energy  
27 savings by low-income households and other energy consumers over the  
28 longest period of time;

29 (c) Identify and correct, to the extent practicable, health and  
30 safety problems for residents of low-income households, including  
31 asbestos, lead, and mold hazards;

32 (d) Leverage the many available state and federal programs aimed  
33 at increasing the quality and energy efficiency of low-income  
34 residences in the state;

35 (e) Create family-wage jobs that may lead to careers in the  
36 construction trades or in the energy efficiency sectors; and

37 (f) Leverage, to the extent feasible, sustainable technologies,  
38 practices, and designs, including renewable energy systems.

1       **Sec. 1394.** RCW 70.220.020 and 2005 c 305 s 2 are each amended to  
2 read as follows:

3       The Washington academy of sciences authorized to be formed under  
4 RCW 70.220.030 (as recodified by this act) shall serve as a principal  
5 source of scientific investigation, examination, and reporting on  
6 scientific questions referred to the academy by the governor or the  
7 legislature under the provisions of RCW 70.220.040 (as recodified by  
8 this act). Nothing in this section or this chapter supersedes or  
9 diminishes the responsibilities performed by scientists employed by  
10 the state or its political subdivisions.

11       **Sec. 1395.** RCW 70.220.030 and 2005 c 305 s 3 are each amended to  
12 read as follows:

13       (1) The presidents of the University of Washington and Washington  
14 State University shall jointly form and serve as the cochairs of an  
15 organizing committee for the purpose of creating the Washington  
16 academy of sciences as an independent entity to carry out the  
17 purposes of this chapter. The committee should be representative of  
18 appropriate disciplines from the academic, private, governmental, and  
19 research sectors.

20       (2) Staff from the University of Washington and Washington State  
21 University, and from other available entities, shall provide support  
22 to the organizing committee under the direction of the cochairs.

23       (3) (a) The committee shall investigate organizational structures  
24 that will ensure the participation or membership in the academy of  
25 scientists and experts with distinction in their fields, and that  
26 will ensure broad participation among the several disciplines that  
27 may be called upon in the investigation, examination, and reporting  
28 upon questions referred to the academy by the governor or the  
29 legislature.

30       (b) The organizational structure shall include a process by which  
31 the academy responds to inquiries from the governor or the  
32 legislature, including but not limited to the identification of  
33 research projects, past or present, at Washington or other research  
34 institutions and the findings of such research projects.

35       (4) The committee cochairs shall use their best efforts to form  
36 the committee by January 1, 2006, and to complete the committee's  
37 review by April 30, 2007. By April 30, 2007, the committee, or such  
38 individuals as the committee selects, shall file articles of  
39 incorporation to create the academy as a Washington independent

1 organizational entity. The articles shall expressly recognize the  
2 power and responsibility of the academy to provide services as  
3 described in RCW 70.220.040 (as recodified by this act) upon request  
4 of the governor, the governor's designee, or the legislature. The  
5 articles shall also provide for a board of directors of the academy  
6 that includes distinguished scientists from the range of disciplines  
7 that may be called upon to provide such services to the state and its  
8 political subdivisions, and provide a balance of representation from  
9 the academic, private, governmental, and research sectors.

10 (5) The articles shall provide for all such powers as may be  
11 appropriate or necessary to carry out the academy's purposes under  
12 this chapter, to the full extent allowable under the proposed  
13 organizational structure.

14 **Sec. 1396.** RCW 70.220.050 and 2005 c 305 s 5 are each amended to  
15 read as follows:

16 The academy may carry out functions or provide services to its  
17 members and the public in addition to the services provided under RCW  
18 70.220.040 (as recodified by this act), such as public education  
19 programs, newsletters, web sites, science fairs, and research  
20 assistance.

21 **Sec. 1397.** RCW 70.235.005 and 2008 c 14 s 1 are each amended to  
22 read as follows:

23 (1) The legislature finds that Washington has long been a  
24 national and international leader on energy conservation and  
25 environmental stewardship, including air quality protection,  
26 renewable energy development and generation, emission standards for  
27 fossil-fuel based energy generation, energy efficiency programs,  
28 natural resource conservation, vehicle emission standards, and the  
29 use of biofuels. Washington is also unique among most states in that  
30 in addition to its commitment to reduce emissions of greenhouse  
31 gases, it has established goals to grow the clean energy sector and  
32 reduce the state's expenditures on imported fuels.

33 (2) The legislature further finds that Washington should continue  
34 its leadership on climate change policy by creating accountability  
35 for achieving the emission reductions established in RCW 70.235.020  
36 (as recodified by this act), participating in the design of a  
37 regional multisector market-based system to help achieve those  
38 emission reductions, assessing other market strategies to reduce



1 emissions of greenhouse gases, and ensuring the state has a well  
2 trained workforce for our clean energy future.

3 (3) It is the intent of the legislature that the state will: (a)  
4 Limit and reduce emissions of greenhouse gas consistent with the  
5 emission reductions established in RCW 70.235.020 (as recodified by  
6 this act); (b) minimize the potential to export pollution, jobs, and  
7 economic opportunities; and (c) reduce emissions at the lowest cost  
8 to Washington's economy, consumers, and businesses.

9 (4) In the event the state elects to participate in a regional  
10 multisector market-based system, it is the intent of the legislature  
11 that the system will become effective by January 1, 2012, after  
12 authority is provided to the department for its implementation. By  
13 acting now, Washington businesses and citizens will have adequate  
14 time and opportunities to be well positioned to take advantage of the  
15 low-carbon economy and to make necessary investments in low-carbon  
16 technology.

17 (5) It is also the intent of the legislature that the regional  
18 multisector market-based system recognize Washington's unique  
19 emissions portfolio, including the state's hydroelectric system, the  
20 opportunities presented by Washington's abundant forest resources and  
21 agriculture land, and the state's leadership in energy efficiency and  
22 the actions it has already taken that have reduced its generation of  
23 greenhouse gas emissions and that entities receive appropriate credit  
24 for early actions to reduce greenhouse gases.

25 (6) If any revenues that accrue to the state are created by a  
26 market system, they must be used to further the state's efforts to  
27 achieve the goals established in RCW 70.235.020 (as recodified by  
28 this act), address the impacts of global warming on affected  
29 habitats, species, and communities, and increase investment in the  
30 clean energy economy particularly for communities and workers that  
31 have suffered from heavy job losses and chronic unemployment and  
32 underemployment.

33 **Sec. 1398.** RCW 70.235.020 and 2008 c 14 s 3 are each amended to  
34 read as follows:

35 (1)(a) The state shall limit emissions of greenhouse gases to  
36 achieve the following emission reductions for Washington state:

37 (i) By 2020, reduce overall emissions of greenhouse gases in the  
38 state to 1990 levels;

1 (ii) By 2035, reduce overall emissions of greenhouse gases in the  
2 state to twenty-five percent below 1990 levels;

3 (iii) By 2050, the state will do its part to reach global climate  
4 stabilization levels by reducing overall emissions to fifty percent  
5 below 1990 levels, or seventy percent below the state's expected  
6 emissions that year.

7 (b) By December 1, 2008, the department shall submit a greenhouse  
8 gas reduction plan for review and approval to the legislature,  
9 describing those actions necessary to achieve the emission reductions  
10 in (a) of this subsection by using existing statutory authority and  
11 any additional authority granted by the legislature. Actions taken  
12 using existing statutory authority may proceed prior to approval of  
13 the greenhouse gas reduction plan.

14 (c) Except where explicitly stated otherwise, nothing in chapter  
15 14, Laws of 2008 limits any state agency authorities as they existed  
16 prior to June 12, 2008.

17 (d) Consistent with this directive, the department shall take the  
18 following actions:

19 (i) Develop and implement a system for monitoring and reporting  
20 emissions of greenhouse gases as required under RCW 70.94.151 (as  
21 recodified by this act); and

22 (ii) Track progress toward meeting the emission reductions  
23 established in this subsection, including the results from policies  
24 currently in effect that have been previously adopted by the state  
25 and policies adopted in the future, and report on that progress.

26 (2) By December 31st of each even-numbered year beginning in  
27 2010, the department and the department of (~~community, trade, and~~  
28 ~~economic development~~) commerce shall report to the governor and the  
29 appropriate committees of the senate and house of representatives the  
30 total emissions of greenhouse gases for the preceding two years, and  
31 totals in each major source sector. The department shall ensure the  
32 reporting rules adopted under RCW 70.94.151 (as recodified by this  
33 act) allow it to develop a comprehensive inventory of emissions of  
34 greenhouse gases from all significant sectors of the Washington  
35 economy.

36 (3) Except for purposes of reporting, emissions of carbon dioxide  
37 from industrial combustion of biomass in the form of fuel wood, wood  
38 waste, wood by-products, and wood residuals shall not be considered a  
39 greenhouse gas as long as the region's silvicultural sequestration  
40 capacity is maintained or increased.

1       **Sec. 1399.** RCW 70.235.030 and 2008 c 14 s 4 are each amended to  
2 read as follows:

3       (1)(a) The director shall develop, in coordination with the  
4 western climate initiative, a design for a regional multisector  
5 market-based system to limit and reduce emissions of greenhouse gas  
6 consistent with the emission reductions established in RCW  
7 70.235.020(1) (as recodified by this act).

8       (b) By December 1, 2008, the director and the director of the  
9 department of (~~community, trade, and economic development~~) commerce  
10 shall deliver to the legislature specific recommendations for  
11 approval and request for authority to implement the preferred design  
12 of a regional multisector market-based system in (a) of this  
13 subsection. These recommendations must include:

14       (i) Proposed legislation, necessary funding, and the schedule  
15 necessary to implement the preferred design by January 1, 2012;

16       (ii) Any changes determined necessary to the reporting  
17 requirements established under RCW 70.94.151 (as recodified by this  
18 act); and

19       (iii) Actions that the state should take to prevent manipulation  
20 of the multisector market-based system designed under this section.

21       (2) In developing the design for the regional multisector market-  
22 based system under subsection (1) of this section, the department  
23 shall consult with the affected state agencies, and provide  
24 opportunity for public review and comment.

25       (3) In addition to the information required under subsection  
26 (1)(b) of this section, the director and the director of the  
27 department of (~~community, trade, and economic development~~) commerce  
28 shall submit the following to the legislature by December 1, 2008:

29       (a) Information on progress to date in achieving the requirements  
30 of chapter 14, Laws of 2008;

31       (b) The final recommendations of the climate advisory team,  
32 including recommended most promising actions to reduce emissions of  
33 greenhouse gases or otherwise respond to climate change. These  
34 recommendations must include strategies to reduce the quantity of  
35 emissions of greenhouse gases per distance traveled in the  
36 transportation sector;

37       (c) A request for additional resources and statutory authority  
38 needed to limit and reduce emissions of greenhouse gas consistent  
39 with chapter 14, Laws of 2008 including implementation of the most  
40 promising recommendations of the climate advisory team;

1 (d) Recommendations on how projects funded by the green energy  
2 incentive account in RCW 43.325.040 may be used to expand the  
3 electrical transmission infrastructure into urban and rural areas of  
4 the state for purposes of allowing the recharging of plug-in hybrid  
5 electric vehicles;

6 (e) Recommendations on how local governments could participate in  
7 the multisector market-based system designed under subsection (1) of  
8 this section;

9 (f) Recommendations regarding the circumstances under which  
10 generation of electricity or alternative fuel from landfill gas and  
11 gas from anaerobic digesters may receive an offset or credit in the  
12 regional multisector market-based system or other strategies  
13 developed by the department; and

14 (g) Recommendations developed in consultation with the department  
15 of natural resources and the department of agriculture with the  
16 climate advisory team, the college of forest resources at the  
17 University of Washington, and the Washington State University, and a  
18 nonprofit consortium involved in research on renewable industrial  
19 materials, regarding how forestry and agricultural lands and  
20 practices may participate voluntarily as an offset or other credit  
21 program in the regional multisector market-based system. The  
22 recommendations must ensure that the baseline for this offset or  
23 credit program does not disadvantage this state in relation to  
24 another state or states. These recommendations shall address:

25 (i) Commercial and other working forests, including accounting  
26 for site-class specific forest management practices;

27 (ii) Agricultural and forest products, including accounting for  
28 substitution of wood for fossil intensive substitutes;

29 (iii) Agricultural land and practices;

30 (iv) Forest and agricultural lands set aside or managed for  
31 conservation as of, or after, June 12, 2008; and

32 (v) Reforestation and afforestation projects.

33 **Sec. 1400.** RCW 70.235.040 and 2008 c 14 s 7 are each amended to  
34 read as follows:

35 Within eighteen months of the next and each successive global or  
36 national assessment of climate change science, the department shall  
37 consult with the climate impacts group at the University of  
38 Washington regarding the science on human-caused climate change and  
39 provide a report to the legislature summarizing that science and make

1 recommendations regarding whether the greenhouse gas emissions  
2 reductions required under RCW 70.235.020 (as recodified by this act)  
3 need to be updated.

4 **Sec. 1401.** RCW 70.235.050 and 2015 c 225 s 110 are each amended  
5 to read as follows:

6 (1) All state agencies shall meet the statewide greenhouse gas  
7 emission limits established in RCW 70.235.020 (as recodified by this  
8 act) to achieve the following, using the estimates and strategy  
9 established in subsections (2) and (3) of this section:

10 (a) By July 1, 2020, reduce emissions by fifteen percent from  
11 2005 emission levels;

12 (b) By 2035, reduce emissions to thirty-six percent below 2005  
13 levels; and

14 (c) By 2050, reduce emissions to the greater reduction of fifty-  
15 seven and one-half percent below 2005 levels, or seventy percent  
16 below the expected state government emissions that year.

17 (2)(a) By June 30, 2010, all state agencies shall report  
18 estimates of emissions for 2005 to the department, including 2009  
19 levels of emissions, and projected emissions through 2035.

20 (b) State agencies required to report under RCW 70.94.151 (as  
21 recodified by this act) must estimate emissions from methodologies  
22 recommended by the department and must be based on actual operation  
23 of those agencies. Agencies not required to report under RCW  
24 70.94.151 (as recodified by this act) shall derive emissions  
25 estimates using an emissions calculator provided by the department.

26 (3) By June 30, 2011, each state agency shall submit to the  
27 department a strategy to meet the requirements in subsection (1) of  
28 this section. The strategy must address employee travel activities,  
29 teleconferencing alternatives, and include existing and proposed  
30 actions, a timeline for reductions, and recommendations for budgetary  
31 and other incentives to reduce emissions, especially from employee  
32 business travel.

33 (4) By October 1st of each even-numbered year beginning in 2012,  
34 each state agency shall report to the department the actions taken to  
35 meet the emission reduction targets under the strategy for the  
36 preceding fiscal biennium. The department may authorize the  
37 department of enterprise services to report on behalf of any state  
38 agency having fewer than five hundred full-time equivalent employees  
39 at any time during the reporting period. The department shall

1 cooperate with the department of enterprise services and the  
2 department of commerce to develop consolidated reporting  
3 methodologies that incorporate emission reduction actions taken  
4 across all or substantially all state agencies.

5 (5) All state agencies shall cooperate in providing information  
6 to the department, the department of enterprise services, and the  
7 department of commerce for the purposes of this section.

8 (6) The governor shall designate a person as the single point of  
9 accountability for all energy and climate change initiatives within  
10 state agencies. This position must be funded from current full-time  
11 equivalent allocations without increasing budgets or staffing levels.  
12 If duties must be shifted within an agency, they must be shifted  
13 among current full-time equivalent allocations. All agencies,  
14 councils, or work groups with energy or climate change initiatives  
15 shall coordinate with this designee.

16 **Sec. 1402.** RCW 70.235.060 and 2009 c 519 s 5 are each amended to  
17 read as follows:

18 (1) The department shall develop an emissions calculator to  
19 assist state agencies in estimating aggregate emissions as well as in  
20 estimating the relative emissions from different ways in carrying out  
21 activities.

22 (2) The department may use data such as totals of building space  
23 occupied, energy purchases and generation, motor vehicle fuel  
24 purchases and total mileage driven, and other reasonable sources of  
25 data to make these estimates. The estimates may be derived from a  
26 single methodology using these or other factors, except that for the  
27 top ten state agencies in occupied building space and vehicle miles  
28 driven, the estimates must be based upon the actual and projected  
29 operations of those agencies. The estimates may be adjusted, and  
30 reasonable estimates derived, when agencies have been created since  
31 1990 or functions reorganized among state agencies since 1990. The  
32 estimates may incorporate projected emissions reductions that also  
33 affect state agencies under the program authorized in RCW 70.235.020  
34 (as recodified by this act) and other existing policies that will  
35 result in emissions reductions.

36 (3) By December 31st of each even-numbered year beginning in  
37 2010, the department shall report to the governor and to the  
38 appropriate committees of the senate and house of representatives the  
39 total state agencies' emissions of greenhouse gases for 2005 and the

1 preceding two years and actions taken to meet the emissions reduction  
2 targets.

3 **Sec. 1403.** RCW 70.235.070 and 2009 c 519 s 9 are each amended to  
4 read as follows:

5 Beginning in 2010, when distributing capital funds through  
6 competitive programs for infrastructure and economic development  
7 projects, all state agencies must consider whether the entity  
8 receiving the funds has adopted policies to reduce greenhouse gas  
9 emissions. Agencies also must consider whether the project is  
10 consistent with:

11 (1) The state's limits on the emissions of greenhouse gases  
12 established in RCW 70.235.020 (as recodified by this act);

13 (2) Statewide goals to reduce annual per capita vehicle miles  
14 traveled by 2050, in accordance with RCW 47.01.440, except that the  
15 agency shall consider whether project locations in rural counties, as  
16 defined in RCW 43.160.020, will maximize the reduction of vehicle  
17 miles traveled; and

18 (3) Applicable federal emissions reduction requirements.

19 **Sec. 1404.** RCW 70.235.080 and 2019 c 284 s 3 are each amended to  
20 read as follows:

21 (1) A person may not offer any product or equipment for sale,  
22 lease, or rent, or install or otherwise cause any equipment or  
23 product to enter into commerce in Washington if that equipment or  
24 product consists of, uses, or will use a substitute, as set forth in  
25 appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on  
26 January 3, 2017, for the applications or end uses restricted by  
27 appendix U or V of the federal regulation, as those read on January  
28 3, 2017, consistent with the deadlines established in subsection (2)  
29 of this section. Except where existing equipment is retrofit, nothing  
30 in this subsection requires a person that acquired a restricted  
31 product or equipment prior to the effective date of the restrictions  
32 in subsection (2) of this section to cease use of that product or  
33 equipment. Products or equipment manufactured prior to the applicable  
34 effective date of the restrictions specified in subsection (2) of  
35 this section may be sold, imported, exported, distributed, installed,  
36 and used after the specified effective date.

37 (2) The restrictions under subsection (1) of this section for the  
38 following products and equipment identified in appendix U and V,

1 Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017,  
2 take effect beginning:

3 (a) January 1, 2020, for:

4 (i) Propellants;

5 (ii) Rigid polyurethane applications and spray foam, flexible  
6 polyurethane, integral skin polyurethane, flexible polyurethane foam,  
7 polystyrene extruded sheet, polyolefin, phenolic insulation board,  
8 and bunstock;

9 (iii) Supermarket systems, remote condensing units, stand-alone  
10 units, and vending machines;

11 (b) January 1, 2021, for:

12 (i) Refrigerated food processing and dispensing equipment;

13 (ii) Compact residential consumer refrigeration products;

14 (iii) Polystyrene extruded boardstock and billet, and rigid  
15 polyurethane low-pressure two component spray foam;

16 (c) January 1, 2022, for residential consumer refrigeration  
17 products other than compact and built-in residential consumer  
18 refrigeration products;

19 (d) January 1, 2023, for cold storage warehouses;

20 (e) January 1, 2023, for built-in residential consumer  
21 refrigeration products;

22 (f) January 1, 2024, for centrifugal chillers and positive  
23 displacement chillers; and

24 (g) On either January 1, 2020, or the effective date of the  
25 restrictions identified in appendix U and V, Subpart G of 40 C.F.R.  
26 Part 82, as those read on January 3, 2017, whichever comes later, for  
27 all other applications and end uses for substitutes not covered by  
28 the categories listed in (a) through (f) of this subsection.

29 (3) The department may by rule:

30 (a) Modify the effective date of a prohibition established in  
31 subsection (2) of this section if the department determines that the  
32 rule reduces the overall risk to human health or the environment and  
33 reflects the earliest date that a substitute is currently or  
34 potentially available;

35 (b) Prohibit the use of a substitute if the department determines  
36 that the prohibition reduces the overall risk to human health or the  
37 environment and that a lower risk substitute is currently or  
38 potentially available;

39 (c) (i) Adopt a list of approved substitutes, use conditions, or  
40 use limits, if any; and



1 (ii) Add or remove substitutes, use conditions, or use limits to  
2 or from the list of approved substitutes if the department determines  
3 those substitutes reduce the overall risk to human health and the  
4 environment; and

5 (d) Designate acceptable uses of hydrofluorocarbons for medical  
6 uses that are exempt from the requirements of subsection (2) of this  
7 section.

8 (4)(a) Within twelve months of another state's enactment or  
9 adoption of restrictions on substitutes applicable to new light duty  
10 vehicles, the department may adopt restrictions applicable to the  
11 sale, lease, rental, or other introduction into commerce by a  
12 manufacturer of new light duty vehicles consistent with the  
13 restrictions identified in appendix B, Subpart G of 40 C.F.R. Part  
14 82, as it read on January 3, 2017. The department may not adopt  
15 restrictions that take effect prior to the effective date of  
16 restrictions adopted or enacted in at least one other state.

17 (b) If the United States environmental protection agency approves  
18 a previously prohibited hydrofluorocarbon blend with a global warming  
19 potential of seven hundred fifty or less for foam blowing of  
20 polystyrene extruded boardstock and billet and rigid polyurethane  
21 low-pressure two-component spray foam pursuant to the significant new  
22 alternatives policy program under section 7671(k) of the federal  
23 clean air act (42 U.S.C. Sec. 7401 et seq.), the department must  
24 expeditiously propose a rule consistent with RCW 34.05.320 to conform  
25 the requirements established under this section with that federal  
26 action.

27 (5) A manufacturer must disclose the substitutes used in its  
28 products or equipment. That disclosure must take the form of:

29 (a) A label on the equipment or product. The label must meet  
30 requirements designated by the department by rule. To the extent  
31 feasible, the department must recognize existing labeling that  
32 provides sufficient disclosure of the use of substitutes in the  
33 product or equipment.

34 (i) The department must consider labels required by state  
35 building codes and other safety standards in its rule making; and

36 (ii) The department may not require labeling of aircraft and  
37 aircraft components subject to certification requirements of the  
38 federal aviation administration.

39 (b) Submitting information about the use of substitutes to the  
40 department, upon request.

1 (i) By December 31, 2019, all manufacturers must notify the  
2 department of the status of each product class utilizing  
3 hydrofluorocarbons or other substitutes restricted under subsection  
4 (1) of this section that the manufacturer sells, offers for sale,  
5 leases, installs, or rents in Washington state. This status  
6 notification must identify the substitutes used by products or  
7 equipment in each product or equipment class in a manner determined  
8 by rule by the department.

9 (ii) Within one hundred twenty days after the date of a  
10 restriction put in place under this section, any manufacturer  
11 affected by the restriction must provide an updated status  
12 notification. This notification must indicate whether the  
13 manufacturer has ceased the use of hydrofluorocarbons or substitutes  
14 restricted under this section within each product class and, if not,  
15 what hydrofluorocarbons or other restricted substitutes remain in  
16 use.

17 (iii) After the effective date of a restriction put in place  
18 under this section, any manufacturer must provide an updated status  
19 notification when the manufacturer introduces a new or modified  
20 product or piece of equipment that uses hydrofluorocarbons or changes  
21 the type of hydrofluorocarbons utilized within a product class  
22 affected by a restriction. Such a notification must occur within one  
23 hundred twenty days of the introduction into commerce in Washington  
24 of the product or equipment triggering this notification requirement.

25 (6) The department may adopt rules to administer, implement, and  
26 enforce this section. If the department elects to adopt rules, the  
27 department must seek, where feasible and appropriate, to adopt rules,  
28 including rules under subsection (4) of this section, that are the  
29 same or consistent with the regulatory standards, exemptions,  
30 reporting obligations, disclosure requirements, and other compliance  
31 requirements of other states or the federal government that have  
32 adopted restrictions on the use of hydrofluorocarbons and other  
33 substitutes. Prior to the adoption or update of a rule under this  
34 section, the department must identify the sources of information it  
35 relied upon, including peer-reviewed science.

36 (7) For the purposes of implementing the restrictions specified  
37 in appendix U of Subpart G of 40 C.F.R. Part 82, as it read on  
38 January 3, 2017, consistent with this section, the department must  
39 interpret the term "aircraft maintenance" to mean activities to  
40 support the production, fabrication, manufacture, rework, inspection,

1 maintenance, overhaul, or repair of commercial, civil, or military  
2 aircraft, aircraft parts, aerospace vehicles, or aerospace  
3 components.

4 (8) The authority granted by this section to the department for  
5 restricting the use of substitutes is supplementary to the  
6 department's authority to control air pollution pursuant to chapter  
7 70.94 RCW (as recodified by this act). Nothing in this section limits  
8 the authority of the department under chapter 70.94 RCW (as  
9 recodified by this act).

10 (9) Except where existing equipment is retrofit, the restrictions  
11 of this section do not apply to or limit any use of commercial  
12 refrigeration equipment that was installed or in use prior to the  
13 effective date of the restrictions established in this section.

14 **Sec. 1405.** RCW 70.240.010 and 2016 c 176 s 1 are each reenacted  
15 and amended to read as follows:

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

18 (1) "Additive TBBPA" means the chemical tetrabromobisphenol A,  
19 chemical abstracts service number 79-94-7, as of June 9, 2016, in a  
20 form that has not undergone a reactive process and is not covalently  
21 bonded to a polymer in a product or product component.

22 (2) "Children's cosmetics" means cosmetics that are made for,  
23 marketed for use by, or marketed to children under the age of twelve.  
24 "Children's cosmetics" includes cosmetics that meet any of the  
25 following conditions:

26 (a) Represented in its packaging, display, or advertising as  
27 appropriate for use by children;

28 (b) Sold in conjunction with, attached to, or packaged together  
29 with other products that are packaged, displayed, or advertised as  
30 appropriate for use by children; or

31 (c) Sold in any of the following:

32 (i) Retail store, catalogue, or online web site, in which a  
33 person exclusively offers for sale products that are packaged,  
34 displayed, or advertised as appropriate for use by children; or

35 (ii) A discrete portion of a retail store, catalogue, or online  
36 web site, in which a person offers for sale products that are  
37 packaged, displayed, or advertised as appropriate for use by  
38 children.

1 (3) "Children's jewelry" means jewelry that is made for, marketed  
2 for use by, or marketed to children under the age of twelve.  
3 "Children's jewelry" includes jewelry that meets any of the following  
4 conditions:

5 (a) Represented in its packaging, display, or advertising as  
6 appropriate for use by children under the age of twelve;

7 (b) Sold in conjunction with, attached to, or packaged together  
8 with other products that are packaged, displayed, or advertised as  
9 appropriate for use by children;

10 (c) Sized for children and not intended for use by adults; or

11 (d) Sold in any of the following:

12 (i) A vending machine;

13 (ii) Retail store, catalogue, or online web site, in which a  
14 person exclusively offers for sale products that are packaged,  
15 displayed, or advertised as appropriate for use by children; or

16 (iii) A discrete portion of a retail store, catalogue, or online  
17 web site, in which a person offers for sale products that are  
18 packaged, displayed, or advertised as appropriate for use by  
19 children.

20 (4) (a) "Children's product" includes any of the following:

21 (i) Toys;

22 (ii) Children's cosmetics;

23 (iii) Children's jewelry;

24 (iv) A product designed or intended by the manufacturer to help a  
25 child with sucking or teething, to facilitate sleep, relaxation, or  
26 the feeding of a child, or to be worn as clothing by children; or

27 (v) Portable infant or child safety seat designed to attach to an  
28 automobile seat.

29 (b) "Children's product" does not include the following:

30 (i) Batteries;

31 (ii) Slings and catapults;

32 (iii) Sets of darts with metallic points;

33 (iv) Toy steam engines;

34 (v) Bicycles and tricycles;

35 (vi) Video toys that can be connected to a video screen and are  
36 operated at a nominal voltage exceeding twenty-four volts;

37 (vii) Chemistry sets;

38 (viii) Consumer and children's electronic products, including but  
39 not limited to personal computers, audio and video equipment,  
40 calculators, wireless phones, game consoles, and handheld devices

1 incorporating a video screen, used to access interactive software and  
2 their associated peripherals;

3 (ix) Interactive software, intended for leisure and  
4 entertainment, such as computer games, and their storage media, such  
5 as compact disks;

6 (x) BB guns, pellet guns, and air rifles;

7 (xi) Snow sporting equipment, including skis, poles, boots, snow  
8 boards, sleds, and bindings;

9 (xii) Sporting equipment, including, but not limited to bats,  
10 balls, gloves, sticks, pucks, and pads;

11 (xiii) Roller skates;

12 (xiv) Scooters;

13 (xv) Model rockets;

14 (xvi) Athletic shoes with cleats or spikes; and

15 (xvii) Pocket knives and multitools.

16 (5) "Cosmetics" includes articles intended to be rubbed, poured,  
17 sprinkled, or sprayed on, introduced into, or otherwise applied to  
18 the human body or any part thereof for cleansing, beautifying,  
19 promoting attractiveness, or altering the appearance, and articles  
20 intended for use as a component of such an article. "Cosmetics" does  
21 not include soap, dietary supplements, or food and drugs approved by  
22 the United States food and drug administration.

23 (6) "Decabromodiphenyl ether" means the chemical  
24 decabromodiphenyl ether, chemical abstracts service number 1163-19-5,  
25 as of June 9, 2016.

26 (7) "Department" means the department of ecology.

27 (8) "HBCD" means the chemical hexabromocyclododecane, chemical  
28 abstracts service number 25637-99-4, as of June 9, 2016.

29 (9) "High priority chemical" means a chemical identified by a  
30 state agency, federal agency, or accredited research university, or  
31 other scientific evidence deemed authoritative by the department on  
32 the basis of credible scientific evidence as known to do one or more  
33 of the following:

34 (a) Harm the normal development of a fetus or child or cause  
35 other developmental toxicity;

36 (b) Cause cancer, genetic damage, or reproductive harm;

37 (c) Disrupt the endocrine system;

38 (d) Damage the nervous system, immune system, or organs or cause  
39 other systemic toxicity;

40 (e) Be persistent, bioaccumulative, and toxic; or

1 (f) Be very persistent and very bioaccumulative.

2 (10) "IPTPP" means the chemical isopropylated triphenyl  
3 phosphate, chemical abstracts service number 68937-41-7, as of June  
4 9, 2016.

5 (11) "Manufacturer" includes any person, firm, association,  
6 partnership, corporation, governmental entity, organization, or joint  
7 venture that produces residential upholstered furniture as defined in  
8 RCW 70.76.010 (as recodified by this act) or children's product or an  
9 importer or domestic distributor of residential upholstered furniture  
10 as defined in RCW 70.76.010 (as recodified by this act) or children's  
11 product. For the purposes of this subsection, "importer" means the  
12 owner of the residential upholstered furniture as defined in RCW  
13 70.76.010 (as recodified by this act) or children's product.

14 (12) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP),  
15 dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), diisonoyl  
16 phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl  
17 phthalate (DnOP).

18 (13) "TBB" means the chemical (2-ethylhexyl)-2,3,4,5-  
19 tetrabromobenzoate, chemical abstracts service number 183658-27-7, as  
20 of June 9, 2016.

21 (14) "TBPH" means the chemical bis (2-ethylhexyl)-2,3,4,5-  
22 tetrabromophthalate, chemical abstracts service number 26040-51-7, as  
23 of June 9, 2016.

24 (15) "TCEP" means the chemical (tris(2-chloroethyl)phosphate);  
25 chemical abstracts service number 115-96-8, as of June 9, 2016.

26 (16) "TCPP" means the chemical tris (1-chloro-2-propyl)  
27 phosphate); chemical abstracts service number 13674-84-5, as of June  
28 9, 2016.

29 (17) "TDCPP" means the chemical (tris(1,3-dichloro-2-  
30 propyl)phosphate); chemical abstracts service number 13674-87-8, as  
31 of June 9, 2016.

32 (18) "Toy" means a product designed or intended by the  
33 manufacturer to be used by a child at play.

34 (19) "TPP" means the chemical triphenyl phosphate, chemical  
35 abstracts service number 115-86-6, as of June 9, 2016.

36 (20) "Trade association" means a membership organization of  
37 persons engaging in a similar or related line of commerce, organized  
38 to promote and improve business conditions in that line of commerce  
39 and not to engage in a regular business of a kind ordinarily carried  
40 on for profit.

1 (21) "V6" means the chemical bis(chloromethyl) propane-1,3-  
2 diyltetakis (2-chloroethyl) bisphosphate, chemical abstracts service  
3 number 385051-10-4, as of June 9, 2016.

4 (22) "Very bioaccumulative" means having a bioconcentration  
5 factor or bioaccumulation factor greater than or equal to five  
6 thousand, or if neither are available, having a log Kow greater than  
7 5.0.

8 (23) "Very persistent" means having a half-life greater than or  
9 equal to one of the following:

10 (a) A half-life in soil or sediment of greater than one hundred  
11 eighty days;

12 (b) A half-life greater than or equal to sixty days in water or  
13 evidence of long-range transport.

14 **Sec. 1406.** RCW 70.240.025 and 2016 c 176 s 2 are each amended to  
15 read as follows:

16 Beginning July 1, 2017, no manufacturer, wholesaler, or retailer  
17 may manufacture, knowingly sell, offer for sale, distribute for sale,  
18 or distribute for use in this state children's products or  
19 residential upholstered furniture, as defined in RCW 70.76.010 (as  
20 recodified by this act), containing any of the following flame  
21 retardants in amounts greater than one thousand parts per million in  
22 any product component:

- 23 (1) TDCPP;
- 24 (2) TCEP;
- 25 (3) Decabromodiphenyl ether;
- 26 (4) HBCD; or
- 27 (5) Additive TBBPA.

28 **Sec. 1407.** RCW 70.240.035 and 2016 c 176 s 3 are each amended to  
29 read as follows:

30 (1) The department shall consider whether the following flame  
31 retardants meet the criteria of a chemical of high concern for  
32 children:

- 33 (a) IPTPP;
- 34 (b) TBB;
- 35 (c) TBPH;
- 36 (d) TCPP;
- 37 (e) TPP;
- 38 (f) V6.

1 (2) (a) Within one year of the department adopting a rule that  
2 identifies a flame retardant in subsection (1) of this section as a  
3 chemical of high concern for children, the department of health, in  
4 consultation with the department, must create a stakeholder advisory  
5 committee for each flame retardant chemical to provide stakeholder  
6 input, expertise, and additional information in the development of  
7 recommendations as provided under subsection (4) of this section. All  
8 advisory committee meetings must be open to the public.

9 (b) The advisory committee membership must include, but is not  
10 limited to, representatives from: Large and small business sectors;  
11 community, environmental, and public health advocacy groups; local  
12 governments; affected and interested businesses; and public health  
13 agencies.

14 (c) The department may request state agencies and technical  
15 experts to participate. The department of health shall provide  
16 technical expertise on human health impacts including: Early  
17 childhood and fetal exposure, exposure reduction, and safer  
18 substitutes.

19 (3) When developing policy options and recommendations consistent  
20 with subsection (4) of this section, the department must rely on  
21 credible scientific evidence and consider information relevant to the  
22 hazards based on the quantitative extent of exposures to the chemical  
23 under its intended or reasonably anticipated conditions of use. The  
24 department of health, in consultation with the department, must  
25 include the following:

26 (a) Chemical name, properties, uses, and manufacturers;

27 (b) An analysis of available information on the production,  
28 unintentional production, uses, and disposal of the chemical;

29 (c) Quantitative estimates of the potential human and  
30 environmental exposures associated with the use and release of the  
31 chemical;

32 (d) An assessment of the potential impacts on human health and  
33 the environment resulting from the quantitative exposure estimates  
34 referred to in (c) of this subsection;

35 (e) An evaluation of:

36 (i) Environmental and human health benefits;

37 (ii) Economic and social impacts;

38 (iii) Feasibility;

39 (iv) Availability and effectiveness of safer substitutes for uses  
40 of the chemical;



1 (v) Consistency with existing federal and state regulatory  
2 requirements; and

3 (f) Recommendations for:

4 (i) Managing, reducing, and phasing out the different uses and  
5 releases of the chemical;

6 (ii) Minimizing exposure to the chemical;

7 (iii) Using safer substitutes; and

8 (iv) Encouraging the development of safer alternatives.

9 (4)(a) The department of health must submit to the legislature  
10 recommendations on policy options for reducing exposure, designating  
11 and developing safer substitutes, and restricting or prohibiting the  
12 use of the flame retardant chemicals identified in subsection (1) of  
13 this section as a chemical of high concern for children.

14 (b) When the department of health, in consultation with the  
15 department, determines that flame retardant chemicals identified in  
16 subsection (1) of this section as a chemical of high concern for  
17 children should be restricted or prohibited from use in children's  
18 products, residential upholstered furniture as defined in RCW  
19 70.76.010 (as recodified by this act), or other commercial products  
20 or processes, the department of health must include citations of the  
21 peer-reviewed science and other sources of information reviewed and  
22 ultimately relied upon in support of the recommendation to restrict  
23 or prohibit the chemical.

24 **Sec. 1408.** RCW 70.240.040 and 2019 c 292 s 9 are each amended to  
25 read as follows:

26 A manufacturer of a children's product or a consumer product  
27 containing a priority chemical subject to a rule adopted to implement  
28 a determination made consistent with RCW 70.365.040(1)(b) (as  
29 recodified by this act), or a trade organization on behalf of its  
30 member manufacturers, shall provide notice to the department that the  
31 manufacturer's product contains a high priority chemical or a  
32 priority chemical identified under chapter 70.365 RCW (as recodified  
33 by this act). The notice must be filed annually with the department  
34 and must include the following information:

35 (1) The name of the chemical used or produced and its chemical  
36 abstracts service registry number;

37 (2) A brief description of the product or product component  
38 containing the substance;

39 (3) A description of the function of the chemical in the product;

1 (4) The amount of the chemical used in each unit of the product  
2 or product component. The amount may be reported in ranges, rather  
3 than the exact amount;

4 (5) The name and address of the manufacturer and the name,  
5 address, and phone number of a contact person for the manufacturer;  
6 and

7 (6) Any other information the manufacturer deems relevant to the  
8 appropriate use of the product.

9 **Sec. 1409.** RCW 70.240.050 and 2019 c 422 s 407 are each amended  
10 to read as follows:

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

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

19 (3) A manufacturer of products in violation of this chapter is  
20 subject to a civil penalty not to exceed five thousand dollars for  
21 each violation in the case of a first offense. Manufacturers who are  
22 repeat violators are subject to a civil penalty not to exceed ten  
23 thousand dollars for each repeat offense. Penalties collected under  
24 this section must be deposited in the model toxics control operating  
25 account created in RCW 70.105D.190 (as recodified by this act).

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

28 (5) The sale or purchase of any previously owned products  
29 containing a chemical restricted under this chapter made in casual or  
30 isolated sales as defined in RCW 82.04.040, or by a nonprofit  
31 organization, is exempt from this chapter.

32 **Sec. 1410.** RCW 70.260.010 and 2009 c 379 s 101 are each amended  
33 to read as follows:

34 The definitions in this section apply throughout this chapter  
35 unless the context clearly requires otherwise.

36 (1) "Customers" means residents, businesses, and building owners.

37 (2) "Direct outreach" means:

1 (a) The use of door-to-door contact, community events, and other  
2 methods of direct interaction with customers to inform them of energy  
3 efficiency and weatherization opportunities; and

4 (b) The performance of energy audits.

5 (3) "Energy audit" means an assessment of building energy  
6 efficiency opportunities, from measures that require very little  
7 investment and without any disruption to building operation, normally  
8 involving general building operational measures, to low or relatively  
9 higher cost investment, such as installing timers to turn off  
10 equipment, replacing light bulbs, installing insulation, replacing  
11 equipment and appliances with higher efficiency equipment and  
12 appliances, and similar measures. The term includes an assessment of  
13 alternatives for generation of heat and power from renewable energy  
14 resources, including installation of solar water heating and  
15 equipment for photovoltaic electricity generation.

16 (4) "Energy efficiency and conservation block grant program"  
17 means the federal program created under the energy independence and  
18 security act of 2007 (P.L. 110-140).

19 (5) "Energy efficiency services" means energy audits,  
20 weatherization, energy efficiency retrofits, energy management  
21 systems as defined in RCW 39.35.030, and other activities to reduce a  
22 customer's energy consumption, and includes assistance with  
23 paperwork, arranging for financing, program design and development,  
24 and other postenergy audit assistance and education to help customers  
25 meet their energy savings goals.

26 (6) "Low-income individual" means an individual whose annual  
27 household income does not exceed eighty percent of the area median  
28 income for the metropolitan, micropolitan, or combined statistical  
29 area in which that individual resides as determined annually by the  
30 United States department of housing and urban development.

31 (7) "Sponsor" means any entity or group of entities that submits  
32 a proposal under RCW 70.260.020 (as recodified by this act),  
33 including but not limited to any nongovernmental nonprofit  
34 organization, local community action agency, tribal nation, community  
35 service agency, public service company, county, municipality,  
36 publicly owned electric, or natural gas utility.

37 (8) "Sponsor match" means the share, if any, of the cost of  
38 efficiency improvements to be paid by the sponsor.

39 (9) "Weatherization" means making energy and resource  
40 conservation and energy efficiency improvements.

1       **Sec. 1411.** RCW 70.270.030 and 2009 c 243 s 3 are each amended to  
2 read as follows:

3       (1) On and after January 1, 2011, a person who replaces or  
4 balances motor vehicle tires must replace lead wheel weights with  
5 environmentally preferred wheel weights on all vehicles when they  
6 replace or balance tires in Washington. However, the person may use  
7 alternatives to lead wheel weights that are determined by the  
8 department to not qualify as environmentally preferred wheel weights  
9 for up to two years following the date of that determination, but  
10 must thereafter use environmentally preferred wheel weights.

11       (2) A person who is subject to the requirement in subsection (1)  
12 of this section must recycle the lead wheel weights that they remove.

13       (3) A person who fails to comply with subsection (1) of this  
14 section is subject to penalties prescribed in RCW 70.270.050 (as  
15 recodified by this act). A violation of subsection (1) of this  
16 section occurs with respect to each vehicle for which lead wheel  
17 weights are not replaced in compliance with subsection (1) of this  
18 section.

19       (4) An owner of a vehicle is not subject to any requirement in  
20 this section.

21       **Sec. 1412.** RCW 70.270.040 and 2009 c 243 s 4 are each amended to  
22 read as follows:

23       (1) The department shall achieve compliance with RCW 70.270.030  
24 through the enforcement sequence specified in this section.

25       (2) To provide assistance in identifying environmentally  
26 preferred wheel weights, the department shall, by October 1, 2010,  
27 prepare and distribute information regarding this chapter to the  
28 maximum extent practicable to:

29       (a) Persons that replace or balance motor vehicle tires in  
30 Washington; and

31       (b) Persons generally in the motor vehicle tire and wheel weight  
32 manufacturing, distribution, wholesale, and retail industries.

33       (3) The department shall issue a warning letter to a person who  
34 fails to comply with RCW 70.270.030 (as recodified by this act) and  
35 offer information or other appropriate assistance. If the person does  
36 not comply with RCW 70.270.030(1) (as recodified by this act) within  
37 one year of the department's issuance of the warning letter, the  
38 department may assess civil penalties under RCW 70.270.050 (as  
39 recodified by this act).

1       **Sec. 1413.** RCW 70.270.050 and 2019 c 422 s 408 are each amended  
2 to read as follows:

3       (1) An initial violation of RCW 70.270.030(1) (as recodified by  
4 this act) is punishable by a civil penalty not to exceed five hundred  
5 dollars. Subsequent violations of RCW 70.270.030(1) (as recodified by  
6 this act) are punishable by civil penalties not to exceed one  
7 thousand dollars for each violation.

8       (2) Penalties collected under this section must be deposited in  
9 the model toxics control operating account created in RCW 70.105D.190  
10 (as recodified by this act).

11       **Sec. 1414.** RCW 70.275.020 and 2014 c 119 s 2 are each reenacted  
12 and amended to read as follows:

13       The definitions in this section apply throughout this chapter  
14 unless the context clearly requires otherwise.

15       (1) "Brand" means a name, symbol, word, or mark that identifies a  
16 product, rather than its components, and attributes the product to  
17 the owner of the brand as the producer.

18       (2) "Collection" or "collect" means, except for persons involved  
19 in mail-back programs:

20       (a) The activity of accumulating any amount of mercury-containing  
21 lights at a location other than the location where the lights are  
22 used by covered entities, and includes curbside collection  
23 activities, household hazardous waste facilities, and other  
24 registered drop-off locations; and

25       (b) The activity of transporting mercury-containing lights in the  
26 state, where the transporter is not a generator of unwanted mercury-  
27 containing lights, to a location for purposes of accumulation.

28       (3) "Covered entities" means:

29       (a) A household generator or other person who purchases mercury-  
30 containing lights at retail and delivers no more than ten mercury-  
31 containing lights to registered collectors for a product stewardship  
32 program on any given day; and

33       (b) A household generator or other person who purchases mercury-  
34 containing lights at retail and utilizes a registered residential  
35 curbside collection program or a mail-back program for collection of  
36 mercury-containing lights and discards no more than fifteen mercury-  
37 containing lights into those programs on any given day.

38       (4) "Department" means the department of ecology.

1 (5) "Environmental handling charge" or "charge" means the charge  
2 approved by the department to be applied to each mercury-containing  
3 light to be sold at retail in or into Washington state. The  
4 environmental handling charge must cover all administrative and  
5 operational costs associated with the product stewardship program,  
6 including the fee for the department's administration and  
7 enforcement.

8 (6) "Final disposition" means the point beyond which no further  
9 processing takes place and materials from mercury-containing lights  
10 have been transformed for direct use as a feedstock in producing new  
11 products, or disposed of or managed in permitted facilities.

12 (7) "Hazardous substances" or "hazardous materials" means those  
13 substances or materials identified by rules adopted under chapter  
14 70.105 RCW (as recodified by this act).

15 (8) "Mail-back program" means the use of a prepaid postage  
16 container with mercury vapor barrier packaging that is used for the  
17 collection and recycling of mercury-containing lights from covered  
18 entities as part of a product stewardship program and is transported  
19 by the United States postal service or a common carrier.

20 (9) "Mercury-containing lights" means lamps, bulbs, tubes, or  
21 other devices that contain mercury and provide functional  
22 illumination in homes, businesses, and outdoor stationary fixtures.

23 (10) "Mercury vapor barrier packaging" means sealable containers  
24 that are specifically designed for the storage, handling, and  
25 transport of mercury-containing lights in order to prevent the escape  
26 of mercury into the environment by volatilization or any other means,  
27 and that meet the requirements for transporting by the United States  
28 postal service or a common carrier.

29 (11) "Orphan product" means a mercury-containing light that lacks  
30 a producer's brand, or for which the producer is no longer in  
31 business and has no successor in interest, or that bears a brand for  
32 which the department cannot identify an owner.

33 (12) "Person" means a sole proprietorship, partnership,  
34 corporation, nonprofit corporation or organization, limited liability  
35 company, firm, association, cooperative, or other legal entity  
36 located within or outside Washington state.

37 (13) "Processing" means recovering materials from unwanted  
38 products for use as feedstock in new products. Processing must occur  
39 at permitted facilities.

40 (14) "Producer" means a person that:

1 (a) Has or had legal ownership of the brand, brand name, or  
2 cobrand of a mercury-containing light sold in or into Washington  
3 state, unless the brand owner is a retailer whose mercury-containing  
4 light was supplied by another producer participating in a stewardship  
5 program under this chapter;

6 (b) Imports or has imported mercury-containing lights branded by  
7 a producer that meets the requirements of (a) of this subsection and  
8 where that producer has no physical presence in the United States;

9 (c) If (a) and (b) of this subsection do not apply, makes or made  
10 a mercury-containing light that is sold or has been sold in or into  
11 Washington state; or

12 (d) (i) Sells or sold at wholesale or retail a mercury-containing  
13 light; (ii) does not have legal ownership of the brand; and (iii)  
14 elects to fulfill the responsibilities of the producer for that  
15 product.

16 (15) "Product stewardship" means a requirement for a producer of  
17 mercury-containing lights to manage and reduce adverse safety,  
18 health, and environmental impacts of the product throughout its life  
19 cycle, including financing and providing for the collection,  
20 transporting, reusing, recycling, processing, and final disposition  
21 of their products.

22 (16) "Product stewardship plan" or "plan" means a detailed plan  
23 describing the manner in which a product stewardship program will be  
24 implemented.

25 (17) "Product stewardship program" or "program" means the  
26 methods, systems, and services financed in the manner provided for  
27 under RCW 70.275.050 (as recodified by this act) and provided by  
28 producers of mercury-containing lights generated by covered entities  
29 that addresses product stewardship and includes arranging for the  
30 collection, transportation, recycling, processing, and final  
31 disposition of unwanted mercury-containing lights, including orphan  
32 products.

33 (18) "Recovery" means the collection and transportation of  
34 unwanted mercury-containing lights under this chapter.

35 (19) (a) "Recycling" means transforming or remanufacturing  
36 unwanted products into usable or marketable materials for use other  
37 than landfill disposal or incineration.

38 (b) "Recycling" does not include energy recovery or energy  
39 generation by means of combusting unwanted products with or without  
40 other waste.

1 (20) "Reporting period" means the period commencing January 1st  
2 and ending December 31st in the same calendar year.

3 (21) "Residuals" means nonrecyclable materials left over from  
4 processing an unwanted product.

5 (22) "Retailer" means a person who offers mercury-containing  
6 lights for sale at retail through any means including, but not  
7 limited to, remote offerings such as sales outlets, catalogs, or the  
8 internet, but does not include a sale that is a wholesale transaction  
9 with a distributor or a retailer.

10 (23)(a) "Reuse" means a change in ownership of a mercury-  
11 containing light or its components, parts, packaging, or shipping  
12 materials for use in the same manner and purpose for which it was  
13 originally purchased, or for use again, as in shipping materials, by  
14 the generator of the shipping materials.

15 (b) "Reuse" does not include dismantling of products for the  
16 purpose of recycling.

17 (24) "Stakeholder" means a person who may have an interest in or  
18 be affected by a product stewardship program.

19 (25) "Stewardship organization" means an organization designated  
20 by a producer or group of producers to act as an agent on behalf of  
21 each producer to operate a product stewardship program.

22 (26) "Unwanted product" means a mercury-containing light no  
23 longer wanted by its owner or that has been abandoned, discarded, or  
24 is intended to be discarded by its owner.

25 **Sec. 1415.** RCW 70.275.030 and 2014 c 119 s 3 are each amended to  
26 read as follows:

27 (1) Every producer of mercury-containing lights sold in or into  
28 Washington state for retail sale in Washington state must participate  
29 in a product stewardship program for those products, operated by a  
30 stewardship organization and financed in the manner provided by RCW  
31 70.275.050 (as recodified by this act). Every such producer must  
32 inform the department of the producer's participation in a product  
33 stewardship program by including the producer's name in a plan  
34 submitted to the department by a stewardship organization as required  
35 by RCW 70.275.040 (as recodified by this act). Producers must satisfy  
36 these participation obligations individually or may do so jointly  
37 with other producers.

38 (2) A stewardship organization operating a product stewardship  
39 program must pay all administrative and operational costs associated



1 with its program with revenues received from the environmental  
2 handling charge described in RCW 70.275.050 (as recodified by this  
3 act). The stewardship organization's administrative and operational  
4 costs are not required to include a collection location's cost of  
5 receiving, accumulating and storing, and packaging mercury-containing  
6 lights. However, a stewardship organization may offer incentives or  
7 payments to collectors. The stewardship organization's administrative  
8 and operational costs do not include the collection costs associated  
9 with curbside and mail-back collection programs. The stewardship  
10 organization must arrange for collection service at locations  
11 described in subsection (4) of this section, which may include  
12 household hazardous waste facilities, charities, retailers,  
13 government recycling sites, or other suitable private locations. No  
14 such entity is required to provide collection services at their  
15 location. For curbside and mail-back programs, a stewardship  
16 organization must pay the costs of transporting mercury-containing  
17 lights from accumulation points and for processing mercury-containing  
18 lights collected by curbside and mail-back programs. For collection  
19 locations, including household hazardous waste facilities, charities,  
20 retailers, government recycling sites, or other suitable private  
21 locations, a stewardship organization must pay the costs of packaging  
22 and shipping materials as required under RCW 70.275.070 (as  
23 recodified by this act) or must compensate collectors for the costs  
24 of those materials, and must pay the costs of transportation and  
25 processing of mercury-containing lights collected from the collection  
26 locations.

27 (3) Product stewardship programs shall collect unwanted mercury-  
28 containing lights delivered from covered entities for recycling,  
29 processing, or final disposition, and not charge a fee when lights  
30 are dropped off or delivered into the program.

31 (4) Product stewardship programs shall provide, at a minimum, no  
32 cost services in all cities in the state with populations greater  
33 than ten thousand and all counties of the state on an ongoing, year-  
34 round basis.

35 (5) Product stewardship programs shall promote the safe handling  
36 and recycling of mercury-containing lights to the public, including  
37 producing and offering point-of-sale educational materials to  
38 retailers of mercury-containing lights and point-of-return  
39 educational materials to collection locations.

1 (6) All product stewardship programs operated under approved  
2 plans must recover their fair share of unwanted covered products as  
3 determined by the department.

4 (7) The department or its designee may inspect, audit, or review  
5 audits of processing and disposal facilities used to fulfill the  
6 requirements of a product stewardship program.

7 (8) No product stewardship program required under this chapter  
8 may use federal or state prison labor for processing unwanted  
9 products.

10 (9) Product stewardship programs for mercury-containing lights  
11 must be fully implemented by January 1, 2015.

12 **Sec. 1416.** RCW 70.275.040 and 2017 c 254 s 2 are each amended to  
13 read as follows:

14 (1) On June 1st of the year prior to implementation, each  
15 producer must ensure that a stewardship organization submits a  
16 proposed product stewardship plan on the producer's behalf to the  
17 department for approval. Plans approved by the department must be  
18 implemented by January 1st of the following calendar year.

19 (2) The department shall establish rules for plan content. Plans  
20 must include but are not limited to:

21 (a) All necessary information to inform the department about the  
22 plan operator and participating producers and their brands;

23 (b) The management and organization of the product stewardship  
24 program that will oversee the collection, transportation, and  
25 processing services;

26 (c) The identity of collection, transportation, and processing  
27 service providers, including a description of the consideration given  
28 to existing residential curbside collection infrastructure and mail-  
29 back systems as an appropriate collection mechanism;

30 (d) How the product stewardship program will seek to use  
31 businesses within the state, including transportation services,  
32 retailers, collection sites and services, existing curbside  
33 collection services, existing mail-back services, and processing  
34 facilities;

35 (e) A description of how the public will be informed about the  
36 product stewardship program, including how consumers will be provided  
37 with information describing collection opportunities for unwanted  
38 mercury-containing lights from covered entities and safe handling of  
39 mercury-containing lights, waste prevention, and recycling. The

1 description must also include information to make consumers aware  
2 that an environmental handling charge has been added to the purchase  
3 price of mercury-containing lights sold at retail to fund the  
4 mercury-containing light stewardship programs in the state. The  
5 environmental handling charge may not be described as a department  
6 recycling fee or charge at the point of retail sale;

7 (f) A description of the financing system required under RCW  
8 70.275.050 (as recodified by this act);

9 (g) How mercury and other hazardous substances will be handled  
10 for collection through final disposition;

11 (h) A public review and comment process; and

12 (i) Any other information deemed necessary by the department to  
13 ensure an effective mercury light product stewardship program that is  
14 in compliance with all applicable laws and rules.

15 (3) All plans submitted to the department must be made available  
16 for public review on the department's web site and at the  
17 department's headquarters.

18 (4) At least two years from the start of the product stewardship  
19 program and once every four years thereafter, each stewardship  
20 organization operating a product stewardship program must update its  
21 product stewardship plan and submit the updated plan to the  
22 department for review and approval according to rules adopted by the  
23 department.

24 (5) By June 1, 2016, and each June 1st thereafter, each  
25 stewardship organization must submit an annual report to the  
26 department describing the results of implementing the stewardship  
27 organization's plan for the prior calendar year, including an  
28 independent financial audit once every two years. The department may  
29 adopt rules for reporting requirements. Financial information  
30 included in the annual report must include but is not limited to:

31 (a) The amount of the environmental handling charge assessed on  
32 mercury-containing lights and the revenue generated;

33 (b) Identification of confidential information pursuant to RCW  
34 43.21A.160 submitted in the annual report; and

35 (c) The cost of the mercury-containing lights product stewardship  
36 program, including line item costs for:

37 (i) Program operations;

38 (ii) Communications, including media, printing and fulfillment,  
39 public relations, and other education and outreach projects;

1 (iii) Administration, including administrative personnel costs,  
2 travel, compliance and auditing, legal services, banking services,  
3 insurance, and other administrative services and supplies, and  
4 stewardship organization corporate expenses; and

5 (iv) Amount of unallocated reserve funds.

6 (6) Beginning in 2023 every stewardship organization must include  
7 in its annual report an analysis of the percent of total sales of  
8 lights sold at retail to covered entities in Washington that mercury-  
9 containing lights constitute, the estimated number of mercury-  
10 containing lights in use by covered entities in the state, and the  
11 projected number of unwanted mercury-containing lights to be recycled  
12 in future years.

13 (7) All plans and reports submitted to the department must be  
14 made available for public review, excluding sections determined to be  
15 confidential pursuant to RCW 43.21A.160, on the department's web site  
16 and at the department's headquarters.

17 **Sec. 1417.** RCW 70.275.050 and 2017 c 254 s 1 are each amended to  
18 read as follows:

19 (1) Each stewardship organization must recommend to the  
20 department an environmental handling charge to be added to the price  
21 of each mercury-containing light sold in or into the state of  
22 Washington for sale at retail. The environmental handling charge must  
23 be designed to provide revenue necessary and sufficient to cover all  
24 administrative and operational costs associated with the stewardship  
25 program described in the department-approved product stewardship plan  
26 for that organization, including the department's annual fee required  
27 by subsection (5) of this section, and a prudent reserve. The  
28 stewardship organization must consult with collectors, retailers,  
29 recyclers, and each of its participating producers in developing its  
30 recommended environmental handling charge. The environmental handling  
31 charge may, but is not required to, vary by the type of mercury-  
32 containing light. In developing its recommended environmental  
33 handling charge, the stewardship organization must take into  
34 consideration and report to the department:

35 (a) The anticipated number of mercury-containing lights that will  
36 be sold to covered entities in the state at retail during the  
37 relevant period;

1 (b) The number of unwanted mercury-containing lights delivered  
2 from covered entities expected to be recycled during the relevant  
3 period;

4 (c) The operational costs of the stewardship organization as  
5 described in RCW 70.275.030(2) (as recodified by this act);

6 (d) The administrative costs of the stewardship organization  
7 including the department's annual fee, described in subsection (5) of  
8 this section; and

9 (e) The cost of other stewardship program elements including  
10 public outreach.

11 (2) The department must review, adjust if necessary, and approve  
12 the stewardship organization's recommended environmental handling  
13 charge within sixty days of submittal. In making its determination,  
14 the department shall review the product stewardship plan and may  
15 consult with the producers, the stewardship organization, retailers,  
16 collectors, recyclers, and other entities.

17 (3) No sooner than January 1, 2015:

18 (a) The mercury-containing light environmental handling charge  
19 must be added to the purchase price of all mercury-containing lights  
20 sold to Washington retailers for sale at retail, and each Washington  
21 retailer shall add the charge to the purchase price of all mercury-  
22 containing lights sold at retail in this state, and the producer  
23 shall remit the environmental handling charge to the stewardship  
24 organization in the manner provided for in the stewardship plan; or

25 (b) Each Washington retailer must add the mercury-containing  
26 light environmental handling charge to the purchase price of all  
27 mercury-containing lights sold at retail in this state, where the  
28 retailer, by voluntary binding agreement with the producer, arranges  
29 to remit the environmental handling charge to the stewardship  
30 organization on behalf of the producer in the manner provided for in  
31 the stewardship plan. Producers may not require retailers to opt for  
32 this provision via contract, marketing practice, or any other means.  
33 The stewardship organization must allow retailers to retain a portion  
34 of the environmental handling charge as reimbursement for any costs  
35 associated with the collection and remittance of the charge.

36 (4) At any time, a stewardship organization may submit to the  
37 department a recommendation for an adjusted environmental handling  
38 charge for the department's review, adjustment, if necessary, and  
39 approval under subsection (2) of this section to ensure that there is  
40 sufficient revenue to fund the cost of the program, current deficits,

1 or projected needed reserves for the next year. The department must  
2 review the stewardship organization's recommended environmental  
3 handling charge and must adjust or approve the recommended charge  
4 within thirty days of submittal if the department determines that the  
5 charge is reasonably designed to meet the criteria described in  
6 subsection (1) of this section.

7 (5) Beginning March 1, 2015, and each year thereafter, each  
8 stewardship organization shall pay to the department an annual fee  
9 equivalent to three thousand dollars for each participating producer  
10 to cover the department's administrative and enforcement costs. The  
11 amount paid under this section must be deposited into the product  
12 stewardship programs account created in RCW 70.275.130 (as recodified  
13 by this act).

14 **Sec. 1418.** RCW 70.275.160 and 2010 c 130 s 16 are each amended  
15 to read as follows:

16 Nothing in this chapter changes the requirements of any entity  
17 regulated under chapter 70.105 RCW (as recodified by this act) to  
18 comply with the requirements under that chapter.

19 **Sec. 1419.** RCW 70.280.040 and 2010 c 140 s 4 are each amended to  
20 read as follows:

21 (1) A manufacturer, wholesaler, or retailer that (~~manufacturers~~  
22 ~~[manufactures]~~) manufactures, knowingly sells, or distributes  
23 products in violation of this chapter is subject to a civil penalty  
24 not to exceed five thousand dollars for each violation in the case of  
25 a first offense. Manufacturers, wholesalers, or retailers who are  
26 repeat violators are subject to a civil penalty not to exceed ten  
27 thousand dollars for each repeat offense. Penalties collected under  
28 this section must be deposited in the (~~state~~) model toxics control  
29 operating account created in RCW (~~(70.105D.070)~~) 70.105D.190 (as  
30 recodified by this act).

31 (2) Retailers who unknowingly sell products that are restricted  
32 from sale under this chapter are not subject to the civil penalties  
33 under this chapter.

34 **Sec. 1420.** RCW 70.280.050 and 2019 c 422 s 410 are each amended  
35 to read as follows:

1 Expenses to cover the cost of administering this chapter must be  
2 paid from the model toxics control operating account under RCW  
3 70.105D.190 (as recodified by this act).

4 **Sec. 1421.** RCW 70.285.020 and 2011 c 171 s 111 are each amended  
5 to read as follows:

6 The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

8 (1) "Accredited laboratory" means a laboratory that is:

9 (a) Qualified and equipped for testing of products, materials,  
10 equipment, and installations in accordance with national or  
11 international standards; and

12 (b) Accredited by a third-party organization approved by the  
13 department to accredit laboratories for purposes of this chapter.

14 (2) "Alternative brake friction material" means brake friction  
15 material that:

16 (a) Does not contain:

17 (i) More than 0.5 percent copper or its compounds by weight;

18 (ii) The constituents identified in RCW 70.285.030 (as recodified  
19 by this act) at or above the concentrations specified; and

20 (iii) Other materials determined by the department to be more  
21 harmful to human health or the environment than existing brake  
22 friction material;

23 (b) Enables motor vehicle brakes to meet applicable federal  
24 safety standards, or if no federal safety standard exists, a widely  
25 accepted industry standard;

26 (c) Is available at a cost and quantity that does not cause  
27 significant financial hardship across the majority of brake friction  
28 material and vehicle manufacturing industries; and

29 (d) Is available to enable brake friction material and vehicle  
30 manufacturers to produce viable products meeting consumer  
31 expectations regarding braking noise, shuddering, and durability.

32 (3) "Brake friction material" means that part of a motor vehicle  
33 brake designed to retard or stop the movement of a motor vehicle  
34 through friction against a rotor made of more durable material.

35 (4) "Committee" means the brake friction material advisory  
36 committee.

37 (5) "Department" means the department of ecology.

1 (6) (a) "Motor vehicle" has the same meaning as defined in RCW  
2 46.04.320 that are subject to registration requirements under RCW  
3 (~~46.16A.030~~) 46.16A.080.

4 (b) "Motor vehicle" does not include:

5 (i) Motorcycles as defined in RCW 46.04.330;

6 (ii) Motor vehicles employing internal closed oil immersed motor  
7 vehicle brakes or similar brake systems that are fully contained and  
8 emit no debris or fluid under normal operating conditions;

9 (iii) Military combat vehicles;

10 (iv) Race cars, dual-sport vehicles, or track day vehicles, whose  
11 primary use is for off-road purposes and are permitted under RCW  
12 46.16A.320; or

13 (v) Collector vehicles, as defined in RCW 46.04.126.

14 (7) (a) "Motor vehicle brake" means an energy conversion mechanism  
15 used to retard or stop the movement of a motor vehicle.

16 (b) "Motor vehicle brake" does not include brakes designed  
17 primarily to hold motor vehicles stationary and not for use while  
18 motor vehicles are in motion.

19 (8) "Original equipment service" means brake friction material  
20 provided as service parts originally designed for and using the same  
21 brake friction material formulation sold with a new motor vehicle.

22 (9) "Small volume motor vehicle manufacturer" means a  
23 manufacturer of motor vehicles with Washington annual sales of less  
24 than one thousand new passenger cars, light-duty trucks, medium-duty  
25 vehicles, heavy-duty vehicles, and heavy-duty engines based on the  
26 average number of vehicles sold for the three previous consecutive  
27 model years.

28 **Sec. 1422.** RCW 70.285.040 and 2010 c 147 s 4 are each amended to  
29 read as follows:

30 (1) By December 1, 2015, the department shall review risk  
31 assessments, scientific studies, and other relevant analyses  
32 regarding alternative brake friction material and determine whether  
33 the material may be available. The department shall consider any new  
34 science with regard to the bioavailability and toxicity of copper.

35 (2) If the department finds that alternative brake friction  
36 material may be available, it shall convene a brake friction material  
37 advisory committee. The committee shall include, but is not limited  
38 to:



- 1 (a) A representative of the department, who will chair the  
2 committee;
- 3 (b) The chief of the Washington state patrol, or the chief's  
4 designee;
- 5 (c) A representative of manufacturers of brake friction material;
- 6 (d) A representative of manufacturers of motor vehicles;
- 7 (e) A representative of a nongovernmental organization concerned  
8 with motor vehicle safety;
- 9 (f) A representative of the national highway traffic safety  
10 administration; and
- 11 (g) A representative of a nongovernmental organization concerned  
12 with the environment.
- 13 (3) If convened pursuant to subsection (2) of this section, the  
14 committee shall separately assess alternative brake friction material  
15 for passenger vehicles, light-duty vehicles, and heavy-duty vehicles.  
16 The committee shall make different recommendations to the department  
17 as to whether alternative brake friction material is available or  
18 unavailable for passenger vehicles, light-duty vehicles, and  
19 heavy-duty vehicles. For purposes of this section, "heavy-duty  
20 vehicle" means a vehicle used for commercial purposes with a gross  
21 vehicle weight rating above twenty-six thousand pounds. The committee  
22 shall also consider appropriate exemptions including original  
23 equipment service and brake friction material manufactured prior to  
24 the dates specified in RCW 70.285.050 (as recodified by this act).  
25 The department shall consider the committee's recommendations and  
26 make a finding as to whether alternative brake friction material is  
27 available or unavailable.
- 28 (4) If, pursuant to subsection (3) of this section, the  
29 department finds that alternative brake friction material:
- 30 (a) Is available, it shall comply with RCW 70.285.050 (as  
31 recodified by this act);
- 32 (b) Is not available, it shall periodically evaluate the finding  
33 and, if it determines that alternative brake friction material may be  
34 available, comply with subsections (2) and (3) of this section. If  
35 the department finds that alternative brake friction material is  
36 available, it shall comply with RCW 70.285.050 (as recodified by this  
37 act).

38 **Sec. 1423.** RCW 70.285.050 and 2017 c 204 s 2 are each amended to  
39 read as follows:

1 If, pursuant to RCW 70.285.040 (as recodified by this act), the  
2 department finds that alternative brake friction material is  
3 available:

4 (1) (a) By December 31st of the year in which the finding is made,  
5 the department shall publish the information required by RCW  
6 70.285.040 (as recodified by this act) in the Washington State  
7 Register and present it in a report to the appropriate committees of  
8 the legislature; and

9 (b) The report must include recommendations for exemptions on  
10 original equipment service and brake friction material manufactured  
11 prior to dates specified in this section and may include  
12 recommendations for other exemptions.

13 (2) Beginning January 1, 2025, and consistent with RCW  
14 70.285.030(3) (as recodified by this act), no manufacturer,  
15 wholesaler, retailer, or distributor may sell or offer for sale brake  
16 friction material in Washington state containing more than 0.5  
17 percent copper and its compounds by weight, as specified in the  
18 report in subsection (1) of this section.

19 **Sec. 1424.** RCW 70.285.090 and 2019 c 422 s 409 are each amended  
20 to read as follows:

21 (1) The department must enforce this chapter. The department may  
22 periodically purchase and test brake friction material sold or  
23 offered for sale in Washington state to verify that the material  
24 complies with this chapter.

25 (2) Enforcement of this chapter by the department must rely on  
26 notification and information exchange between the department and  
27 manufacturers, distributors, and retailers. The department must issue  
28 one warning letter by certified mail to a manufacturer, distributor,  
29 or retailer that sells or offers to sell brake friction material in  
30 violation of this chapter, and offer information or other appropriate  
31 assistance regarding compliance with this chapter. Once a warning  
32 letter has been issued to a distributor or retailer for violations  
33 under subsections (3) and (5) of this section, the department need  
34 not provide warning letters for subsequent violations by that  
35 distributor or retailer. For the purposes of subsection (6) of this  
36 section, a warning letter serves as notice of the violation. If  
37 compliance is not achieved, the department may assess penalties under  
38 this section.

1 (3) A brake friction material distributor or retailer that  
2 violates this chapter is subject to a civil penalty not to exceed ten  
3 thousand dollars for each violation. Brake friction material  
4 distributors or retailers that sell brake friction material that is  
5 packaged consistent with RCW 70.285.080(2)(b) (as recodified by this  
6 act) are not in violation of this chapter. However, if the department  
7 conclusively proves that the brake friction material distributor or  
8 retailer was aware that the brake friction material being sold  
9 violates RCW 70.285.030 or 70.285.050 (as recodified by this act),  
10 the brake friction material distributor or retailer is subject to  
11 civil penalties according to this section.

12 (4) A brake friction material manufacturer that knowingly  
13 violates this chapter must recall the brake friction material and  
14 reimburse the brake friction distributor, retailer, or any other  
15 purchaser for the material and any applicable shipping and handling  
16 charges for returning the material. A brake friction material  
17 manufacturer that violates this chapter is subject to a civil penalty  
18 not to exceed ten thousand dollars for each violation.

19 (5) A motor vehicle distributor or retailer that violates this  
20 chapter is subject to a civil penalty not to exceed ten thousand  
21 dollars for each violation. A motor vehicle distributor or retailer  
22 is not in violation of this chapter for selling a vehicle that was  
23 previously sold at retail and that contains brake friction material  
24 failing to meet the requirements of this chapter. However, if the  
25 department conclusively proves that the motor vehicle distributor or  
26 retailer installed brake friction material that violates RCW  
27 70.285.030, 70.285.050, or 70.285.080(2)(b) (as recodified by this  
28 act) on the vehicle being sold and was aware that the brake friction  
29 material violates RCW 70.285.030, 70.285.050, or 70.285.080(2)(b) (as  
30 recodified by this act), the motor vehicle distributor or retailer is  
31 subject to civil penalties under this section.

32 (6) A motor vehicle manufacturer that violates this chapter must  
33 notify the registered owner of the vehicle within six months of  
34 knowledge of the violation and must replace at no cost to the owner  
35 the noncompliant brake friction material with brake friction material  
36 that complies with this chapter. A motor vehicle manufacturer that  
37 fails to provide the required notification to registered owners of  
38 the affected vehicles within six months of knowledge of the violation  
39 is subject to a civil penalty not to exceed one hundred thousand  
40 dollars. A motor vehicle manufacturer that fails to provide the

1 required notification to registered owners of the affected vehicles  
2 after twelve months of knowledge of the violation is subject to a  
3 civil penalty not to exceed ten thousand dollars per vehicle. For  
4 purposes of this section, "motor vehicle manufacturer" does not  
5 include a vehicle dealer defined under RCW 46.70.011 and required to  
6 be licensed as a vehicle dealer under chapter 46.70 RCW.

7 (7) Before the effective date of the prohibitions in RCW  
8 70.285.030 or 70.285.050 (as recodified by this act), the department  
9 must prepare and distribute information about the prohibitions to  
10 manufacturers, distributors, and retailers to the maximum extent  
11 practicable.

12 (8) All penalties collected under this chapter must be deposited  
13 in the model toxics control operating account created in RCW  
14 70.105D.190 (as recodified by this act).

15 **Sec. 1425.** RCW 70.300.040 and 2019 c 422 s 411 are each amended  
16 to read as follows:

17 (1) The department must enforce the requirements of this chapter.

18 (2)(a) A person or entity that violates this chapter is subject  
19 to a civil penalty. The department may assess and collect a civil  
20 penalty of up to ten thousand dollars per day per violation.

21 (b) All penalties collected by the department under this chapter  
22 must be deposited in the model toxics control operating account  
23 created in RCW 70.105D.190 (as recodified by this act).

24 **Sec. 1426.** RCW 70.310.030 and 2013 c 51 s 3 are each amended to  
25 read as follows:

26 (1) Effective January 1, 2014, it is unlawful to manufacture,  
27 wholesale, or distribute for sale an asbestos-containing building  
28 material that is not labeled as required by RCW 70.310.040 (as  
29 recodified by this act) or as required under federal law, 40 C.F.R.  
30 part 763, subpart I, Sec. 173.171 (1994). The labeling requirement  
31 also applies to stock-on-hand, meaning any asbestos-containing  
32 building material in their possession or control after December 31,  
33 2013, must be labeled. Retailers that do not manufacture, wholesale,  
34 or distribute asbestos-containing building materials are exempt from  
35 this chapter.

36 (2)(a) Subsection (1) of this section does not apply to asbestos-  
37 containing building materials that have already been installed,  
38 applied, or used by the consumer.

1 (b) Subsection (1) of this section does not apply to asbestos-  
2 containing building materials used solely for United States military  
3 purposes.

4 (3) Any manufacturer, wholesaler, or distributor may submit a  
5 written request for an exemption from the labeling requirements of  
6 this chapter, and the department may grant such an exemption if it  
7 determines that the labeling requirements are technically infeasible  
8 or create an undue economic hardship. Each exemption is in effect for  
9 a period not to exceed three years from the date issued and is  
10 subject to the terms and conditions prescribed by the department.

11 **Sec. 1427.** RCW 70.310.040 and 2013 c 51 s 4 are each amended to  
12 read as follows:

13 (1) A label must be placed in a prominent location adjacent to  
14 the product name or description on the exterior of the wrapping and  
15 packaging in which the asbestos-containing building material is  
16 placed for storage, shipment, and sale.

17 (2) A label must also be placed on the exterior surface of the  
18 asbestos-containing building material itself unless it is sold as a  
19 liquid or paste, is sand or gravel, or an exemption is granted  
20 pursuant to RCW 70.310.030(3) (as recodified by this act).

21 (3) Asbestos-containing building materials must have a legible  
22 label that clearly identifies it as containing asbestos. The  
23 department may adopt rules regarding the implementation of this  
24 chapter. At a minimum, the label must state the following:

25 CAUTION!

26 This product contains ASBESTOS which is known to cause cancer  
27 and lung disease. Avoid creating dust. Intentionally removing  
28 or tampering with this label is a violation of state law.

29 (4) It is unlawful for any person to remove, deface, cover, or  
30 otherwise obscure or tamper with a label or sticker that has been  
31 applied in compliance with this section, unless the asbestos-  
32 containing building material is in the possession of the end user.

33 **Sec. 1428.** RCW 70.310.050 and 2013 c 51 s 5 are each amended to  
34 read as follows:

35 (1) The provisions of this chapter may be enforced by the  
36 department, local air authorities, or their designees.

1 (2) A person found in violation of this chapter is subject to the  
2 penalties provided under RCW 70.94.431 (as recodified by this act).

3 **Sec. 1429.** RCW 70.315.010 and 2013 c 127 s 1 are each amended to  
4 read as follows:

5 (1) The legislature finds that historically governmental and  
6 nongovernmental water purveyors have played two key public service  
7 roles: Providing safe drinking water and providing water for fire  
8 protection. This dual function approach is a deeply embedded and  
9 state-regulated feature of water system planning, engineering,  
10 operation, and maintenance. This dual function enables purveyors to  
11 provide these critical public services in a cost-effective way that  
12 protects public health and safety, promotes economic development, and  
13 supports appropriate land use planning.

14 (2) The legislature finds that the provision of integrated, dual  
15 function water facilities and services benefits all customers of a  
16 purveyor, similar to other benefits provided to water system  
17 customers in response to regulation regarding safe drinking water  
18 such as treatment and water quality monitoring.

19 (3) The legislature finds that water purveyors plan, construct,  
20 acquire, operate, and maintain fire suppression water facilities in  
21 response to regulatory requirements, including without limitation the  
22 public water system coordination act, RCW 70.116.080 (as recodified  
23 by this act), the design of public water systems and water system  
24 operations requirements, chapter 246-290 WAC, Parts 3 and 5, the  
25 state building code, chapter 19.27 RCW, and the international fire  
26 code. The availability of infrastructure and water to fight fires  
27 allows for the development and habitability of property, increases  
28 property values, and benefits customers and property through lower  
29 casualty insurance rates.

30 (4) The legislature finds that recent Washington supreme court  
31 decisions, including *Lane v. City of Seattle*, 164 Wn.2d 875 (2008),  
32 and *City of Tacoma v. City of Bonney Lake, et al.*, 173 Wn.2d 584  
33 (2012), have created uncertainty and confusion as to the role,  
34 responsibilities, cost allocation, and recovery authority of water  
35 purveyors. If left unresolved, the absence of legal clarity will  
36 adversely affect the availability and condition of fire suppression  
37 infrastructure necessary to protect life and property.

38 (5) It is the legislature's intent to determine appropriate  
39 methods of organizing public services and the authority of water

1 purveyors with respect to critical public services. The legislature  
2 further intends this chapter to clarify the authority of water  
3 purveyors to provide fire suppression water facilities and services  
4 and to recover the costs for those facilities and services. The  
5 legislature also intends to provide liability protections appropriate  
6 for water purveyors engaged in this vital public service.

7 **Sec. 1430.** RCW 70.315.020 and 2013 c 127 s 2 are each amended to  
8 read as follows:

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11 (1) "Fire suppression water facilities" means water supply  
12 transmission and distribution facilities, interties, pipes, valves,  
13 control systems, lines, storage, pumps, fire hydrants, and other  
14 facilities, or any part thereof, used or usable for the delivery of  
15 water for fire suppression purposes.

16 (2) "Fire suppression water services" or "services" means  
17 operation and maintenance of fire suppression water facilities and  
18 the delivery of water for fire suppression purposes.

19 (3) "Municipal corporation" means any city, town, county, water-  
20 sewer district, port district, public utility district, irrigation  
21 district, and any other municipal corporation, quasi-municipal  
22 corporation, or political subdivision of the state.

23 (4) "Purveyor" has the same meaning as set forth in RCW  
24 70.116.030(4) (as recodified by this act).

25 **Sec. 1431.** RCW 70.315.050 and 2013 c 127 s 5 are each amended to  
26 read as follows:

27 A county is not required to pay for fire suppression water  
28 facilities or services except: (1) As a customer of a purveyor; (2)  
29 in areas where a county is acting as a purveyor; or (3) where a  
30 county has agreed to do so consistent with RCW 70.315.040 (as  
31 recodified by this act).

32 **Sec. 1432.** RCW 70.325.020 and 2014 c 74 s 2 are each amended to  
33 read as follows:

34 The definitions in this section apply throughout this chapter  
35 unless the context clearly requires otherwise.

36 (1) "Account" means the diesel idle reduction account created in  
37 RCW 70.325.040 (as recodified by this act).

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

2 (3) "Loan recipient" means a state, local, or other governmental  
3 entity that owns diesel vehicles or equipment.

4 **Sec. 1433.** RCW 70.325.040 and 2014 c 74 s 4 are each amended to  
5 read as follows:

6 The diesel idle reduction account is created in the state  
7 treasury. All receipts from remittances made by loan recipients  
8 pursuant to RCW 70.325.030 (as recodified by this act) and any moneys  
9 appropriated to the account by law must be deposited in the account.  
10 Moneys in the account may be spent only after appropriation.  
11 Expenditures from the account may be used only for the purposes of  
12 this chapter, including the costs of program administration.

13 **Sec. 1434.** RCW 70.325.050 and 2014 c 74 s 7 are each amended to  
14 read as follows:

15 The department may adopt rules necessary to implement this  
16 chapter only after the legislature appropriates moneys to the account  
17 created in RCW 70.325.040 (as recodified by this act).

18 **Sec. 1435.** RCW 70.340.020 and 2016 c 161 s 2 are each amended to  
19 read as follows:

20 The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22 (1) "Agency" means the Washington state pollution liability  
23 insurance agency.

24 (2) "Local government" means any political subdivision of the  
25 state, including a town, city, county, special purpose district, or  
26 other municipal corporation.

27 (3) "Operator" means any person in control of, or having  
28 responsibility for, the daily operation of a petroleum underground  
29 storage tank system.

30 (4) "Owner" means any person who owns a petroleum underground  
31 storage tank system.

32 (5) "Petroleum underground storage tank system" means an  
33 underground storage tank system regulated under chapter 90.76 RCW (as  
34 recodified by this act) or subtitle I of the solid waste disposal act  
35 (42 U.S.C. chapter 82, subchapter IX) that is used for storing  
36 petroleum.



1 (6) "Release" has the same meaning as defined in RCW 70.105D.020  
2 (as recodified by this act).

3 (7) "Remedial action" has the same meaning as defined in RCW  
4 70.105D.020 (as recodified by this act).

5 (8) "Underground storage tank facility" means the location where  
6 one or more underground storage tank systems are installed. A  
7 facility encompasses all contiguous real property under common  
8 ownership associated with the operation of the underground storage  
9 tank system or systems.

10 (9) "Underground storage tank system" means an underground  
11 storage tank, connected underground piping, underground ancillary  
12 equipment, and containment system, if any, and includes any  
13 aboveground ancillary equipment connected to the underground storage  
14 tank or piping, such as dispensers.

15 **Sec. 1436.** RCW 70.340.030 and 2016 c 161 s 3 are each amended to  
16 read as follows:

17 (1) The agency shall establish an underground storage tank  
18 revolving loan and grant program to provide loans or grants to owners  
19 or operators to:

20 (a) Conduct remedial actions in accordance with chapter 70.105D  
21 RCW (as recodified by this act), including investigations and  
22 cleanups of any release or threatened release of a hazardous  
23 substance at or affecting an underground storage tank facility,  
24 provided that at least one of the releases or threatened releases  
25 involves petroleum;

26 (b) Upgrade, replace, or permanently close a petroleum  
27 underground storage tank system in accordance with chapter 90.76 RCW  
28 (as recodified by this act) or subtitle I of the solid waste disposal  
29 act (42 U.S.C., chapter 82, subchapter IX), as applicable;

30 (c) Install new infrastructure or retrofit existing  
31 infrastructure at an underground storage tank facility for dispensing  
32 renewable or alternative energy for motor vehicles, including  
33 electric vehicle charging stations, when conducted in conjunction  
34 with either (a) or (b) of this subsection; or

35 (d) Install and subsequently remove a temporary petroleum  
36 aboveground storage tank system in compliance with applicable laws,  
37 when conducted in conjunction with either (a) or (b) of this  
38 subsection.

1 (2) The maximum amount that may be loaned or granted under this  
2 program to an owner or operator for a single underground storage tank  
3 facility is two million dollars.

4 **Sec. 1437.** RCW 70.340.040 and 2016 c 161 s 4 are each amended to  
5 read as follows:

6 (1) A recipient of a loan or grant may not use these funds to  
7 conduct remedial actions of a release or threatened release from a  
8 petroleum underground storage tank system requiring financial  
9 assurances under chapter 90.76 RCW (as recodified by this act) or  
10 subtitle I of the solid waste disposal act (42 U.S.C., chapter 82,  
11 subchapter IX) unless the owner or operator:

12 (a) Agrees to first expend all moneys available under the  
13 required financial assurances;

14 (b) Demonstrates that all moneys available under the required  
15 financial assurances have been expended; or

16 (c) Demonstrates that a claim has been made under the required  
17 financial assurances and the claim has been rejected by the provider.

18 (2) A recipient must use a loan or grant for a project that  
19 develops and acquires assets that have a useful life of at least  
20 thirteen years.

21 **Sec. 1438.** RCW 70.340.050 and 2016 c 161 s 5 are each amended to  
22 read as follows:

23 The agency shall partner and enter into a memorandum of agreement  
24 with the department of health to implement the revolving loan and  
25 grant program.

26 (1) The agency shall select loan and grant recipients and manage  
27 the work conducted under RCW 70.340.030(1) (as recodified by this  
28 act).

29 (2) The department of health shall administer the loans and  
30 grants to qualified recipients as determined by the agency.

31 (3) The department of health may collect, from persons requesting  
32 financial assistance, loan origination fees to cover costs incurred  
33 by the department of health in operating the financial assistance  
34 program.

35 (4) The agency may use the moneys in the pollution liability  
36 insurance agency underground storage tank revolving account to fund  
37 the department of health's operating costs for the program.

1       **Sec. 1439.** RCW 70.340.060 and 2016 c 161 s 6 are each amended to  
2 read as follows:

3       (1) The agency may conduct remedial actions and investigate or  
4 clean up a release or threatened release of a hazardous substance at  
5 or affecting an underground storage tank facility if the following  
6 conditions are met:

7       (a) The owner or operator received a loan or grant for the  
8 underground storage tank facility under the revolving program created  
9 in this chapter for two million dollars or less;

10       (b) The remedial actions are conducted in accordance with the  
11 rules adopted under chapter 70.105D RCW (as recodified by this act);

12       (c) The owner of real property subject to the remedial actions  
13 provides consent for the agency to:

14       (i) Recover the remedial action costs from the owner; and

15       (ii) Enter upon the real property to conduct remedial actions  
16 limited to those authorized by the owner or operator. Remedial  
17 actions must be focused on maintaining the economic vitality of the  
18 property. The agency or the agency's authorized representatives shall  
19 give reasonable notice before entering property unless an emergency  
20 prevents the notice; and

21       (d) The owner of the underground storage tank facility consents  
22 to the agency filing a lien on the underground storage tank facility  
23 to recover the agency's remedial action costs.

24       (2) The agency may conduct the remedial actions authorized under  
25 subsection (1) of this section using the moneys in the pollution  
26 liability insurance agency underground storage tank revolving  
27 account, as required under RCW 70.340.050 (as recodified by this  
28 act). However, for any remedial action where the owner or operator  
29 has received a loan or grant, the agency may not expend more than the  
30 difference between the amount loaned or granted and two million  
31 dollars.

32       (3) The agency may request informal advice and assistance and  
33 written opinions on the sufficiency of remedial actions from the  
34 department of ecology under RCW (~~(70.105D.030(1)(i))~~) 70.105D.180 (as  
35 recodified by this act).

36       **Sec. 1440.** RCW 70.340.080 and 2016 c 161 s 8 are each amended to  
37 read as follows:

38       (1) The pollution liability insurance agency underground storage  
39 tank revolving account is created in the state treasury. All receipts

1 from sources identified under subsection (2) of this section must be  
2 deposited into the account. Moneys in the account may be spent only  
3 after appropriation. Expenditures from the account may be used only  
4 for items identified under subsection (3) of this section.

5 (2) The following receipts must be deposited into the account:

6 (a) All moneys appropriated by the legislature to pay for the  
7 agency's operating costs to carry out the purposes of this chapter;

8 (b) All moneys appropriated by the legislature to provide loans  
9 and grants under RCW 70.340.030 (as recodified by this act);

10 (c) Any repayment of loans provided under RCW 70.340.030 (as  
11 recodified by this act);

12 (d) All moneys appropriated by the legislature to conduct  
13 remedial actions under RCW 70.340.060 (as recodified by this act);

14 (e) Any recovery of the costs of remedial actions conducted under  
15 RCW 70.340.060 (as recodified by this act);

16 (f) Any grants provided by the federal government to the agency  
17 to achieve the purposes of this chapter; and

18 (g) Any other deposits made from a public or private entity to  
19 achieve the purposes of this chapter.

20 (3) Moneys in the account may be used by the agency only to carry  
21 out the purposes of this chapter including, but not limited to:

22 (a) The costs of the agency and department of health to carry out  
23 the purposes of this chapter;

24 (b) Loans and grants under RCW 70.340.030 (as recodified by this  
25 act);

26 (c) Remedial actions under RCW 70.340.060 (as recodified by this  
27 act); and

28 (d) State match requirements for grants provided to the agency by  
29 the federal government.

30 **Sec. 1441.** RCW 70.340.090 and 2016 c 161 s 9 are each amended to  
31 read as follows:

32 By September 1st of each even-numbered year, the agency must  
33 provide the office of financial management and the appropriate  
34 legislative committees a report on the agency's activities supported  
35 by expenditures from the pollution liability insurance agency  
36 underground storage tank revolving account. The report must at a  
37 minimum include:

38 (1) The amount of money the legislature appropriated from the  
39 pollution liability insurance agency underground storage tank

1 revolving account under RCW 70.340.080 (as recodified by this act)  
2 during the last biennium;

3 (2) For the previous biennium, the total number of loans and  
4 grants, the amounts loaned or granted, sites cleaned up, petroleum  
5 underground storage tank systems upgraded, replaced, or permanently  
6 closed, and jobs preserved;

7 (3) For each loan and grant awarded during the previous biennium,  
8 the name of the recipient, the location of the underground storage  
9 tank facility, a description of the project and its status, the  
10 amount loaned, and the amount repaid;

11 (4) For each underground storage tank facility where the agency  
12 conducted remedial actions under RCW 70.340.060 (as recodified by  
13 this act) during the previous biennium, the name and location of the  
14 site, the amount of money used to conduct the remedial actions, the  
15 status of remedial actions, whether liens were filed against the  
16 underground storage tank facility under RCW 70.340.070 (as recodified  
17 by this act), and the amount of money recovered; and

18 (5) The operating costs of the agency and department of health to  
19 carry out the purposes of this chapter during the last biennium.

20 **Sec. 1442.** RCW 70.340.100 and 2016 c 161 s 10 are each amended  
21 to read as follows:

22 The agency must adopt rules under chapter 34.05 RCW necessary to  
23 carry out the provisions of this chapter. To accelerate remedial  
24 actions, the agency shall enter into a memorandum of agreement with  
25 the department of health under RCW 70.340.050 (as recodified by this  
26 act) within one year of July 1, 2016. To ensure the adoption of rules  
27 will not delay the award of a loan or grant, the agency may implement  
28 the underground storage tank revolving program through interpretative  
29 guidance pending adoption of rules.

30 **Sec. 1443.** RCW 70.340.120 and 2016 c 161 s 12 are each amended  
31 to read as follows:

32 Nothing in this chapter limits the authority of the department of  
33 ecology under chapter 70.105D RCW (as recodified by this act).

34 **Sec. 1444.** RCW 70.340.130 and 2017 3rd sp.s. c 4 s 6015 are each  
35 amended to read as follows:

36 (1) On July 1, 2016, if the cash balance amount in the pollution  
37 liability insurance program trust account exceeds seven million five

1 hundred thousand dollars after excluding the reserves under RCW  
2 70.148.020(2) (as recodified by this act), the state treasurer shall  
3 transfer the amount exceeding seven million five hundred thousand  
4 dollars, up to a transfer of ten million dollars, from the pollution  
5 liability insurance program trust account into the pollution  
6 liability insurance agency underground storage tank revolving  
7 account. If ten million dollars is not available to be transferred on  
8 July 1, 2016, then by the end of fiscal year 2017, if the cash  
9 balance amount in the pollution liability insurance program trust  
10 account exceeds seven million five hundred thousand dollars after  
11 excluding the reserves under RCW 70.148.020(2) (as recodified by this  
12 act), the state treasurer shall transfer the amount exceeding seven  
13 million five hundred thousand dollars from the pollution liability  
14 insurance program trust account into the pollution liability  
15 insurance agency underground storage tank revolving account. The  
16 total amount transferred in fiscal year 2017 from the pollution  
17 liability insurance program trust account into the pollution  
18 liability insurance agency underground storage tank revolving account  
19 may not exceed ten million dollars.

20 (2) On July 1, 2017, and every two years thereafter at the start  
21 of each successive biennium, if the cash balance amount in the  
22 pollution liability insurance program trust account exceeds seven  
23 million five hundred thousand dollars, the state treasurer shall  
24 transfer the amount exceeding seven million five hundred thousand  
25 dollars after excluding the reserves under RCW 70.148.020(2) (as  
26 recodified by this act), up to a transfer of twenty million dollars,  
27 from the pollution liability insurance program trust account into the  
28 pollution liability insurance agency underground storage tank  
29 revolving account. If twenty million dollars is not available to be  
30 transferred at the beginning of the first fiscal year of the  
31 biennium, by the end of the subsequent fiscal year, if the cash  
32 balance amount in the pollution liability insurance program trust  
33 account exceeds seven million five hundred thousand dollars after  
34 excluding the reserves under RCW 70.148.020(2) (as recodified by this  
35 act), the state treasurer shall transfer the amount exceeding seven  
36 million five hundred thousand dollars from the pollution liability  
37 insurance program trust account into the pollution liability  
38 insurance agency underground storage tank revolving account. The  
39 total amount transferred in a biennium from the pollution liability  
40 insurance program trust account into the pollution liability

1 insurance agency underground storage tank revolving account may not  
2 exceed twenty million dollars.

3 **Sec. 1445.** RCW 70.340.900 and 2016 c 161 s 13 are each amended  
4 to read as follows:

5 (1) RCW 70.340.010 through 70.340.120 (as recodified by this act)  
6 expire July 1, 2030.

7 (2) The expiration of RCW 70.340.010 through 70.340.120 (as  
8 recodified by this act) does not terminate any of the following  
9 rights, obligations, authorities or any provision necessary to carry  
10 out:

11 (a) The repayment of loans due and payable to the lender or the  
12 state of Washington;

13 (b) The resolution of any cost recovery action or the initiation  
14 of any action or other collection process to recover defaulted loan  
15 moneys due to the state of Washington; and

16 (c) The resolution of any action or the initiation of any action  
17 to recover the agency's remedial actions costs under RCW 70.340.070  
18 (as recodified by this act).

19 (3) On July 1, 2030, the pollution liability insurance agency  
20 underground storage tank revolving account and all moneys due that  
21 account revert to, and accrue to the benefit of, the department of  
22 health.

23 **Sec. 1446.** RCW 70.360.060 and 2019 c 265 s 6 are each amended to  
24 read as follows:

25 (1)(a) A manufacturer or supplier of food service products or  
26 film products that meet ASTM standard specification D6400 or ASTM  
27 standard specification D6868 must ensure that the items are readily  
28 and easily identifiable from other plastic food service products or  
29 plastic film products in a manner that is consistent with the federal  
30 trade commission guides.

31 (b) Film bags are exempt from the requirements of this section,  
32 and are instead subject to the requirements of RCW 70.360.050 (as  
33 recodified by this act).

34 (2) For the purposes of this section, "readily and easily  
35 identifiable" products must:

36 (a) Be labeled with a logo indicating the product has been  
37 certified by a recognized third-party independent verification body  
38 as meeting the ASTM standard specification;

1 (b) Be labeled with the word "compostable," where possible,  
2 indicating the food packaging or film product has been tested by a  
3 recognized third-party independent body and meets the ASTM standard  
4 specification; and

5 (c) Meet industry standards for being distinguishable upon quick  
6 inspection in both public sorting areas and in processing facilities.

7 (3) A compostable product described in subsection (1) of this  
8 section must be considered compliant with the requirements of this  
9 section if it:

10 (a) Has green or brown labeling;

11 (b) Is labeled as compostable; and

12 (c) Uses distinctive color schemes, green or brown color  
13 striping, or other adopted symbols, colors, marks, or design patterns  
14 that help differentiate compostable items from noncompostable  
15 materials.

16 (4) It is encouraged that each product described in subsection  
17 (1) of this section:

18 (a) Display labeling language via printing, embossing, or  
19 compostable adhesive stickers using, when possible, either the colors  
20 green or brown that contrast with background product color for easy  
21 identification; or

22 (b) Be tinted green or brown.

23 (5) Graphic elements are encouraged to increase legibility of the  
24 word "compostable" and overall product distinction that may include  
25 text boxes, stripes, bands, or a green or brown tint of the product.

26 (6) A manufacturer or supplier is required to comply with this  
27 section only to the extent that the labeling requirements do not  
28 conflict with the federal trade commission guides.

29 **Sec. 1447.** RCW 70.360.070 and 2019 c 265 s 7 are each amended to  
30 read as follows:

31 A manufacturer or supplier of film products or food service  
32 products sold, offered for sale, or distributed for use in Washington  
33 that does not meet the applicable ASTM standard specifications  
34 provided in RCW 70.360.050 and 70.360.060 (as recodified by this act)  
35 is:

36 (1) Prohibited from using tinting, labeling, and terms that are  
37 required of products that meet the applicable ASTM standard  
38 specifications under RCW 70.360.050 and 70.360.060 (as recodified by  
39 this act);



1 (2) Discouraged from using coloration, labeling, images, and  
2 terms that confuse consumers into believing that noncompostable bags  
3 and food service packaging are compostable; and

4 (3) Encouraged to use coloration, labeling, images, and terms to  
5 help consumers identify noncompostable bags and food service  
6 packaging as either: (a) Suitable for recycling; or (b) necessary to  
7 dispose as waste.

8 **Sec. 1448.** RCW 70.360.090 and 2019 c 265 s 9 are each amended to  
9 read as follows:

10 (1) The state, acting through the attorney general, and cities  
11 and counties have concurrent authority to enforce this chapter and to  
12 collect civil penalties for a violation of this chapter, subject to  
13 the conditions in this section. An enforcing government entity may  
14 impose a civil penalty in the amount of up to two thousand dollars  
15 for the first violation of this chapter, up to five thousand dollars  
16 for the second violation of this chapter, and up to ten thousand  
17 dollars for the third and any subsequent violation of this chapter.  
18 If a manufacturer or supplier has paid a prior penalty for the same  
19 violation to a different government entity with enforcement authority  
20 under this subsection, the penalty imposed by a government entity is  
21 reduced by the amount of the payment.

22 (2) Any civil penalties collected pursuant to this section must  
23 be paid to the office of the city attorney, city prosecutor, district  
24 attorney, or attorney general, whichever office brought the action.  
25 Penalties collected by the attorney general on behalf of the state  
26 must be deposited in the compostable products revolving account  
27 created in RCW 70.360.110 (as recodified by this act).

28 (3) The remedies provided by this section are not exclusive and  
29 are in addition to the remedies that may be available pursuant to  
30 chapter 19.86 RCW or other consumer protection laws, if applicable.

31 (4) In addition to penalties recovered under this section, the  
32 enforcing government entity may recover reasonable enforcement costs  
33 and attorneys' fees from the liable manufacturer or supplier.

34 **Sec. 1449.** RCW 70.360.100 and 2019 c 265 s 10 are each amended  
35 to read as follows:

36 Manufacturers and suppliers who violate the requirements of this  
37 chapter are subject to civil penalties described in RCW 70.360.090  
38 (as recodified by this act). A specific violation is deemed to have

1 occurred upon the sale of noncompliant product by stock-keeping unit  
2 number or unique item number. The repeated sale of the same  
3 noncompliant product by stock-keeping unit number or unique item  
4 number is considered a single violation. A city, county, or the state  
5 must send a written notice and a copy of the requirements to a  
6 noncompliant manufacturer or supplier of an alleged violation, who  
7 will have ninety days to become compliant. A city, county, or the  
8 state may assess a first penalty if the manufacturer or supplier has  
9 not met the requirements ninety days following the date the  
10 notification was sent. A city, county, or the state may impose  
11 second, third, and subsequent penalties on a manufacturer or supplier  
12 that remains noncompliant with the requirements of this chapter for  
13 every month of noncompliance.

14 **Sec. 1450.** RCW 70.360.110 and 2019 c 265 s 11 are each amended  
15 to read as follows:

16 The compostable products revolving account is created in the  
17 custody of the state treasurer. All receipts from civil penalties or  
18 other amounts recovered by the state in enforcement actions under RCW  
19 70.360.090 (as recodified by this act) must be deposited in the  
20 account. Expenditures from the account must be used by the attorney  
21 general for the payment of costs, expenses, and charges incurred in  
22 the enforcement of this chapter. Only the attorney general or the  
23 attorney general's designee may authorize expenditures from the  
24 account. The account is subject to allotment procedures under chapter  
25 43.88 RCW, but an appropriation is not required for expenditures.

26 **Sec. 1451.** RCW 70.365.010 and 2019 c 292 s 1 are each reenacted  
27 and amended to read as follows:

28 The definitions in this section apply throughout this chapter  
29 unless the context clearly requires otherwise.

30 (1) "Consumer product" means any item, including any component  
31 parts and packaging, sold for residential or commercial use.

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

33 (3) "Director" means the director of the department.

34 (4) "Electronic product" includes personal computers, audio and  
35 video equipment, calculators, wireless phones, game consoles, and  
36 handheld devices incorporating a video screen that are used to access  
37 interactive software, and the peripherals associated with such  
38 products.

1 (5) "Inaccessible electronic component" means a part or component  
2 of an electronic product that is located inside and entirely enclosed  
3 within another material and is not capable of coming out of the  
4 product or being accessed during any reasonably foreseeable use or  
5 abuse of the product.

6 (6) "Manufacturer" means any person, firm, association,  
7 partnership, corporation, governmental entity, organization, or joint  
8 venture that produces a product or is an importer or domestic  
9 distributor of a product sold or offered for sale in or into the  
10 state.

11 (7) "Organohalogen" means a class of chemicals that includes any  
12 chemical containing one or more halogen elements bonded to carbon.

13 (8) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS  
14 chemicals" means a class of fluorinated organic chemicals containing  
15 at least one fully fluorinated carbon atom.

16 (9) "Phenolic compounds" means alkylphenol ethoxylates and  
17 bisphenols.

18 (10) "Phthalates" means synthetic chemical esters of phthalic  
19 acid.

20 (11) "Polychlorinated biphenyls" or "PCBs" means chemical forms  
21 that consist of two benzene rings joined together and containing one  
22 to ten chlorine atoms attached to the benzene rings.

23 (12) "Priority chemical" means a chemical or chemical class used  
24 as, used in, or put in a consumer product including:

25 (a) Perfluoroalkyl and polyfluoroalkyl substances;

26 (b) Phthalates;

27 (c) Organohalogen flame retardants;

28 (d) Flame retardants, as identified by the department under  
29 chapter 70.240 RCW (as recodified by this act);

30 (e) Phenolic compounds;

31 (f) Polychlorinated biphenyls; or

32 (g) A chemical identified by the department as a priority  
33 chemical under RCW 70.365.020 (as recodified by this act).

34 (13) "Safer alternative" means an alternative that is less  
35 hazardous to humans or the environment than the existing chemical or  
36 chemical process. A safer alternative to a particular chemical may  
37 include a chemical substitute or a change in materials or design that  
38 eliminates the need for a chemical alternative.

1 (14) "Sensitive population" means a category of people that is  
2 identified by the department that may be or is disproportionately or  
3 more severely affected by priority chemicals, such as:

- 4 (a) Men and women of childbearing age;
- 5 (b) Infants and children;
- 6 (c) Pregnant women;
- 7 (d) Communities that are highly impacted by toxic chemicals;
- 8 (e) Persons with occupational exposure; and
- 9 (f) The elderly.

10 (15) "Sensitive species" means a species or grouping of animals  
11 that is identified by the department that may be or is  
12 disproportionately or more severely affected by priority chemicals,  
13 such as:

- 14 (a) Southern resident killer whales;
- 15 (b) Salmon; and
- 16 (c) Forage fish.

17 **Sec. 1452.** RCW 70.365.020 and 2019 c 292 s 2 are each amended to  
18 read as follows:

19 Every five years, and consistent with the timeline established in  
20 RCW 70.365.050 (as recodified by this act), the department, in  
21 consultation with the department of health, must report to the  
22 appropriate committees of the legislature its decision to designate  
23 at least five priority chemicals that meet at least one of the  
24 following:

25 (1) The chemical or a member of a class of chemicals are  
26 identified by the department as a:

- 27 (a) High priority chemical of high concern for children under  
28 chapter 70.240 RCW (as recodified by this act); or
- 29 (b) Persistent, bioaccumulative toxin under chapter 70.105 RCW  
30 (as recodified by this act);

31 (2) The chemical or members of a class of chemicals are  
32 regulated:

- 33 (a) In consumer products under chapter 70.240, 70.76, 70.95G,  
34 70.280, 70.285, 70.95M, or 70.75A RCW (as recodified by this act); or
- 35 (b) As a hazardous substance under chapter 70.105 or 70.105D RCW  
36 (as recodified by this act); or

37 (3) The department determines the chemical or members of a class  
38 of chemicals are a concern for sensitive populations and sensitive  
39 species after considering the following factors:

1 (a) A chemical's or members of a class of chemicals' hazard  
2 traits or environmental or toxicological endpoints;

3 (b) A chemical's or members of a class of chemicals' aggregate  
4 effects;

5 (c) A chemical's or members of a class of chemicals' cumulative  
6 effects with other chemicals with the same or similar hazard traits  
7 or environmental or toxicological endpoints;

8 (d) A chemical's or members of a class of chemicals'  
9 environmental fate;

10 (e) The potential for a chemical or members of a class of  
11 chemicals to degrade, form reaction products, or metabolize into  
12 another chemical or a chemical that exhibits one or more hazard  
13 traits or environmental or toxicological endpoints, or both;

14 (f) The potential for the chemical or class of chemicals to  
15 contribute to or cause adverse health or environmental impacts;

16 (g) The chemical's or class of chemicals' potential impact on  
17 sensitive populations, sensitive species, or environmentally  
18 sensitive habitats;

19 (h) Potential exposures to the chemical or members of a class of  
20 chemicals based on:

21 (i) Reliable information regarding potential exposures to the  
22 chemical or members of a class of chemicals; and

23 (ii) Reliable information demonstrating occurrence, or potential  
24 occurrence, of multiple exposures to the chemical or members of a  
25 class of chemicals.

26 **Sec. 1453.** RCW 70.365.030 and 2019 c 292 s 3 are each amended to  
27 read as follows:

28 (1) Every five years, and consistent with the timeline  
29 established in RCW 70.365.050 (as recodified by this act), the  
30 department, in consultation with the department of health, shall  
31 identify priority consumer products that are a significant source of  
32 or use of priority chemicals. The department must submit a report to  
33 the appropriate committees of the legislature at the time that it  
34 identifies a priority consumer product.

35 (2) When identifying priority consumer products under this  
36 section, the department must consider, at a minimum, the following  
37 criteria:

38 (a) The estimated volume of a priority chemical or priority  
39 chemicals added to, used in, or present in the consumer product;

1 (b) The estimated volume or number of units of the consumer  
2 product sold or present in the state;

3 (c) The potential for exposure to priority chemicals by sensitive  
4 populations or sensitive species when the consumer product is used,  
5 disposed of, or has decomposed;

6 (d) The potential for priority chemicals to be found in the  
7 outdoor environment, with priority given to surface water,  
8 groundwater, marine waters, sediments, and other ecologically  
9 sensitive areas, when the consumer product is used, disposed of, or  
10 has decomposed;

11 (e) If another state or nation has identified or taken regulatory  
12 action to restrict or otherwise regulate the priority chemical in the  
13 consumer product;

14 (f) The availability and feasibility of safer alternatives; and

15 (g) Whether the department has already identified the consumer  
16 product in a chemical action plan completed under chapter 70.105 RCW  
17 (as recodified by this act) as a source of a priority chemical or  
18 other reports or information gathered under chapter 70.240, 70.76,  
19 70.95G, 70.280, 70.285, 70.95M, or 70.75A RCW (as recodified by this  
20 act).

21 (3) The department is not required to give equal weight to each  
22 of the criteria in subsection (2)(a) through (g) of this section when  
23 identifying priority consumer products that use or are a significant  
24 source of priority chemicals.

25 (4) To assist with identifying priority consumer products under  
26 this section and making determinations as authorized under RCW  
27 70.365.040 (as recodified by this act), the department may request a  
28 manufacturer to submit a notice to the department that contains the  
29 information specified in RCW 70.240.040 (1) through (6) (as  
30 recodified by this act) or other information relevant to subsection  
31 (2)(a) through (d) of this section. The manufacturer must provide the  
32 notice to the department no later than six months after receipt of  
33 such a demand by the department.

34 (5)(a) Except as provided in (b) of this subsection, the  
35 department may not identify the following as priority consumer  
36 products under this section:

37 (i) Plastic shipping pallets manufactured prior to 2012;

38 (ii) Food or beverages;

39 (iii) Tobacco products;

1 (iv) Drug or biological products regulated by the United States  
2 food and drug administration;

3 (v) Finished products certified or regulated by the federal  
4 aviation administration or the department of defense, or both, when  
5 used in a manner that was certified or regulated by such agencies,  
6 including parts, materials, and processes when used to manufacture or  
7 maintain such regulated or certified finished products;

8 (vi) Motorized vehicles, including on and off-highway vehicles,  
9 such as all-terrain vehicles, motorcycles, side-by-side vehicles,  
10 farm equipment, and personal assistive mobility devices; and

11 (vii) Chemical products used to produce an agricultural  
12 commodity, as defined in RCW 17.21.020.

13 (b) The department may identify the packaging of products listed  
14 in (a) of this subsection as priority consumer products.

15 (6) For an electronic product identified by the department as a  
16 priority consumer product under this section, the department may not  
17 make a regulatory determination under RCW 70.365.040 (as recodified  
18 by this act) to restrict or require the disclosure of a priority  
19 chemical in an inaccessible electronic component of the electronic  
20 product.

21 **Sec. 1454.** RCW 70.365.040 and 2019 c 292 s 4 are each amended to  
22 read as follows:

23 (1) Every five years, and consistent with the timeline  
24 established in RCW 70.365.050 (as recodified by this act), the  
25 department, in consultation with the department of health, must  
26 determine regulatory actions to increase transparency and to reduce  
27 the use of priority chemicals in priority consumer products. The  
28 department must submit a report to the appropriate committees of the  
29 legislature at the time that it determines regulatory actions. The  
30 department may:

31 (a) Determine that no regulatory action is currently required;

32 (b) Require a manufacturer to provide notice of the use of a  
33 priority chemical or class of priority chemicals consistent with RCW  
34 70.240.040 (as recodified by this act); or

35 (c) Restrict or prohibit the manufacture, wholesale,  
36 distribution, sale, retail sale, or use, or any combination thereof,  
37 of a priority chemical or class of priority chemicals in a consumer  
38 product.

1 (2) (a) The department may order a manufacturer to submit  
2 information consistent with RCW 70.365.030(4) (as recodified by this  
3 act).

4 (b) The department may require a manufacturer to provide:

5 (i) A list of products containing priority chemicals;

6 (ii) Product ingredients;

7 (iii) Information regarding exposure and chemical hazard; and

8 (iv) A description of the amount and the function of the high  
9 priority chemical in the product.

10 (3) The department may restrict or prohibit a priority chemical  
11 or members of a class of priority chemicals in a priority consumer  
12 product when it determines:

13 (a) Safer alternatives are feasible and available; and

14 (b) (i) The restriction will reduce a significant source of or use  
15 of a priority chemical; or

16 (ii) The restriction is necessary to protect the health of  
17 sensitive populations or sensitive species.

18 (4) When determining regulatory actions under this section, the  
19 department may consider, in addition to the criteria pertaining to  
20 the selection of priority chemicals and priority consumer products  
21 that are specified in RCW 70.365.020 and 70.365.030 (as recodified by  
22 this act), whether:

23 (a) The priority chemical or members of a class of priority  
24 chemicals are functionally necessary in the priority consumer  
25 product; and

26 (b) A restriction would be consistent with regulatory actions  
27 taken by another state or nation on a priority chemical or members of  
28 a class of priority chemicals in a product.

29 (5) A restriction or prohibition on a priority chemical in a  
30 consumer product may include exemptions or exceptions, including  
31 exemptions to address existing stock of a product in commerce at the  
32 time that a restriction takes effect.

33 **Sec. 1455.** RCW 70.365.050 and 2019 c 292 s 5 are each amended to  
34 read as follows:

35 (1) (a) By June 1, 2020, and consistent with RCW 70.365.030 (as  
36 recodified by this act), the department shall identify priority  
37 consumer products that are a significant source of or use of priority  
38 chemicals specified in RCW 70.365.010(12) (a) through (f) (as  
39 recodified by this act).



1 (b) By June 1, 2022, and consistent with RCW 70.365.040 (as  
2 recodified by this act), the department must determine regulatory  
3 actions regarding the priority chemicals and priority consumer  
4 products identified in (a) of this subsection.

5 (c) By June 1, 2023, the department must adopt rules to implement  
6 regulatory actions determined under (b) of this subsection.

7 (2)(a) By June 1, 2024, and every five years thereafter, the  
8 department shall select at least five priority chemicals specified in  
9 RCW 70.365.010(12) (a) through (g) (as recodified by this act) that  
10 are identified consistent with RCW 70.365.020 (as recodified by this  
11 act).

12 (b) By June 1, 2025, and every five years thereafter, the  
13 department must identify priority consumer products that contain any  
14 new priority chemicals after notifying the appropriate committees of  
15 the legislature, consistent with RCW 70.365.030 (as recodified by  
16 this act).

17 (c) By June 1, 2027, and every five years thereafter, the  
18 department must determine regulatory actions for any priority  
19 chemicals in priority consumer products identified under (b) of this  
20 subsection, consistent with RCW 70.365.040 (as recodified by this  
21 act).

22 (d) By June 1, 2028, and every five years thereafter, the  
23 department must adopt rules to implement regulatory actions  
24 identified under (c) of this subsection.

25 (3)(a) The designation of priority chemicals by the department  
26 does not take effect until the adjournment of the regular legislative  
27 session immediately following the identification of chemicals, in  
28 order to allow an opportunity for the legislature to add to, limit,  
29 or otherwise amend the list of priority chemicals to be considered by  
30 the department.

31 (b) The designation of priority consumer products by the  
32 department does not take effect until the adjournment of the regular  
33 legislative session immediately following the identification of  
34 priority consumer products, in order to allow an opportunity for the  
35 legislature to add to, limit, or otherwise amend the list of priority  
36 consumer products to be considered by the department.

37 (c) The determination of regulatory actions by the department  
38 does not take effect until the adjournment of the regular legislative  
39 session immediately following the determination by the department, in

1 order to allow an opportunity for the legislature to add to, limit,  
2 or otherwise amend the regulatory determinations by the department.

3 (d) Nothing in this subsection (3) limits the authority of the  
4 department to:

5 (i) Begin to identify priority consumer products for a priority  
6 chemical prior to the effective date of the designation of a priority  
7 chemical;

8 (ii) Begin to consider possible regulatory actions prior to the  
9 effective date of the designation of a priority consumer product; or

10 (iii) Initiate a rule-making process prior to the effective date  
11 of a determination of a regulatory action.

12 (4) (a) When identifying priority chemicals and priority consumer  
13 products under this chapter, the department must notify the public of  
14 the selection, including the identification of the peer-reviewed  
15 science and other sources of information that the department relied  
16 upon, the basis for the selection, and a draft schedule for making  
17 determinations. The notice must be published in the Washington State  
18 Register. The department shall provide the public with an opportunity  
19 for review and comment on the regulatory determinations.

20 (b) (i) By June 1, 2020, the department must create a stakeholder  
21 advisory process to provide expertise, input, and a review of the  
22 department's rationale for identifying priority chemicals and  
23 priority consumer products and proposed regulatory determinations.  
24 The input received from a stakeholder process must be considered and  
25 addressed when adopting rules.

26 (ii) The stakeholder process must include, but is not limited to,  
27 representatives from: Large and small business sectors; community,  
28 environmental, and public health advocacy groups; local governments;  
29 affected and interested businesses; an expert in scientific data  
30 analysis; and public health agencies.

31 **Sec. 1456.** RCW 70.365.070 and 2019 c 292 s 7 are each amended to  
32 read as follows:

33 (1) A manufacturer violating a requirement of this chapter, a  
34 rule adopted under this chapter, or an order issued under this  
35 chapter, is subject to a civil penalty not to exceed five thousand  
36 dollars for each violation in the case of a first offense.  
37 Manufacturers who are repeat violators are subject to a civil penalty  
38 not to exceed ten thousand dollars for each repeat offense.

1 (2) Any penalty provided for in this section, and any order  
2 issued by the department under this chapter, may be appealed to the  
3 pollution control hearings board.

4 (3) All penalties collected under this chapter shall be deposited  
5 in the ((state)) model toxics control operating account created in  
6 RCW ((70.105D.070)) 70.105D.190 (as recodified by this act).

7 **Sec. 1457.** RCW 70.365.080 and 2019 c 292 s 8 are each amended to  
8 read as follows:

9 (1) The department may adopt rules as necessary for the purpose  
10 of implementing, administering, and enforcing this chapter.

11 (2)(a) The department must adopt rules to implement the  
12 determinations of regulatory actions specified in RCW 70.365.040(1)  
13 (b) or (c) (as recodified by this act). When proposing or adopting  
14 rules to implement regulatory determinations specified in this  
15 subsection, the department must identify the expected costs and  
16 benefits of the proposed or adopted rules to state agencies to  
17 administer and enforce the rules and to private persons or  
18 businesses, by category of type of person or business affected.

19 (b) A rule adopted to implement a regulatory determination  
20 involving a restriction on the manufacture, wholesale, distribution,  
21 sale, retail sale, or use of a priority consumer product containing a  
22 priority chemical may take effect no sooner than three hundred sixty-  
23 five days after the adoption of the rule.

24 (c) Each rule adopted to implement a determination of regulatory  
25 action specified in RCW 70.365.040(1) (b) or (c) (as recodified by  
26 this act) is a significant legislative rule for purposes of RCW  
27 34.05.328. The department must prepare a small business economic  
28 impact statement consistent with the requirements of RCW 19.85.040  
29 for each rule to implement a determination of a regulatory action  
30 specified in RCW 70.365.040(1) (b) or (c) (as recodified by this  
31 act).

32 **Sec. 1458.** RCW 70.375.020 and 2019 c 344 s 2 are each amended to  
33 read as follows:

34 The definitions in this section apply throughout this chapter  
35 unless the content clearly requires otherwise.

36 (1)(a) "Architectural paint" or "paint" means interior and  
37 exterior architectural coatings, sold in a container of five gallons  
38 or less.

1 (b) "Architectural paint" or "paint" does not mean industrial  
2 coatings, original equipment coatings, or specialty coatings.

3 (2) "Architectural paint stewardship assessment" or "assessment"  
4 means the amount determined by a stewardship organization that must  
5 be added to the purchase price of architectural paint sold in this  
6 state to cover a stewardship organization's costs of administration,  
7 education and outreach, collecting, transporting, and processing of  
8 the leftover architectural paint managed through a statewide  
9 architectural paint stewardship program.

10 (3) "Conditionally exempt small quantity generator" means a  
11 dangerous waste generator whose dangerous wastes are not subject to  
12 regulation under chapter 70.105 RCW (as recodified by this act),  
13 hazardous waste management, solely because the waste is generated or  
14 accumulated in quantities below the threshold for regulation and  
15 meets the conditions prescribed in WAC ~~((173-303-070(8)(b)))~~  
16 173-303-171(1), as it existed on July 28, 2019.

17 (4) "Conditionally exempt small quantity generator waste" means  
18 dangerous waste generated by a conditionally exempt small quantity  
19 generator.

20 (5) "Consumer" includes any household, nonprofit, small business,  
21 or other entity whose leftover paint is eligible under applicable  
22 laws and regulations.

23 (6) "Covered entity" means any: (a) Household; (b) conditionally  
24 exempt small quantity generator of leftover oil-based and latex  
25 architectural paint; or (c) generator of dangerous waste as defined  
26 in RCW 70.105.010 (as recodified by this act) that brings leftover  
27 architectural latex paint to a paint program collection site  
28 operating under an approved Washington state paint stewardship plan.

29 (7) "Curbside service" means a waste collection, recycling, and  
30 disposal service providing pickup of leftover architectural paint  
31 from residential sources, such as single-family households and  
32 multifamily housing, or other covered entities in quantities  
33 generated from households or conditionally exempt small quantity  
34 generators, provided by a solid waste collection company regulated  
35 under chapter 81.77 RCW or under a contract for solid waste services  
36 with any city or town.

37 (8) "Department" means the department of ecology.

38 (9) "Distributor" means a person that has a contractual  
39 relationship with one or more manufacturers to market and sell  
40 architectural paint to retailers in Washington.

1 (10) "End-of-life" or "end-of-life management" means activities  
2 including, but not limited to, collection, transportation, reuse,  
3 recycling, energy recovery, and disposal for leftover architectural  
4 paint.

5 (11) "Energy recovery" means the recovery of energy in a useable  
6 form from mass burning or refuse-derived fuel incineration,  
7 pyrolysis, or any other means of using the heat of combustion of  
8 solid waste that involves high temperature (above twelve hundred  
9 degrees Fahrenheit) processing.

10 (12) "Environmentally sound management practices" means practices  
11 that comply with all applicable laws and rules to protect workers,  
12 public health, and the environment, provide for adequate  
13 recordkeeping, tracking and documenting the fate of materials within  
14 the state and beyond, and include environmental liability coverage  
15 for the stewardship organization.

16 (13) "Final disposition" means the point beyond which no further  
17 processing takes place and the paint has been transformed for direct  
18 use as a feedstock in producing new products or is disposed of,  
19 including for energy recovery, in permitted facilities.

20 (14) "Household hazardous waste" means waste that exhibits any of  
21 the properties of dangerous waste that is exempt from regulation  
22 under chapter 70.105 RCW (as recodified by this act) solely because  
23 the waste is generated by households. Household hazardous waste may  
24 also include other solid waste identified in the local hazardous  
25 waste management plan prepared pursuant to chapter 70.105 RCW (as  
26 recodified by this act).

27 (15) "Leftover paint" or "leftover architectural paint" means  
28 architectural paint not used and no longer wanted by a consumer.

29 (16) "Moderate risk waste" means solid waste that is limited to  
30 conditionally exempt small quantity generator waste and household  
31 hazardous waste as defined in this chapter.

32 (17) "Paint retailer" means any person that offers architectural  
33 paint for sale at retail in Washington.

34 (18) "Person" includes any individual, business, manufacturer,  
35 transporter, collector, processor, retailer, charity, nonprofit  
36 organization, or government agency.

37 (19) "Producer" means a manufacturer of architectural paint that  
38 is sold, offered for sale, or distributed in Washington under the  
39 producer's own name or other brand name.

1 (20) "Recycling" means transforming or remanufacturing waste  
2 materials into usable or marketable materials for use other than  
3 landfill disposal, energy recovery, or incineration. Recycling does  
4 not include collection, compacting, repacking, and sorting for the  
5 purpose of transport.

6 (21) "Reuse" means any operation by which an architectural paint  
7 product changes ownership and is used for the same purpose for which  
8 it was originally purchased.

9 (22) "Sell" or "sale" means any transfer of title for  
10 consideration, including remote sales conducted through sales  
11 outlets, catalogues, or the internet or any other similar electronic  
12 means.

13 (23) "Stewardship organization" means a nonprofit organization  
14 created by a producer or group of producers to implement a paint  
15 stewardship program required under this chapter.

16 (24) "Urban cluster" means areas of population density of two  
17 thousand five hundred to fifty thousand, as defined by the United  
18 States census bureau.

19 (25) "Urbanized area" means areas of high population density with  
20 populations of fifty thousand or greater, as defined by the United  
21 States census bureau.

22 **Sec. 1459.** RCW 70.375.040 and 2019 c 344 s 4 are each amended to  
23 read as follows:

24 (1) A stewardship organization representing producers shall  
25 submit a plan for the implementation of a paint stewardship program  
26 to the department for approval by May 30, 2020, or within one year of  
27 July 28, 2019, whichever comes later. The plan must include the  
28 following components:

29 (a) A description of how the program proposed under the plan will  
30 collect, transport, recycle, and process leftover paint from covered  
31 entities for end-of-life management, including reuse, recycling,  
32 energy recovery, and disposal, using environmentally sound management  
33 practices;

34 (b) Stewardship organization contact information and a list of  
35 participating brands and producers under the program;

36 (c) A demonstration of sufficient funding for the architectural  
37 paint stewardship program as described in the plan. The plan must  
38 include a funding mechanism whereby each architectural paint producer  
39 remits to the stewardship organization payment of an architectural

1 paint stewardship assessment for each container of architectural  
2 paint the producer sells in this state, unless the distributor or  
3 paint retailer has negotiated a voluntary agreement with the producer  
4 and stewardship organization to remit the architectural paint  
5 stewardship assessment directly to the stewardship organization on  
6 behalf of the producer for the producer's architectural paint sold by  
7 the distributor or paint retailer in the state. The plan must include  
8 a proposed budget and a description of the process used to determine  
9 the architectural paint stewardship assessment. The architectural  
10 paint stewardship assessment must be added to the cost of all  
11 architectural paint sold to Washington paint retailers and  
12 distributors, unless the distributor or paint retailer has negotiated  
13 an agreement voluntarily with the producer and stewardship  
14 organization to remit the assessment directly to the stewardship  
15 organization on behalf of the producer for the producer's  
16 architectural paint sold by the distributor or paint retailer in the  
17 state. Each Washington paint retailer or distributor must add the  
18 assessment to the purchase price of all architectural paint sold in  
19 this state. Manufacturers may not require retailers to opt to  
20 participate in a voluntary remittance agreement;

21 (d) The establishment in the plan of a uniform architectural  
22 paint stewardship assessment for all architectural paint sold in this  
23 state, in order to ensure that the funding mechanism is equitable and  
24 sustainable. For purposes of establishing the assessment, the plan  
25 must categorize the sizes of paint containers sold at retail and  
26 determine a uniform assessment amount that applies to each category  
27 of container size. The architectural paint stewardship assessment  
28 must be sufficient to recover the costs of the architectural paint  
29 stewardship program. With the exception of the annual administration  
30 costs paid to the department under RCW 70.375.060(4) (as recodified  
31 by this act), the department may not control or have spending  
32 authority related to the funds received by the stewardship  
33 organization from the assessment. Funds received by the stewardship  
34 organization are not state funds and are not eligible to be  
35 transferred for other state purposes in an appropriations act. The  
36 plan must require that any surplus funds generated from the funding  
37 mechanism that exceed a reserve greater than the most recent year's  
38 operating expenditures be put back into the program to either  
39 increase and improve program services or reduce the cost of the  
40 program and the architectural paint stewardship assessment, or both;

1 (e) A review by an independent financial auditor of the proposed  
2 architectural paint stewardship assessment to ensure that any added  
3 cost to paint sold in the state as a result of the paint stewardship  
4 program does not exceed the costs of the program. In a report to the  
5 department, the independent auditor must verify that the amount added  
6 to each unit of paint will cover the costs of the paint stewardship  
7 program;

8 (f) Assignment to the department of responsibility for the  
9 approval of the architectural paint stewardship assessment based on  
10 the information provided in the plan and the auditor's report;

11 (g) A description of the educational outreach strategy to reduce  
12 the generation of leftover paint, to promote the reuse and recycling  
13 of leftover paint, for the overall collection of leftover paint, and  
14 for the proper end-of-life management of leftover paint. The  
15 strategies may be revised by a stewardship organization based on the  
16 information collected annually;

17 (h) A description of the reasonably convenient and available  
18 statewide collection system, including:

19 (i) A description of how the program will provide for reasonably  
20 convenient and available statewide collection of leftover paint from  
21 covered entities in urban and rural areas of the state, including  
22 island communities;

23 (ii) A description of how the program will incorporate existing  
24 public and private waste collection services and facilities for  
25 activities, which may include, but is not limited to:

26 (A) The reuse or processing of leftover architectural paint at  
27 the permanent collection site; and

28 (B) The collection, transportation, and recycling or proper  
29 disposal of leftover architectural paint;

30 (i) A description of how leftover paint will be managed using  
31 environmentally sound management practices, including reasonably  
32 following the paint waste management hierarchy of: Source reduction;  
33 reuse; recycling; energy recovery; and disposal;

34 (j) A description of education and outreach efforts to promote  
35 the paint stewardship program. The education and outreach efforts  
36 must include strategies for reaching all sectors of the population  
37 and describe how the paint stewardship program will evaluate the  
38 effectiveness of its education and outreach;

39 (k) A description of collection site procedural manuals for  
40 architectural paint products, including training procedures and



1 electronic copies of materials that will be provided to collection  
2 sites; and

3 (1) A list of transporters that will be used to manage leftover  
4 paint collected by the stewardship organization and a list of  
5 potential processors to be used for final disposition.

6 (2) (a) To ensure adequate collection coverage, the plan must use  
7 geographic information modeling and the information required under  
8 subsection (1) (h) of this section to determine the number and  
9 distribution of collection sites based on the following criteria: At  
10 least ninety percent of Washington residents must have a permanent  
11 collection site within a fifteen-mile radius; and unless otherwise  
12 approved by the department, one additional permanent site must be  
13 established for every thirty thousand residents of an urbanized area  
14 and for every urban cluster of at least thirty thousand residents  
15 distributed to provide convenient and reasonably equitable access for  
16 residents within each.

17 (b) For the portion of the population that does not have a  
18 permanent collection location within a fifteen-mile radius, the plan  
19 must provide residents a reasonable opportunity to drop off leftover  
20 paint at collection events. The stewardship organization, in  
21 consultation with the department and the local community, will  
22 determine a reasonable frequency and location of these collection  
23 events, to be held in underserved areas. Special consideration is to  
24 be made for providing opportunities to island and geographically  
25 isolated populations.

26 (3) (a) Nothing in subsection (2) of this section prohibits a  
27 program plan from identifying an available curbside service for a  
28 specific area or population that provides convenient and reasonably  
29 equitable access for Washington residents that is at least equivalent  
30 to the level of convenience and access that would be provided by a  
31 collection site.

32 (b) A fee may not be charged at the time the unwanted paint is  
33 delivered or collected for management. However, this subsection  
34 (3) (b) does not prohibit collectors providing curbside services from  
35 charging customers a fee, as provided by city contract or by the  
36 Washington utilities and transportation commission under the  
37 authority of chapter 81.77 RCW, for the additional collection cost of  
38 providing this service.

1 (4) The program plan must utilize the existing public and private  
2 waste collection services and facilities where cost-effective and  
3 mutually agreeable.

4 (5) The program must utilize existing paint retail stores as  
5 collection sites where cost-effective and mutually agreeable.

6 (6) The plan must provide the collection site name and location  
7 of each site statewide in Washington accepting architectural paint  
8 under the program.

9 (7) A stewardship organization shall promote a paint stewardship  
10 program and provide consumers, covered entities, and paint retailers  
11 with educational and informational materials describing collection  
12 opportunities for leftover paint statewide, the architectural paint  
13 stewardship assessment used to finance the program, and promotion of  
14 waste prevention, reuse, and recycling. These materials may include,  
15 but are not limited to, the following:

16 (a) Signage that is prominently displayed and easily visible to  
17 the consumer;

18 (b) Written materials and templates of materials for reproduction  
19 by paint retailers to be provided to the consumer at the time of  
20 purchase or delivery, or both;

21 (c) Advertising or other promotional materials, or both, that  
22 include references to the architectural paint stewardship program;  
23 and

24 (d) An explanation that the architectural paint stewardship  
25 assessment has been added to the purchase price of architectural  
26 paint to fund the paint stewardship program in the state. The  
27 architectural paint stewardship assessment may not be described as a  
28 department recycling fee at the point of retail.

29 (8) A stewardship organization must submit a new plan or plan  
30 amendment to the department for approval when there is a change to  
31 the amount of the assessment, if required by the department, or every  
32 five years, if the department deems it necessary.

33 **Sec. 1460.** RCW 70.375.050 and 2019 c 344 s 5 are each amended to  
34 read as follows:

35 (1) Each stewardship organization shall submit a paint  
36 stewardship program plan in accordance with RCW 70.375.040 (as  
37 recodified by this act).

1 (2) Each stewardship organization shall develop and distribute a  
2 collection site procedural manual to collection sites to help ensure  
3 proper management of architectural paints at collection locations.

4 (3) A stewardship organization shall implement the paint  
5 stewardship program plan by November 30, 2020, or within six months  
6 after approval of a paint stewardship program plan under RCW  
7 70.375.040 (as recodified by this act), whichever is later.

8 (4) A stewardship organization shall submit an annual report by  
9 October 15, 2020, or a later date agreed to by the department,  
10 structured to be used as a basis for annual plan review by the  
11 department. The report must be based on the requirements outlined in  
12 RCW 70.375.080 (as recodified by this act).

13 (5) A stewardship organization shall work with producers,  
14 distributors, paint retailers, and local governments to provide  
15 consumers with educational and informational materials describing  
16 collection opportunities for leftover paint statewide and promotion  
17 of waste prevention, reuse, and recycling of leftover paint.

18 (6) A stewardship organization shall pay an annual administrative  
19 fee, described in RCW 70.375.060 (as recodified by this act), in an  
20 amount sufficient to cover only the department's cost of  
21 administering and enforcing a paint stewardship program established  
22 under this chapter.

23 **Sec. 1461.** RCW 70.375.060 and 2019 c 344 s 6 are each amended to  
24 read as follows:

25 (1) The department shall review the plan within one hundred  
26 twenty days of receipt, and make a determination as to whether or not  
27 to approve the plan. The department shall provide a letter of  
28 approval for the plan if it provides for the establishment of a paint  
29 stewardship program that meets the requirements of RCW 70.375.040 and  
30 70.375.050 (as recodified by this act). If a plan is rejected, the  
31 department shall provide the reasons for rejecting the plan to the  
32 stewardship organization. The stewardship organization must submit a  
33 new plan within sixty days after receipt of the letter of  
34 disapproval.

35 (2) When a plan or an amendment to an approved plan is submitted  
36 under this section, the department shall make the proposed plan or  
37 amendment available for public review and comment for at least thirty  
38 days.

1 (3) The department shall provide oversight of a stewardship  
2 organization in the determination and implementation of the  
3 architectural paint stewardship assessment specified in RCW  
4 70.375.040(1) (as recodified by this act).

5 (4) The department shall identify the costs it incurs under this  
6 chapter. The department shall set the fee at an amount that, when  
7 paid by every stewardship organization or producer that submits a  
8 plan, is adequate to reimburse the department's full costs of  
9 administering and enforcing this chapter. The total amount of annual  
10 fees collected under this subsection must not exceed the amount  
11 necessary to reimburse costs incurred by the department to enforce  
12 and administer this chapter.

13 (5) A stewardship organization or producer subject to this  
14 chapter must pay the department's administrative fee under this  
15 subsection on or before June 30, 2020, and annually thereafter. The  
16 annual administrative fee may not exceed five percent of the  
17 aggregate assessment added to the cost of all architectural paint  
18 sold by producers in the state for the preceding calendar year.

19 (6) The department shall enforce this chapter.

20 (a) The department may administratively impose a civil penalty on  
21 any person who violates this chapter in an amount of up to one  
22 thousand dollars per violation per day.

23 (b) The department may administratively impose a civil penalty of  
24 up to ten thousand dollars per violation per day on any person who  
25 intentionally, knowingly, or negligently violates this chapter.

26 (c) Any person who incurs a penalty under this section may appeal  
27 the penalty to the pollution control hearings board established by  
28 chapter 43.21B RCW.

29 (7) Upon the date the first plan is approved, the department  
30 shall post on its web site a list of producers and their brands for  
31 which the department has approved a plan pursuant to RCW 70.375.040  
32 (as recodified by this act). The department shall update the list of  
33 producers and brands participating under an approved program plan on  
34 a monthly basis based on information provided to the department from  
35 a stewardship organization.

36 (8) Upon a demonstration to the satisfaction of the department  
37 that a previously unlisted producer is in compliance with this  
38 chapter, within fourteen days the department must add the name of the  
39 producer to its web site.

1 (9) The department shall review each annual report required  
2 pursuant to RCW 70.375.080 (as recodified by this act) within ninety  
3 days of its submission to ensure compliance with RCW 70.375.080(1)  
4 (as recodified by this act).

5 (10) The department may adopt rules as necessary for the purpose  
6 of implementing, administering, and enforcing this chapter.

7 **Sec. 1462.** RCW 70.375.080 and 2019 c 344 s 8 are each amended to  
8 read as follows:

9 (1) By October 15, 2020, and annually thereafter, a stewardship  
10 organization shall submit to the department a report describing the  
11 paint stewardship program that the stewardship organization  
12 implemented during the previous fiscal year. The report must include  
13 all of the following:

14 (a) A description of the methods the stewardship organization  
15 used to reduce, reuse, collect, transport, recycle, and process  
16 leftover paint statewide in Washington;

17 (b) The volume of latex and oil-based architectural paint  
18 collected by the stewardship organization in the preceding fiscal  
19 year in Washington, including any increase in total volume of paint  
20 collected each year, and the cost of the paint stewardship program  
21 per gallon of paint collected;

22 (c) The volume of latex and oil-based architectural paint  
23 collected by method of disposition, including reuse, recycling,  
24 energy recovery, and disposal;

25 (d) An estimate of the total weight of all paint containers  
26 recycled by the program;

27 (e) A list of all processors through final disposition that are  
28 used to manage leftover paint collected by the stewardship  
29 organization in the preceding year;

30 (f) A list of all the producers participating in the plan;

31 (g) The total volume of architectural paint sold in Washington  
32 during the preceding year based on the architectural paint  
33 stewardship assessment collected by the stewardship organization;

34 (h) An independent financial audit of the paint stewardship  
35 program implemented by the stewardship organization, including a  
36 breakdown of the program's expenses, such as collection, recycling,  
37 education, and overhead;

1 (i) The total cost of implementing the paint stewardship program  
2 broken out by administrative, collection, transportation and  
3 disposition, and communications costs;

4 (j) An evaluation of the effectiveness of the paint stewardship  
5 program from year to year, and anticipated steps, if needed, to  
6 improve performance throughout the state; and

7 (k) A summary of outreach and education activities undertaken and  
8 samples of the educational materials that the stewardship  
9 organization provided to consumers of architectural paint during the  
10 first year of the program and any changes to those materials in  
11 subsequent years.

12 (2) The department must make all reports submitted under this  
13 section available to the general public through the internet.  
14 Consistent with RCW 70.375.130 (as recodified by this act), valuable  
15 commercial information submitted to the department under this chapter  
16 is exempt from public disclosure under RCW 42.56.270. However, the  
17 department may use and disclose such information in summary or  
18 aggregated form as long as the disclosure does not directly or  
19 indirectly identify financial, production, or sales data of an  
20 individual producer or stewardship organization. The department is  
21 not required to notify individual producers prior to making available  
22 to the general public the reports submitted under this section or  
23 aggregated or summarized information from reports submitted under  
24 this section.

25 **Sec. 1463.** RCW 70.375.090 and 2019 c 344 s 9 are each amended to  
26 read as follows:

27 Producers or stewardship organizations acting on behalf of  
28 producers that prepare, submit, and implement a paint stewardship  
29 program plan pursuant to RCW 70.375.040 (as recodified by this act)  
30 and thereby are subject to regulation by the department are granted  
31 immunity from state laws relating to antitrust, restraint of trade,  
32 unfair trade practices, and other regulation of trade and commerce,  
33 for the limited purpose of planning, reporting, and operating a paint  
34 stewardship program and proposing and establishing the architectural  
35 paint stewardship assessment required in RCW 70.375.040(1) (c) and  
36 (d) (as recodified by this act).

37 **Sec. 1464.** RCW 70.380.020 and 2019 c 460 s 2 are each amended to  
38 read as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

3 (1) "Brand" means a name, symbol, word, or mark that identifies a  
4 product, rather than its components, and attributes the covered  
5 product to the owner of the brand as the producer.

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

7 (3) "Producer" means a person who has legal ownership of the  
8 brand, brand name, or cobrand of plastic packaging sold in or into  
9 Washington state.

10 (4) "Recycling" has the same meaning as defined in RCW 70.95.030  
11 (as recodified by this act).

12 (5) "Stakeholder" means a person who may have an interest in or  
13 be affected by the management of plastic packaging.

14 **Sec. 1465.** RCW 77.55.061 and 1994 c 257 s 18 are each amended to  
15 read as follows:

16 The procedural requirements of this chapter shall not apply to  
17 any person conducting a remedial action at a facility pursuant to a  
18 consent decree, order, or agreed order issued pursuant to chapter  
19 70.105D RCW (as recodified by this act), or to the department of  
20 ecology when it conducts a remedial action under chapter 70.105D RCW  
21 (as recodified by this act). The department of ecology shall ensure  
22 compliance with the substantive requirements of this chapter through  
23 the consent decree, order, or agreed order issued pursuant to chapter  
24 70.105D RCW (as recodified by this act), or during the department-  
25 conducted remedial action, through the procedures developed by the  
26 department pursuant to RCW 70.105D.090 (as recodified by this act).

27 **Sec. 1466.** RCW 81.77.010 and 2007 c 234 s 65 are each amended to  
28 read as follows:

29 As used in this chapter:

30 (1) "Motor vehicle" means any truck, trailer, semitrailer,  
31 tractor, or any self-propelled or motor driven vehicle used upon any  
32 public highway of this state for the purpose of transporting solid  
33 waste, for the collection or disposal, or both, of solid waste;

34 (2) "Public highway" means every street, road, or highway in this  
35 state;

36 (3) "Common carrier" means any person who collects and transports  
37 solid waste for disposal by motor vehicle for compensation, whether

1 over regular or irregular routes, or by regular or irregular  
2 schedules;

3 (4) "Contract carrier" means all solid waste transporters not  
4 included under the terms "common carrier" and "private carrier," as  
5 defined in this section, and further, includes any person who under  
6 special and individual contracts or agreements transports solid waste  
7 by motor vehicle for compensation;

8 (5) "Private carrier" means a person who, in his or her own  
9 vehicle, transports solid waste purely as an incidental adjunct to  
10 some other established private business owned or operated by the  
11 person in good faith. A person who transports solid waste from  
12 residential sources in a vehicle designed or used primarily for the  
13 transport of solid waste is not a private carrier;

14 (6) "Vehicle" means every device capable of being moved upon a  
15 public highway and in, upon, or by which any solid waste is or may be  
16 transported or drawn upon a public highway, except devices moved by  
17 human or animal power or used exclusively upon stationary rail or  
18 tracks;

19 (7) "Solid waste collection company" means every person or his or  
20 her lessees, receivers, or trustees, owning, controlling, operating,  
21 or managing vehicles used in the business of transporting solid waste  
22 for collection or disposal, or both, for compensation, except septic  
23 tank pumpers, over any public highway in this state as a "common  
24 carrier" or as a "contract carrier";

25 (8) "Solid waste collection" does not include collecting or  
26 transporting recyclable materials from a drop-box or recycling buy-  
27 back center, or collecting or transporting recyclable materials by or  
28 on behalf of a commercial or industrial generator of recyclable  
29 materials to a recycler for use or reclamation. Transportation of  
30 these materials is regulated under chapter 81.80 RCW;

31 (9) "Solid waste" means the same as defined under RCW 70.95.030  
32 (as recodified by this act), except for the purposes of this chapter  
33 solid waste does not include recyclable materials except for source  
34 separated recyclable materials collected from residences; and

35 (10) When the phrase "garbage and refuse" is used as a qualifying  
36 phrase or otherwise, it means "solid waste."

37 **Sec. 1467.** RCW 81.77.030 and 2005 c 121 s 5 are each amended to  
38 read as follows:



1 The commission shall supervise and regulate every solid waste  
2 collection company in this state,

3 (1) By fixing and altering its rates, charges, classifications,  
4 rules and regulations;

5 (2) By regulating the accounts, service, and safety of  
6 operations;

7 (3) By requiring the filing of annual and other reports and data;

8 (4) By supervising and regulating such persons or companies in  
9 all other matters affecting the relationship between them and the  
10 public which they serve;

11 (5) By requiring compliance with local solid waste management  
12 plans and related implementation ordinances;

13 (6) By requiring certificate holders under chapter 81.77 RCW to  
14 use rate structures and billing systems consistent with the solid  
15 waste management priorities set forth under RCW 70.95.010 (as  
16 recodified by this act) and the minimum levels of solid waste  
17 collection and recycling services pursuant to local comprehensive  
18 solid waste management plans. The commission may order consolidated  
19 billing and provide for reasonable and necessary expenses to be paid  
20 to the administering company if more than one certificate is granted  
21 in an area.

22 The commission, on complaint made on its own motion or by an  
23 aggrieved party, at any time, after providing the holder of any  
24 certificate with notice and an opportunity for a hearing at which it  
25 shall be proven that the holder has willfully violated or refused to  
26 observe any of the commission's orders, rules, or regulations, or has  
27 failed to operate as a solid waste collection company for a period of  
28 at least one year preceding the filing of the complaint, may suspend,  
29 revoke, alter, or amend any certificate issued under the provisions  
30 of this chapter.

31 **Sec. 1468.** RCW 81.77.040 and 2010 c 24 s 1 are each amended to  
32 read as follows:

33 A solid waste collection company shall not operate for the  
34 hauling of solid waste for compensation without first having obtained  
35 from the commission a certificate declaring that public convenience  
36 and necessity require such operation. Operating for the hauling of  
37 solid waste for compensation includes advertising, soliciting,  
38 offering, or entering into an agreement to provide that service. To  
39 operate a solid waste collection company in the unincorporated areas

1 of a county, the company must comply with the solid waste management  
2 plan prepared under chapter 70.95 RCW (as recodified by this act) in  
3 the company's franchise area.

4 Issuance of the certificate of necessity must be determined on,  
5 but not limited to, the following factors: The present service and  
6 the cost thereof for the contemplated area to be served; an estimate  
7 of the cost of the facilities to be utilized in the plant for solid  
8 waste collection and disposal, set out in an affidavit or  
9 declaration; a statement of the assets on hand of the person, firm,  
10 association, or corporation that will be expended on the purported  
11 plant for solid waste collection and disposal, set out in an  
12 affidavit or declaration; a statement of prior experience, if any, in  
13 such field by the petitioner, set out in an affidavit or declaration;  
14 and sentiment in the community contemplated to be served as to the  
15 necessity for such a service.

16 When an applicant requests a certificate to operate in a  
17 territory already served by a certificate holder under this chapter,  
18 the commission may, after notice and an opportunity for a hearing,  
19 issue the certificate only if the existing solid waste collection  
20 company or companies serving the territory will not provide service  
21 to the satisfaction of the commission or if the existing solid waste  
22 collection company does not object.

23 In all other cases, the commission may, with or without hearing,  
24 issue certificates, or for good cause shown refuse to issue them, or  
25 issue them for the partial exercise only of the privilege sought, and  
26 may attach to the exercise of the rights granted such terms and  
27 conditions as, in its judgment, the public convenience and necessity  
28 may require.

29 Any right, privilege, certificate held, owned, or obtained by a  
30 solid waste collection company may be sold, assigned, leased,  
31 transferred, or inherited as other property, only if authorized by  
32 the commission.

33 For purposes of issuing certificates under this chapter, the  
34 commission may adopt categories of solid wastes as follows: Garbage,  
35 refuse, recyclable materials, and demolition debris. A certificate  
36 may be issued for one or more categories of solid waste. Certificates  
37 issued on or before July 23, 1989, shall not be expanded or  
38 restricted by operation of this chapter.

1       **Sec. 1469.** RCW 82.04.660 and 2015 c 185 s 2 are each amended to  
2 read as follows:

3       (1) An exemption from the taxes imposed in this chapter is  
4 provided for:

5       (a) Producers, with respect to environmental handling charges  
6 added to the purchase price of mercury-containing lights either by  
7 the producer or a retailer pursuant to an agreement with the  
8 producer;

9       (b) Retailers, with respect to environmental handling charges  
10 added to the purchase price of mercury-containing lights sold at  
11 retail, including the portion of environmental handling charges  
12 retained as reimbursement for any costs associated with the  
13 collection and remittance of the charges; and

14       (c) Stewardship organizations, with respect to environmental  
15 handling charges received from producers and retailers.

16       (2) This section is not subject to the requirements of RCW  
17 82.32.805 and 82.32.808.

18       (3) For purposes of this section, the definitions in RCW  
19 70.275.020 (as recodified by this act) apply.

20       **Sec. 1470.** RCW 82.04.755 and 2015 c 15 s 7 are each amended to  
21 read as follows:

22       (1) This chapter does not apply to grants received by a nonprofit  
23 organization from the matching fund competitive grant program  
24 established in RCW 70.93.180(1)(b)(ii) (as recodified by this act).

25       (2) This section is not subject to the requirements of RCW  
26 82.32.805 and 82.32.808, and is not subject to an expiration date.

27       **Sec. 1471.** RCW 82.04.765 and 2019 c 344 s 15 are each amended to  
28 read as follows:

29       (1) This chapter does not apply to the receipts attributable to  
30 the assessment on architectural paint imposed pursuant to chapter  
31 70.375 RCW (as recodified by this act).

32       (2) This section is not subject to the requirements of RCW  
33 82.32.805 and 82.32.808, and is not subject to an expiration date.

34       **Sec. 1472.** RCW 82.08.0287 and 2014 c 97 s 503 are each amended  
35 to read as follows:

36       (1) The tax imposed by this chapter does not apply to sales of  
37 passenger motor vehicles which are to be used primarily for commuter

1 ride sharing or ride sharing for persons with special transportation  
2 needs, as defined in RCW 46.74.010, if the vehicles are used as ride-  
3 sharing vehicles for thirty-six consecutive months beginning from the  
4 date of purchase.

5 (2) To qualify for the tax exemption, those passenger motor  
6 vehicles with five or six passengers, including the driver, used for  
7 commuter ride sharing, must be operated either within the state's  
8 eight largest counties that are required to develop commute trip  
9 reduction plans as directed by chapter 70.94 RCW (as recodified by  
10 this act) or in other counties, or cities and towns within those  
11 counties, that elect to adopt and implement a commute trip reduction  
12 plan. Additionally at least one of the following conditions must  
13 apply: (a) The vehicle must be operated by a public transportation  
14 agency for the general public; or (b) the vehicle must be used by a  
15 major employer, as defined in RCW 70.94.524 (as recodified by this  
16 act) as an element of its commute trip reduction program for their  
17 employees; or (c) the vehicle must be owned and operated by  
18 individual employees and must be registered either with the employer  
19 as part of its commute trip reduction program or with a public  
20 transportation agency serving the area where the employees live or  
21 work. Individual employee owned and operated motor vehicles will  
22 require certification that the vehicle is registered with a major  
23 employer or a public transportation agency. Major employers who own  
24 and operate motor vehicles for their employees must certify that the  
25 commuter ride-sharing arrangement conforms to a carpool/vanpool  
26 element contained within their commute trip reduction program.

27 **Sec. 1473.** RCW 82.08.810 and 1997 c 368 s 2 are each amended to  
28 read as follows:

29 (1) For the purposes of this section, "air pollution control  
30 facilities" mean any treatment works, control devices and disposal  
31 systems, machinery, equipment, structures, property, property  
32 improvements, and accessories, that are installed or acquired for the  
33 primary purpose of reducing, controlling, or disposing of industrial  
34 waste that, if released to the outdoor atmosphere, could cause air  
35 pollution, or that are required to meet regulatory requirements  
36 applicable to their construction, installation, or operation.

37 (2) The tax levied by RCW 82.08.020 does not apply to:

38 (a) Sales of tangible personal property to a light and power  
39 business, as defined in RCW 82.16.010, for construction or

1 installation of air pollution control facilities at a thermal  
2 electric generation facility; or

3 (b) Sales of, cost of, or charges made for labor and services  
4 performed in respect to the construction or installation of air  
5 pollution control facilities.

6 (3) The exemption provided under this section applies only to  
7 sales, costs, or charges:

8 (a) Incurred for air pollution control facilities constructed or  
9 installed after May 15, 1997, and used in a thermal electric  
10 generation facility placed in operation after December 31, 1969, and  
11 before July 1, 1975;

12 (b) If the air pollution control facilities are constructed or  
13 installed to meet applicable regulatory requirements established  
14 under state or federal law, including the Washington clean air act,  
15 chapter 70.94 RCW (as recodified by this act); and

16 (c) For which the purchaser provides the seller with an exemption  
17 certificate, signed by the purchaser or purchaser's agent, that  
18 includes a description of items or services for which payment is  
19 made, the amount of the payment, and such additional information as  
20 the department reasonably may require.

21 (4) This section does not apply to sales of tangible personal  
22 property purchased or to sales of, costs of, or charges made for  
23 labor and services used for maintenance or repairs of pollution  
24 control equipment.

25 (5) If production of electricity at a thermal electric generation  
26 facility for any calendar year after 2002 and before 2023 falls below  
27 a twenty percent annual capacity factor for the generation facility,  
28 all or a portion of the tax previously exempted under this section in  
29 respect to construction or installation of air pollution control  
30 facilities at the generation facility shall be due as follows:

	Year event occurs	Portion of previously exempted tax due
31		
32		
33	2003	100%
34	2004	95%
35	2005	90%
36	2006	85%
37	2007	80%
38	2008	75%

1	2009	70%
2	2010	65%
3	2011	60%
4	2012	55%
5	2013	50%
6	2014	45%
7	2015	40%
8	2016	35%
9	2017	30%
10	2018	25%
11	2019	20%
12	2020	15%
13	2021	10%
14	2022	5%
15	2023	0%

16 (6) RCW 82.32.393 applies to this section.

17 **Sec. 1474.** RCW 82.08.811 and 1997 c 368 s 4 are each amended to  
18 read as follows:

19 (1) For the purposes of this section:

20 (a) "Air pollution control facilities" means any treatment works,  
21 control devices and disposal systems, machinery, equipment,  
22 structure, property, property improvements, and accessories, that are  
23 installed or acquired for the primary purpose of reducing,  
24 controlling, or disposing of industrial waste that, if released to  
25 the outdoor atmosphere, could cause air pollution, or that are  
26 required to meet regulatory requirements applicable to their  
27 construction, installation, or operation; and

28 (b) "Generation facility" means a coal-fired thermal electric  
29 generation facility placed in operation after December 3, 1969, and  
30 before July 1, 1975.

31 (2) Beginning January 1, 1999, the tax levied by RCW 82.08.020  
32 does not apply to sales of coal used to generate electric power at a  
33 generation facility operated by a business if the following  
34 conditions are met:

35 (a) The owners must make an application to the department of  
36 revenue for a tax exemption;

1 (b) The owners must make a demonstration to the department of  
2 ecology that the owners have made reasonable initial progress to  
3 install air pollution control facilities to meet applicable  
4 regulatory requirements established under state or federal law,  
5 including the Washington clean air act, chapter 70.94 RCW (as  
6 recodified by this act);

7 (c) Continued progress must be made on the development of air  
8 pollution control facilities to meet the requirements of the permit;  
9 and

10 (d) The generation facility must emit no more than ten thousand  
11 tons of sulfur dioxide during a previous consecutive twelve-month  
12 period.

13 (3) During a consecutive twelve-month period, if the generation  
14 facility is found to be in violation of excessive sulfur dioxide  
15 emissions from a regional air pollution control authority or the  
16 department of ecology, the department of ecology shall notify the  
17 department of revenue and the owners of the generation facility shall  
18 lose their tax exemption under this section. The owners of a  
19 generation facility may reapply for the tax exemption when they have  
20 once again met the conditions of subsection (2)(d) of this section.

21 (4) RCW 82.32.393 applies to this section.

22 **Sec. 1475.** RCW 82.08.036 and 1989 c 431 s 45 are each amended to  
23 read as follows:

24 The tax levied by RCW 82.08.020 shall not apply to consideration:  
25 (1) Received as core deposits or credits in a retail or wholesale  
26 sale; or (2) received or collected upon the sale of a new replacement  
27 vehicle tire as a fee imposed under RCW 70.95.510 (as recodified by  
28 this act). For purposes of this section, the term "core deposits or  
29 credits" means the amount representing the value of returnable  
30 products such as batteries, starters, brakes, and other products with  
31 returnable value added for the purpose of recycling or  
32 remanufacturing.

33 **Sec. 1476.** RCW 82.08.998 and 2008 c 92 s 1 are each amended to  
34 read as follows:

35 (1) The tax imposed by RCW 82.08.020 does not apply to sales of  
36 tangible personal property used in the weatherization of a residence  
37 under the weatherization assistance program under chapter 70.164 RCW

1 (as recodified by this act). The exemption only applies to tangible  
2 personal property that becomes a component of the residence.

3 (2) The exemption is available only when the buyer provides the  
4 seller with an exemption certificate in a form and manner prescribed  
5 by the department. The seller must retain a copy of the certificate  
6 for the seller's files.

7 (3) "Residence" and "weatherization" have the meanings provided  
8 in RCW 70.164.020 (as recodified by this act).

9 **Sec. 1477.** RCW 82.12.0282 and 2014 c 97 s 504 are each amended  
10 to read as follows:

11 (1) The tax imposed by this chapter does not apply with respect  
12 to the use of passenger motor vehicles used primarily for commuter  
13 ride sharing or ride sharing for persons with special transportation  
14 needs, as defined in RCW 46.74.010, if the vehicles are used as ride-  
15 sharing vehicles for thirty-six consecutive months beginning with the  
16 date of first use.

17 (2) To qualify for the tax exemption, those passenger motor  
18 vehicles with five or six passengers, including the driver, used for  
19 commuter ride sharing, must be operated either within the state's  
20 eight largest counties that are required to develop commute trip  
21 reduction plans as directed by chapter 70.94 RCW (as recodified by  
22 this act) or in other counties, or cities and towns within those  
23 counties, that elect to adopt and implement a commute trip reduction  
24 plan. Additionally at least one of the following conditions must  
25 apply: (a) The vehicle must be operated by a public transportation  
26 agency for the general public; or (b) the vehicle must be used by a  
27 major employer, as defined in RCW 70.94.524 (as recodified by this  
28 act) as an element of its commute trip reduction program for their  
29 employees; or (c) the vehicle must be owned and operated by  
30 individual employees and must be registered either with the employer  
31 as part of its commute trip reduction program or with a public  
32 transportation agency serving the area where the employees live or  
33 work. Individual employee owned and operated motor vehicles will  
34 require certification that the vehicle is registered with a major  
35 employer or a public transportation agency. Major employers who own  
36 and operate motor vehicles for their employees must certify that the  
37 commuter ride-sharing arrangement conforms to a carpool/vanpool  
38 element contained within their commute trip reduction program.



1       **Sec. 1478.** RCW 82.12.038 and 1989 c 431 s 46 are each amended to  
2 read as follows:

3       The provisions of this chapter shall not apply: (1) To the value  
4 of core deposits or credits in a retail or wholesale sale; or (2) to  
5 the fees imposed under RCW 70.95.510 (as recodified by this act) upon  
6 the sale of a new replacement vehicle tire. For purposes of this  
7 section, the term "core deposits or credits" means the amount  
8 representing the value of returnable products such as batteries,  
9 starters, brakes, and other products with returnable value added for  
10 the purpose of recycling or remanufacturing.

11       **Sec. 1479.** RCW 82.12.810 and 2003 c 5 s 12 are each amended to  
12 read as follows:

13       (1) For the purposes of this section, "air pollution control  
14 facilities" mean any treatment works, control devices and disposal  
15 systems, machinery, equipment, structures, property, property  
16 improvements, and accessories, that are installed or acquired for the  
17 primary purpose of reducing, controlling, or disposing of industrial  
18 waste that, if released to the outdoor atmosphere, could cause air  
19 pollution, or that are required to meet regulatory requirements  
20 applicable to their construction, installation, or operation.

21       (2) The provisions of this chapter do not apply in respect to:

22       (a) The use of air pollution control facilities installed and  
23 used by a light and power business, as defined in RCW 82.16.010, in  
24 generating electric power; or

25       (b) The use of labor and services performed in respect to the  
26 installing of air pollution control facilities.

27       (3) The exemption provided under this section applies only to air  
28 pollution control facilities that are:

29       (a) Constructed or installed after May 15, 1997, and used in a  
30 thermal electric generation facility placed in operation after  
31 December 31, 1969, and before July 1, 1975; and

32       (b) Constructed or installed to meet applicable regulatory  
33 requirements established under state or federal law, including the  
34 Washington clean air act, chapter 70.94 RCW (as recodified by this  
35 act).

36       (4) This section does not apply to the use of tangible personal  
37 property for maintenance or repairs of the pollution control  
38 equipment or to labor and services performed in respect to such  
39 maintenance or repairs.

1 (5) If production of electricity at a thermal electric generation  
2 facility for any calendar year after 2002 and before 2023 falls below  
3 a twenty percent annual capacity factor for the generation facility,  
4 all or a portion of the tax previously exempted under this section in  
5 respect to construction or installation of air pollution control  
6 facilities at the generation facility shall be due according to the  
7 schedule provided in RCW 82.08.810(5).

8 (6) RCW 82.32.393 applies to this section.

9 **Sec. 1480.** RCW 82.12.811 and 1997 c 368 s 6 are each amended to  
10 read as follows:

11 (1) For the purposes of this section:

12 (a) "Air pollution control facilities" means any treatment works,  
13 control devices and disposal systems, machinery, equipment,  
14 structure, property, property improvements, and accessories, that are  
15 installed or acquired for the primary purpose of reducing,  
16 controlling, or disposing of industrial waste that, if released to  
17 the outdoor atmosphere, could cause air pollution, or that are  
18 required to meet regulatory requirements applicable to their  
19 construction, installation, or operation; and

20 (b) "Generation facility" means a coal-fired thermal electric  
21 generation facility placed in operation after December 3, 1969, and  
22 before July 1, 1975.

23 (2) Beginning January 1, 1999, the provisions of this chapter do  
24 not apply in respect to the use of coal to generate electric power at  
25 a generation facility operated by a business if the following  
26 conditions are met:

27 (a) The owners must make an application to the department of  
28 revenue for a tax exemption;

29 (b) The owners must make a demonstration to the department of  
30 ecology that the owners have made reasonable initial progress to  
31 install air pollution control facilities to meet applicable  
32 regulatory requirements established under state or federal law,  
33 including the Washington clean air act, chapter 70.94 RCW (as  
34 recodified by this act);

35 (c) Continued progress must be made on the development of air  
36 pollution control facilities to meet the requirements of the permit;  
37 and

1 (d) The generation facility must emit no more than ten thousand  
2 tons of sulfur dioxide during a previous consecutive twelve-month  
3 period.

4 (3) During a consecutive twelve-month period, if the generation  
5 facility is found to be in violation of excessive sulfur dioxide  
6 emissions from a regional air pollution control authority or the  
7 department of ecology, the department of ecology shall notify the  
8 department of revenue and the owners of the generation facility shall  
9 lose their tax exemption under this section. The owners of a  
10 generation facility may reapply for the tax exemption when they have  
11 once again met the conditions of subsection (2)(d) of this section.

12 (4) RCW 82.32.393 applies to this section.

13 **Sec. 1481.** RCW 82.12.998 and 2008 c 92 s 2 are each amended to  
14 read as follows:

15 (1) The provisions of this chapter do not apply to the use of  
16 tangible personal property used in the weatherization of a residence  
17 under the weatherization assistance program under chapter 70.164 RCW  
18 (as recodified by this act). The exemption only applies to tangible  
19 personal property that becomes a component of the residence.

20 (2) "Residence" and "weatherization" have the meanings provided  
21 in RCW 70.164.020 (as recodified by this act).

22 **Sec. 1482.** RCW 82.19.040 and 2019 c 415 s 989 are each amended  
23 to read as follows:

24 (1) To the extent applicable, all of the definitions of chapter  
25 82.04 RCW and all of the provisions of chapter 82.32 RCW apply to the  
26 tax imposed in this chapter.

27 (2) Beginning June 30, 2019, taxes collected under this chapter  
28 shall be deposited in the waste reduction, recycling, and litter  
29 control account under RCW 70.93.180 (as recodified by this act),  
30 except that until June 30, 2021, one million two hundred fifty  
31 thousand dollars per fiscal year must be deposited in equal monthly  
32 amounts in the state parks renewal and stewardship account, with the  
33 remainder deposited in the waste reduction, recycling, and litter  
34 control account. It is the intent of the legislature to continue this  
35 policy in the ensuing biennium.

36 **Sec. 1483.** RCW 82.21.030 and 2019 c 422 s 201 are each amended  
37 to read as follows:

1 (1)(a) A tax is imposed on the privilege of possession of  
2 hazardous substances in this state. Except as provided in (b) of this  
3 subsection, the rate of the tax is seven-tenths of one percent  
4 multiplied by the wholesale value of the substance. Moneys collected  
5 under this subsection (1)(a) must be deposited in the model toxics  
6 control capital account.

7 (b) Beginning July 1, 2019, the rate of the tax on petroleum  
8 products is one dollar and nine cents per barrel. The tax collected  
9 under this subsection (1)(b) on petroleum products must be deposited  
10 as follows, after first depositing the tax as provided in (c) of this  
11 subsection (1):

12 (i) Sixty percent to the model toxics control operating account  
13 created under RCW 70.105D.190 (as recodified by this act);

14 (ii) Twenty-five percent to the model toxics control capital  
15 account created under RCW 70.105D.200 (as recodified by this act);  
16 and

17 (iii) Fifteen percent to the model toxics control stormwater  
18 account created under RCW 70.105D.210 (as recodified by this act).

19 (c) Until the beginning of the ensuing biennium after the  
20 enactment of an additive transportation funding act, fifty million  
21 dollars per biennium to the motor vehicle fund to be used exclusively  
22 for transportation stormwater activities and projects. For purposes  
23 of this subsection, "additive transportation funding act" means an  
24 act in which the combined total of new revenues deposited into the  
25 motor vehicle fund and the multimodal transportation account exceed  
26 two billion dollars per biennium attributable solely to an increase  
27 in revenue from the enactment of the act.

28 (d) The department must compile a list of petroleum products that  
29 are not easily measured on a per barrel basis. Petroleum products  
30 identified on the list are subject to the rate under (a) of this  
31 subsection in lieu of the volumetric rate under (b) of this  
32 subsection. The list will be made in a form and manner prescribed by  
33 the department and must be made available on the department's  
34 internet web site. In compiling the list, the department may accept  
35 technical assistance from persons that sell, market, or distribute  
36 petroleum products and consider any other resource the department  
37 finds useful in compiling the list.

38 (2) Chapter 82.32 RCW applies to the tax imposed in this chapter.  
39 The tax due dates, reporting periods, and return requirements

1 applicable to chapter 82.04 RCW apply equally to the tax imposed in  
2 this chapter.

3 (3) Beginning July 1, 2020, and every July 1st thereafter, the  
4 rate specified in subsection (1)(b) of this section must be adjusted  
5 to reflect the percentage change in the implicit price deflator for  
6 nonresidential structures as published by the United States  
7 department of commerce, bureau of economic analysis for the most  
8 recent twelve-month period ending December 31st of the prior year.

9 **Sec. 1484.** RCW 82.23A.020 and 2016 c 161 s 18 are each amended  
10 to read as follows:

11 (1) A tax is imposed on the privilege of possession of petroleum  
12 products in this state. The rate of the tax shall be thirty one-  
13 hundredths of one percent multiplied by the wholesale value of the  
14 petroleum product. After July 1, 2021, the rate of tax is fifteen  
15 one-hundredths of one percent multiplied by the wholesale value of  
16 the petroleum product. For purposes of determining the tax imposed  
17 under this section for petroleum products introduced at the rack, the  
18 wholesale value is determined when the petroleum product is removed  
19 at the rack unless the removal is to an exporter licensed under  
20 chapter 82.38 RCW for direct delivery to a destination outside of the  
21 state. For all other cases, the wholesale value is determined upon  
22 the first nonbulk possession in the state.

23 (2) Except as identified in RCW 70.340.130 (as recodified by this  
24 act), moneys collected under this chapter shall be deposited in the  
25 pollution liability insurance program trust account under RCW  
26 70.148.020 (as recodified by this act).

27 (3) Chapter 82.32 RCW applies to the tax imposed in this chapter.  
28 The tax due dates, reporting periods, and return requirements  
29 applicable to chapter 82.04 RCW apply equally to the tax imposed in  
30 this chapter.

31 (4) Within thirty days after the end of each calendar quarter the  
32 department shall determine the "quarterly balance," which shall be  
33 the cash balance in the pollution liability insurance program trust  
34 account as of the last day of that calendar quarter, after excluding  
35 the reserves determined for that quarter under RCW 70.148.020(2) (as  
36 recodified by this act). Balance determinations by the department  
37 under this section are final and shall not be used to challenge the  
38 validity of any tax imposed under this section. For each subsequent

1 calendar quarter, tax shall be imposed under this section during the  
2 entire calendar quarter unless:

3 (a) Tax was imposed under this section during the immediately  
4 preceding calendar quarter, and the most recent quarterly balance is  
5 more than fifteen million dollars; or

6 (b) Tax was not imposed under this section during the immediately  
7 preceding calendar quarter, and the most recent quarterly balance is  
8 more than seven million five hundred thousand dollars.

9 **Sec. 1485.** RCW 82.23A.902 and 2016 c 161 s 19 are each amended  
10 to read as follows:

11 This chapter expires July 1, 2030, coinciding with the expiration  
12 of chapter 70.148 RCW (as recodified by this act).

13 **Sec. 1486.** RCW 82.34.030 and 1967 ex.s. c 139 s 3 are each  
14 amended to read as follows:

15 A certificate shall be issued by the department within thirty  
16 days after approval of the application by the appropriate control  
17 agency. Such approval shall be given when it is determined that the  
18 facility is designed and is operated or is intended to be operated  
19 primarily for the control, capture and removal of pollutants from the  
20 air or for the control and reduction of water pollution and that the  
21 facility is suitable, reasonably adequate, and meets the intent and  
22 purposes of chapter 70.94 RCW (as recodified by this act) or chapter  
23 90.48 RCW, as the case may be, and it shall notify the department of  
24 its findings within thirty days of the date on which the application  
25 was submitted to it for approval. In making such determination, the  
26 appropriate control agency shall afford to the applicant an  
27 opportunity for a hearing: PROVIDED, That if the local or regional  
28 air pollution control agency fails to act or if the applicant feels  
29 aggrieved by the action of the local or regional air pollution  
30 control agency, such applicant may appeal to the state air pollution  
31 control board pursuant to rules and regulations established by that  
32 board.

33 **Sec. 1487.** RCW 82.34.100 and 1998 c 9 s 1 are each amended to  
34 read as follows:

35 (1) The department of ecology, after notice to the department and  
36 the applicant and after affording the applicant an opportunity for a  
37 hearing, shall, on its own initiative or on complaint of the local or

1 regional air pollution control agency in which an air pollution  
2 control facility is located, or is expected to be located, revise the  
3 prior findings of the appropriate control agency whenever any of the  
4 following appears:

5 (a) The certificate or supplement thereto was obtained by fraud  
6 or misrepresentation, or the holder of the certificate has failed  
7 substantially without good cause to proceed with the construction,  
8 reconstruction, installation or acquisition of a facility or without  
9 good cause has failed substantially to operate the facility for the  
10 purpose specified by the appropriate control agency in which case the  
11 department shall modify or revoke the certificate. If the certificate  
12 and/or supplement are revoked, all applicable taxes from which an  
13 exemption has been secured under this chapter or against which the  
14 credit provided for by this chapter has been claimed shall be  
15 immediately due and payable with the maximum interest and penalties  
16 prescribed by applicable law. No statute of limitations shall operate  
17 in the event of fraud or misrepresentation.

18 (b) The facility covered by the certificate or supplement thereto  
19 is no longer operated primarily for the purpose of the control or  
20 reduction of water pollution or the control, capture, and removal of  
21 pollutants from the air, as the case may be, or is no longer suitable  
22 or reasonably adequate to meet the intent and purposes of chapter  
23 70.94 RCW (as recodified by this act) or chapter 90.48 RCW, in which  
24 case the certificate shall be modified or revoked.

25 (2) A certificate, or supplement thereto, issued pursuant to RCW  
26 82.34.030 may not be revoked if:

27 (a) The facility is modified, but is still operated primarily for  
28 the purpose of the control or reduction of water pollution or the  
29 control, capture, and removal of pollutants from the air and is  
30 reasonably adequate to meet the intent and purposes of chapter 70.94  
31 (as recodified by this act) or 90.48 RCW;

32 (b) The facility is replaced by a new or different facility that  
33 is still operated primarily for the purpose of the control or  
34 reduction of water pollution or the control, capture, and removal of  
35 pollutants from the air and is reasonably adequate to meet the intent  
36 and purposes of chapter 70.94 (as recodified by this act) or 90.48  
37 RCW;

38 (c) The facility is modified or removed as a result of an  
39 alteration of the production process and the alteration results in

1 reasonably adequate compliance with the intent and purposes of  
2 chapter 70.94 (as recodified by this act) or 90.48 RCW;

3 (d) The industrial, manufacturing, waste disposal, utility, or  
4 other commercial establishment in which the facility was installed  
5 ceases operations and the cessation of operation results in  
6 reasonably adequate compliance with the intent and purposes of  
7 chapter 70.94 (as recodified by this act) or 90.48 RCW;

8 (e) Part of an industrial, manufacturing, waste disposal,  
9 utility, or other commercial establishment in which the facility was  
10 installed ceases operations and the cessation of operation results in  
11 reasonably adequate compliance with the intent and purposes of  
12 chapter 70.94 (as recodified by this act) or 90.48 RCW; or

13 (f) The industrial, manufacturing, waste disposal, utility, or  
14 other commercial establishment in which the facility was installed is  
15 altered and the alteration results in reasonably adequate compliance  
16 with the intent and purposes of chapter 70.94 (as recodified by this  
17 act) or 90.48 RCW.

18 (3) Upon the date of mailing by certified mail to the certificate  
19 holder of notice of the action of the department modifying or  
20 revoking a certificate or supplement, the certificate or supplement  
21 shall cease to be in force or shall remain in force only as modified.

22 **Sec. 1488.** RCW 82.44.015 and 2014 c 97 s 502 are each amended to  
23 read as follows:

24 (1) Passenger motor vehicles used primarily for commuter ride  
25 sharing and ride sharing for persons with special transportation  
26 needs, as defined in RCW 46.74.010, are not subject to the motor  
27 vehicle excise tax authorized under this chapter if the vehicles are  
28 used as ride-sharing vehicles for thirty-six consecutive months  
29 beginning from the date of purchase.

30 (2) To qualify for the motor vehicle excise tax exemption for  
31 commuter ride-sharing vehicles, passenger motor vehicles must:

32 (a) Have a seating capacity of five or six passengers, including  
33 the driver;

34 (b) Be used for commuter ride sharing;

35 (c) Be operated either within:

36 (i) The state's eight largest counties that are required to  
37 develop commute trip reduction plans as directed by chapter 70.94 RCW  
38 (as recodified by this act); or



1 (ii) In other counties, or cities and towns within those  
2 counties, that elect to adopt and implement a commute trip reduction  
3 plan; and

4 (d) Meet at least one of the following conditions:

5 (i) The vehicle must be operated by a public transportation  
6 agency for the general public;

7 (ii) The vehicle must be used by a major employer, as defined in  
8 RCW 70.94.524 (as recodified by this act) as an element of its  
9 commute trip reduction program for their employees; or

10 (iii) The vehicle must be owned and operated by individual  
11 employees and must be registered either with the employer as part of  
12 its commute trip reduction program or with a public transportation  
13 agency serving the area where the employees live or work. Individual  
14 employee owned and operated motor vehicles will require certification  
15 that the vehicle is registered with a major employer or a public  
16 transportation agency. Major employers who own and operate motor  
17 vehicles for their employees must certify that the commuter ride-  
18 sharing arrangement conforms to a carpool/vanpool element contained  
19 within their commute trip reduction program.

20 (3) The registered owner of a passenger motor vehicle described  
21 in subsection (2) of this section:

22 (a) Shall notify the department upon the termination of the  
23 primary use of the vehicle in commuter ride sharing or ride sharing  
24 for persons with special transportation needs; and

25 (b) Is liable for the motor vehicle excise tax imposed under this  
26 chapter, prorated on the remaining months for which the vehicle is  
27 registered.

28 **Sec. 1489.** RCW 88.40.011 and 2015 c 274 s 9 are each reenacted  
29 and amended to read as follows:

30 The definitions in this section apply throughout this chapter  
31 unless the context clearly requires otherwise.

32 (1) "Barge" means a vessel that is not self-propelled.

33 (2) "Bulk" means material that is stored or transported in a  
34 loose, unpackaged liquid, powder, or granular form capable of being  
35 conveyed by a pipe, bucket, chute, or belt system.

36 (3) "Cargo vessel" means a self-propelled ship in commerce, other  
37 than a tank vessel, fishing vessel, or a passenger vessel, of three  
38 hundred or more gross tons.

1 (4) "Covered vessel" means a tank vessel, cargo vessel, or  
2 passenger vessel.

3 (5) "Department" means the department of ecology.

4 (6) "Director" means the director of the department of ecology.

5 (7)(a) "Facility" means any structure, group of structures,  
6 equipment, pipeline, or device, other than a vessel, located on or  
7 near the navigable waters of the state that transfers oil in bulk to  
8 or from any vessel with an oil carrying capacity over two hundred  
9 fifty barrels or pipeline, that is used for producing, storing,  
10 handling, transferring, processing, or transporting oil in bulk.

11 (b) A facility does not include any: (i) Railroad car, motor  
12 vehicle, or other rolling stock while transporting oil over the  
13 highways or rail lines of this state; (ii) retail motor vehicle motor  
14 fuel outlet; (iii) facility that is operated as part of an exempt  
15 agricultural activity as provided in RCW 82.04.330; (iv) underground  
16 storage tank regulated by the department or a local government under  
17 chapter 90.76 RCW (as recodified by this act); or (v) marine fuel  
18 outlet that does not dispense more than three thousand gallons of  
19 fuel to a ship that is not a covered vessel, in a single transaction.

20 (8) "Fishing vessel" means a self-propelled commercial vessel of  
21 three hundred or more gross tons that is used for catching or  
22 processing fish.

23 (9) "Gross tons" means tonnage as determined by the United States  
24 coast guard under 33 C.F.R. section 138.30.

25 (10) "Hazardous substances" means any substance listed as of  
26 March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under  
27 section 102(a) of the federal comprehensive environmental response,  
28 compensation, and liability act of 1980, as amended by P.L. 99-499.  
29 The following are not hazardous substances for purposes of this  
30 chapter:

31 (a) Wastes listed as F001 through F028 in Table 302.4; and

32 (b) Wastes listed as K001 through K136 in Table 302.4.

33 (11) "Navigable waters of the state" means those waters of the  
34 state, and their adjoining shorelines, that are subject to the ebb  
35 and flow of the tide and/or are presently used, have been used in the  
36 past, or may be susceptible for use to transport intrastate,  
37 interstate, or foreign commerce.

38 (12) "Offshore facility" means any facility located in, on, or  
39 under any of the navigable waters of the state, but does not include

1 a facility any part of which is located in, on, or under any land of  
2 the state, other than submerged land.

3 (13) "Oil" or "oils" means oil of any kind that is liquid at  
4 twenty-five degrees Celsius and one atmosphere of pressure and any  
5 fractionation thereof, including, but not limited to, crude oil,  
6 bitumen, synthetic crude oil, natural gas well condensate, petroleum,  
7 gasoline, fuel oil, diesel oil, biological oils and blends, oil  
8 sludge, oil refuse, and oil mixed with wastes other than dredged  
9 spoil. Oil does not include any substance listed as of March 1, 2003,  
10 in Table 302.4 of 40 C.F.R. Part 302 adopted under section 102(a) of  
11 the federal comprehensive environmental response, compensation, and  
12 liability act of 1980, as amended by P.L. 99-499.

13 (14) "Onshore facility" means any facility any part of which is  
14 located in, on, or under any land of the state, other than submerged  
15 land, that because of its location, could reasonably be expected to  
16 cause substantial harm to the environment by discharging oil into or  
17 on the navigable waters of the state or the adjoining shorelines.

18 (15)(a) "Owner or operator" means (i) in the case of a vessel,  
19 any person owning, operating, or chartering by demise, the vessel;  
20 (ii) in the case of an onshore or offshore facility, any person  
21 owning or operating the facility; and (iii) in the case of an  
22 abandoned vessel or onshore or offshore facility, the person who  
23 owned or operated the vessel or facility immediately before its  
24 abandonment.

25 (b) "Operator" does not include any person who owns the land  
26 underlying a facility if the person is not involved in the operations  
27 of the facility.

28 (16) "Passenger vessel" means a ship of three hundred or more  
29 gross tons with a fuel capacity of at least six thousand gallons  
30 carrying passengers for compensation.

31 (17) "Ship" means any boat, ship, vessel, barge, or other  
32 floating craft of any kind.

33 (18) "Spill" means an unauthorized discharge of oil into the  
34 waters of the state.

35 (19) "Tank vessel" means a ship that is constructed or adapted to  
36 carry, or that carries, oil in bulk as cargo or cargo residue, and  
37 that:

38 (a) Operates on the waters of the state; or

39 (b) Transfers oil in a port or place subject to the jurisdiction  
40 of this state.

1 (20) "Waters of the state" includes lakes, rivers, ponds,  
2 streams, inland waters, underground water, salt waters, estuaries,  
3 tidal flats, beaches and lands adjoining the seacoast of the state,  
4 sewers, and all other surface waters and watercourses within the  
5 jurisdiction of the state of Washington.

6 **Sec. 1490.** RCW 88.46.010 and 2015 c 274 s 2 are each amended to  
7 read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Best achievable protection" means the highest level of  
11 protection that can be achieved through the use of the best  
12 achievable technology and those staffing levels, training procedures,  
13 and operational methods that provide the greatest degree of  
14 protection achievable. The director's determination of best  
15 achievable protection shall be guided by the critical need to protect  
16 the state's natural resources and waters, while considering:

- 17 (a) The additional protection provided by the measures;
- 18 (b) The technological achievability of the measures; and
- 19 (c) The cost of the measures.

20 (2)(a) "Best achievable technology" means the technology that  
21 provides the greatest degree of protection taking into consideration:

22 (i) Processes that are being developed, or could feasibly be  
23 developed, given overall reasonable expenditures on research and  
24 development; and

25 (ii) Processes that are currently in use.

26 (b) In determining what is best achievable technology, the  
27 director shall consider the effectiveness, engineering feasibility,  
28 and commercial availability of the technology.

29 (3) "Bulk" means material that is stored or transported in a  
30 loose, unpackaged liquid, powder, or granular form capable of being  
31 conveyed by a pipe, bucket, chute, or belt system.

32 (4) "Cargo vessel" means a self-propelled ship in commerce, other  
33 than a tank vessel or a passenger vessel, of three hundred or more  
34 gross tons, including but not limited to, commercial fish processing  
35 vessels and freighters.

36 (5) "Covered vessel" means a tank vessel, cargo vessel, or  
37 passenger vessel.

38 (6) "Department" means the department of ecology.

39 (7) "Director" means the director of the department of ecology.

1 (8) "Discharge" means any spilling, leaking, pumping, pouring,  
2 emitting, emptying, or dumping.

3 (9) (a) "Facility" means any structure, group of structures,  
4 equipment, pipeline, or device, other than a vessel, located on or  
5 near the navigable waters of the state that transfers oil in bulk to  
6 or from a tank vessel or pipeline, that is used for producing,  
7 storing, handling, transferring, processing, or transporting oil in  
8 bulk.

9 (b) For the purposes of oil spill contingency planning in RCW  
10 90.56.210, facility also means a railroad that is not owned by the  
11 state that transports oil as bulk cargo.

12 (c) Except as provided under (b) of this subsection, a facility  
13 does not include any: (i) Railroad car, motor vehicle, or other  
14 rolling stock while transporting oil over the highways or rail lines  
15 of this state; (ii) retail motor vehicle motor fuel outlet; (iii)  
16 facility that is operated as part of an exempt agricultural activity  
17 as provided in RCW 82.04.330; (iv) underground storage tank regulated  
18 by the department or a local government under chapter 90.76 RCW (as  
19 recodified by this act); or (v) marine fuel outlet that does not  
20 dispense more than three thousand gallons of fuel to a ship that is  
21 not a covered vessel, in a single transaction.

22 (10) "Marine facility" means any facility used for tank vessel  
23 wharfage or anchorage, including any equipment used for the purpose  
24 of handling or transferring oil in bulk to or from a tank vessel.

25 (11) "Navigable waters of the state" means those waters of the  
26 state, and their adjoining shorelines, that are subject to the ebb  
27 and flow of the tide and/or are presently used, have been used in the  
28 past, or may be susceptible for use to transport intrastate,  
29 interstate, or foreign commerce.

30 (12) "Offshore facility" means any facility located in, on, or  
31 under any of the navigable waters of the state, but does not include  
32 a facility any part of which is located in, on, or under any land of  
33 the state, other than submerged land. "Offshore facility" does not  
34 include a marine facility.

35 (13) "Oil" or "oils" means oil of any kind that is liquid at  
36 twenty-five degrees Celsius and one atmosphere of pressure and any  
37 fractionation thereof, including, but not limited to, crude oil,  
38 bitumen, synthetic crude oil, natural gas well condensate, petroleum,  
39 gasoline, fuel oil, diesel oil, biological oils and blends, oil  
40 sludge, oil refuse, and oil mixed with wastes other than dredged

1 spoil. Oil does not include any substance listed in Table 302.4 of 40  
2 C.F.R. Part 302 adopted August 14, 1989, under section 102(a) of the  
3 federal comprehensive environmental response, compensation, and  
4 liability act of 1980, as amended by P.L. 99-499.

5 (14) "Onshore facility" means any facility any part of which is  
6 located in, on, or under any land of the state, other than submerged  
7 land, that because of its location, could reasonably be expected to  
8 cause substantial harm to the environment by discharging oil into or  
9 on the navigable waters of the state or the adjoining shorelines.

10 (15)(a) "Owner or operator" means (i) in the case of a vessel,  
11 any person owning, operating, or chartering by demise, the vessel;  
12 (ii) in the case of an onshore or offshore facility, any person  
13 owning or operating the facility; and (iii) in the case of an  
14 abandoned vessel or onshore or offshore facility, the person who  
15 owned or operated the vessel or facility immediately before its  
16 abandonment.

17 (b) "Operator" does not include any person who owns the land  
18 underlying a facility if the person is not involved in the operations  
19 of the facility.

20 (16) "Passenger vessel" means a ship of three hundred or more  
21 gross tons with a fuel capacity of at least six thousand gallons  
22 carrying passengers for compensation.

23 (17) "Person" means any political subdivision, government agency,  
24 municipality, industry, public or private corporation, copartnership,  
25 association, firm, individual, or any other entity whatsoever.

26 (18) "Race Rocks light" means the nautical landmark located  
27 southwest of the city of Victoria, British Columbia.

28 (19) "Regional vessels of opportunity response group" means a  
29 group of nondedicated vessels participating in a vessels of  
30 opportunity response system to respond when needed and available to  
31 spills in a defined geographic area.

32 (20) "Severe weather conditions" means observed nautical  
33 conditions with sustained winds measured at forty knots and wave  
34 heights measured between twelve and eighteen feet.

35 (21) "Ship" means any boat, ship, vessel, barge, or other  
36 floating craft of any kind.

37 (22) "Spill" means an unauthorized discharge of oil into the  
38 waters of the state.

39 (23) "Strait of Juan de Fuca" means waters off the northern coast  
40 of the Olympic Peninsula seaward of a line drawn from New Dungeness

1 light in Clallam county to Discovery Island light on Vancouver  
2 Island, British Columbia, Canada.

3 (24) "Tank vessel" means a ship that is constructed or adapted to  
4 carry, or that carries, oil in bulk as cargo or cargo residue, and  
5 that:

6 (a) Operates on the waters of the state; or

7 (b) Transfers oil in a port or place subject to the jurisdiction  
8 of this state.

9 (25) "Umbrella plan holder" means a nonprofit corporation  
10 established consistent with this chapter for the purposes of  
11 providing oil spill response and contingency plan coverage.

12 (26) "Vessel emergency" means a substantial threat of pollution  
13 originating from a covered vessel, including loss or serious  
14 degradation of propulsion, steering, means of navigation, primary  
15 electrical generating capability, and seakeeping capability.

16 (27) "Vessels of opportunity response system" means nondedicated  
17 boats and operators, including fishing and other vessels, that are  
18 under contract with and equipped by contingency plan holders to  
19 assist with oil spill response activities, including on-water oil  
20 recovery in the nearshore environment and the placement of oil spill  
21 containment booms to protect sensitive habitats.

22 (28) "Volunteer coordination system" means an oil spill response  
23 system that, before a spill occurs, prepares for the coordination of  
24 volunteers to assist with appropriate oil spill response activities,  
25 which may include shoreline protection and cleanup, wildlife  
26 recovery, field observation, light construction, facility  
27 maintenance, donations management, clerical support, and other  
28 aspects of a spill response.

29 (29) "Waters of the state" includes lakes, rivers, ponds,  
30 streams, inland waters, underground water, salt waters, estuaries,  
31 tidal flats, beaches and lands adjoining the seacoast of the state,  
32 sewers, and all other surface waters and watercourses within the  
33 jurisdiction of the state of Washington.

34 (30) "Worst case spill" means: (a) In the case of a vessel, a  
35 spill of the entire cargo and fuel of the vessel complicated by  
36 adverse weather conditions; and (b) in the case of an onshore or  
37 offshore facility, the largest foreseeable spill in adverse weather  
38 conditions.

1       **Sec. 1491.** RCW 90.03.383 and 1991 c 350 s 1 are each amended to  
2 read as follows:

3       (1) The legislature recognizes the value of interties for  
4 improving the reliability of public water systems, enhancing their  
5 management, and more efficiently utilizing the increasingly limited  
6 resource. Given the continued growth in the most populous areas of  
7 the state, the increased complexity of public water supply  
8 management, and the trend toward regional planning and regional  
9 solutions to resource issues, interconnections of public water  
10 systems through interties provide a valuable tool to ensure reliable  
11 public water supplies for the citizens of the state. Public water  
12 systems have been encouraged in the past to utilize interties to  
13 achieve public health and resource management objectives. The  
14 legislature finds that it is in the public interest to recognize  
15 interties existing and in use as of January 1, 1991, and to have  
16 associated water rights modified by the department of ecology to  
17 reflect current use of water through those interties, pursuant to  
18 subsection (3) of this section. The legislature further finds it in  
19 the public interest to develop a coordinated process to review  
20 proposals for interties commencing use after January 1, 1991.

21       (2) For the purposes of this section, the following definitions  
22 shall apply:

23       (a) "Interties" are interconnections between public water systems  
24 permitting exchange or delivery of water between those systems for  
25 other than emergency supply purposes, where such exchange or delivery  
26 is within established instantaneous and annual withdrawal rates  
27 specified in the systems' existing water right permits or  
28 certificates, or contained in claims filed pursuant to chapter 90.14  
29 RCW, and which results in better management of public water supply  
30 consistent with existing rights and obligations. Interties include  
31 interconnections between public water systems permitting exchange or  
32 delivery of water to serve as primary or secondary sources of supply,  
33 but do not include development of new sources of supply to meet  
34 future demand.

35       (b) "Service area" is the area designated in a water system plan  
36 or a coordinated water system plan pursuant to chapter 43.20 or  
37 70.116 RCW (as recodified by this act) respectively. When a public  
38 water system does not have a designated service area subject to the  
39 approval process of those chapters, the service area shall be the  
40 designated place of use contained in the water right permit or



1 certificate, or contained in the claim filed pursuant to chapter  
2 90.14 RCW.

3 (3) Public water systems with interties existing and in use as of  
4 January 1, 1991, or that have received written approval from the  
5 department of health prior to that date, shall file written notice of  
6 those interties with the department of health and the department of  
7 ecology. The notice may be incorporated into the public water  
8 system's five-year update of its water system plan, but shall be  
9 filed no later than June 30, 1996. The notice shall identify the  
10 location of the intertie; the dates of its first use; the purpose,  
11 capacity, and current use; the intertie agreement of the parties and  
12 the service areas assigned; and other information reasonably  
13 necessary to modify the water right permit. Notwithstanding the  
14 provisions of RCW 90.03.380 and 90.44.100, for public water systems  
15 with interties existing and in use as of January 1, 1991, the  
16 department of ecology, upon receipt of notice meeting the  
17 requirements of this subsection, shall, as soon as practicable,  
18 modify the place of use descriptions in the water right permits,  
19 certificates, or claims to reflect the actual use through such  
20 interties, provided that the place of use is within service area  
21 designations established in a water system plan approved pursuant to  
22 chapter 43.20 RCW, or a coordinated water system plan approved  
23 pursuant to chapter 70.116 RCW (as recodified by this act), and  
24 further provided that the water used is within the instantaneous and  
25 annual withdrawal rates specified in the water right permit and that  
26 no outstanding complaints of impairment to existing water rights have  
27 been filed with the department of ecology prior to September 1, 1991.  
28 Where such complaints of impairment have been received, the  
29 department of ecology shall make all reasonable efforts to resolve  
30 them in a timely manner through agreement of the parties or through  
31 available administrative remedies.

32 (4) Notwithstanding the provisions of RCW 90.03.380 and  
33 90.44.100, exchange or delivery of water through interties commencing  
34 use after January 1, 1991, shall be permitted when the intertie  
35 improves overall system reliability, enhances the manageability of  
36 the systems, provides opportunities for conjunctive use, or delays or  
37 avoids the need to develop new water sources, and otherwise meets the  
38 requirements of this section, provided that each public water  
39 system's water use shall not exceed the instantaneous or annual  
40 withdrawal rate specified in its water right authorization, shall not

1 adversely affect existing water rights, and shall not be inconsistent  
2 with state-approved plans such as water system plans or other plans  
3 which include specific proposals for construction of interties.  
4 Interties commencing use after January 1, 1991, shall not be  
5 inconsistent with regional water resource plans developed pursuant to  
6 chapter 90.54 RCW.

7 (5) For public water systems subject to the approval process of  
8 chapter 43.20 RCW or chapter 70.116 RCW (as recodified by this act),  
9 proposals for interties commencing use after January 1, 1991, shall  
10 be incorporated into water system plans pursuant to chapter 43.20 RCW  
11 or coordinated water system plans pursuant to chapter 70.116 RCW (as  
12 recodified by this act) and submitted to the department of health and  
13 the department of ecology for review and approval as provided for in  
14 subsections (5) through (9) of this section. The plan shall state how  
15 the proposed intertie will improve overall system reliability,  
16 enhance the manageability of the systems, provide opportunities for  
17 conjunctive use, or delay or avoid the need to develop new water  
18 sources.

19 (6) The department of health shall be responsible for review and  
20 approval of proposals for new interties. In its review the department  
21 of health shall determine whether the intertie satisfies the criteria  
22 of subsection (4) of this section, with the exception of water rights  
23 considerations, which are the responsibility of the department of  
24 ecology, and shall determine whether the intertie is necessary to  
25 address emergent public health or safety concerns associated with  
26 public water supply.

27 (7) If the intertie is determined by the department of health to  
28 be necessary to address emergent public health or safety concerns  
29 associated with public water supply, the public water system shall  
30 amend its water system plan as required and shall file an application  
31 with the department of ecology to change its existing water right to  
32 reflect the proposed use of the water as described in the approved  
33 water system plan. The department of ecology shall process the  
34 application for change pursuant to RCW 90.03.380 or 90.44.100 as  
35 appropriate, except that, notwithstanding the requirements of those  
36 sections regarding notice and protest periods, applicants shall be  
37 required to publish notice one time, and the comment period shall be  
38 fifteen days from the date of publication of the notice. Within sixty  
39 days of receiving the application, the department of ecology shall  
40 issue findings and advise the department of health if existing water

1 rights are determined to be adversely affected. If no determination  
2 is provided by the department of ecology within the sixty-day period,  
3 the department of health shall proceed as if existing rights are not  
4 adversely affected by the proposed intertie. The department of  
5 ecology may obtain an extension of the sixty-day period by submitting  
6 written notice to the department of health and to the applicant  
7 indicating a definite date by which its determination will be made.  
8 No additional extensions shall be granted, and in no event shall the  
9 total review period for the department of ecology exceed one hundred  
10 eighty days.

11 (8) If the department of health determines the proposed intertie  
12 appears to meet the requirements of subsection (4) of this section  
13 but is not necessary to address emergent public health or safety  
14 concerns associated with public water supply, the department of  
15 health shall instruct the applicant to submit to the department of  
16 ecology an application for change to the underlying water right or  
17 claim as necessary to reflect the new place of use. The department of  
18 ecology shall consider the applications pursuant to the provisions of  
19 RCW 90.03.380 and 90.44.100 as appropriate. If in its review of  
20 proposed interties and associated water rights the department of  
21 ecology determines that additional information is required to act on  
22 the application, the department may request applicants to provide  
23 information necessary for its decision, consistent with agency rules  
24 and written guidelines. Parties disagreeing with the decision of the  
25 department of ecology on the application for change in place of use  
26 may appeal the decision to the pollution control hearings board.

27 (9) The department of health may approve plans containing  
28 intertie proposals prior to the department of ecology's decision on  
29 the water right application for change in place of use. However,  
30 notwithstanding such approval, construction work on the intertie  
31 shall not begin until the department of ecology issues the  
32 appropriate water right document to the applicant consistent with the  
33 approved plan.

34 **Sec. 1492.** RCW 90.03.386 and 2003 1st sp.s. c 5 s 5 are each  
35 amended to read as follows:

36 (1) Within service areas established pursuant to chapter 43.20 or  
37 70.116 RCW (as recodified by this act), the department of ecology and  
38 the department of health shall coordinate approval procedures to

1 ensure compliance and consistency with the approved water system plan  
2 or small water system management program.

3 (2) The effect of the department of health's approval of a  
4 planning or engineering document that describes a municipal water  
5 supplier's service area under chapter 43.20 RCW, or the local  
6 legislative authority's approval of service area boundaries in  
7 accordance with procedures adopted pursuant to chapter 70.116 RCW (as  
8 recodified by this act), is that the place of use of a surface water  
9 right or groundwater right used by the supplier includes any portion  
10 of the approved service area that was not previously within the place  
11 of use for the water right if the supplier is in compliance with the  
12 terms of the water system plan or small water system management  
13 program, including those regarding water conservation, and the  
14 alteration of the place of use is not inconsistent, regarding an area  
15 added to the place of use, with: Any comprehensive plans or  
16 development regulations adopted under chapter 36.70A RCW; any other  
17 applicable comprehensive plan, land use plan, or development  
18 regulation adopted by a city, town, or county; or any watershed plan  
19 approved under chapter 90.82 RCW, or a comprehensive watershed plan  
20 adopted under RCW 90.54.040(1) after September 9, 2003, if such a  
21 watershed plan has been approved for the area.

22 (3) A municipal water supplier must implement cost-effective  
23 water conservation in accordance with the requirements of RCW  
24 70.119A.180 (as recodified by this act) as part of its approved water  
25 system plan or small water system management program. In preparing  
26 its regular water system plan update, a municipal water supplier with  
27 one thousand or more service connections must describe: (a) The  
28 projects, technologies, and other cost-effective measures that  
29 comprise its water conservation program; (b) improvements in the  
30 efficiency of water system use resulting from implementation of its  
31 conservation program over the previous six years; and (c) projected  
32 effects of delaying the use of existing inchoate rights over the next  
33 six years through the addition of further cost-effective water  
34 conservation measures before it may divert or withdraw further  
35 amounts of its inchoate right for beneficial use. When establishing  
36 or extending a surface or ground water right construction schedule  
37 under RCW 90.03.320, the department must take into consideration the  
38 public water system's use of conserved water.

1       **Sec. 1493.** RCW 90.03.570 and 2003 1st sp.s. c 5 s 14 are each  
2 amended to read as follows:

3       (1) An unperfected surface water right for municipal water supply  
4 purposes or a portion thereof held by a municipal water supplier may  
5 be changed or transferred in the same manner as provided by RCW  
6 90.03.380 for any purpose if:

7       (a) The supplier is in compliance with the terms of an approved  
8 water system plan or small water system management program under  
9 chapter 43.20 or 70.116 RCW (as recodified by this act) that applies  
10 to the supplier, including those regarding water conservation;

11       (b) Instream flows have been established by rule for the water  
12 resource inventory area, as established in chapter 173-500 WAC as it  
13 exists on September 9, 2003, that is the source of the water for the  
14 transfer or change;

15       (c) A watershed plan has been approved for the water resource  
16 inventory area referred to in (b) of this subsection under chapter  
17 90.82 RCW and a detailed implementation plan has been completed that  
18 satisfies the requirements of RCW 90.82.043 or a watershed plan has  
19 been adopted after September 9, 2003, for that water resource  
20 inventory area under RCW 90.54.040(1) and a detailed implementation  
21 plan has been completed that satisfies the requirements of RCW  
22 90.82.043; and

23       (d) Streamflows that satisfy the instream flows referred to in  
24 (b) of this subsection are met or the milestones for satisfying those  
25 instream flows required under (c) of this subsection are being met.

26       (2) If the criteria listed in subsection (1)(a) through (d) of  
27 this section are not satisfied, an unperfected surface water right  
28 for municipal water supply purposes or a portion thereof held by a  
29 municipal water supplier may nonetheless be changed or transferred in  
30 the same manner as provided by RCW 90.03.380 if the change or  
31 transfer is:

32       (a) To provide water for an instream flow requirement that has  
33 been established by the department by rule;

34       (b) Subject to streamflow protection or restoration requirements  
35 contained in: A federally approved habitat conservation plan under  
36 the federal endangered species act, 16 U.S.C. Sec. 1531 et seq., a  
37 hydropower license of the federal energy regulatory commission, or a  
38 watershed agreement established under RCW 90.03.590;

39       (c) For a water right that is subject to instream flow  
40 requirements or agreements with the department and the change or

1 transfer is also subject to those instream flow requirements or  
2 agreements; or

3 (d) For resolving or alleviating a public health or safety  
4 emergency caused by a failing public water supply system currently  
5 providing potable water to existing users, as such a system is  
6 described in RCW 90.03.580, and if the change, transfer, or amendment  
7 is for correcting the actual or anticipated cause or causes of the  
8 public water system failure. Inadequate water rights for a public  
9 water system to serve existing hookups or to accommodate future  
10 population growth or other future uses do not constitute a public  
11 health or safety emergency.

12 (3) If the recipient of water under a change or transfer  
13 authorized by subsection (1) of this section is a water supply  
14 system, the receiving system must also be in compliance with the  
15 terms of an approved water system plan or small water system  
16 management program under chapter 43.20 or 70.116 RCW (as recodified  
17 by this act) that applies to the system, including those regarding  
18 water conservation.

19 (4) The department must provide notice to affected tribes of any  
20 transfer or change proposed under this section.

21 **Sec. 1494.** RCW 90.03.590 and 2003 1st sp.s. c 5 s 16 are each  
22 amended to read as follows:

23 (1) On a pilot project basis, the department may enter into a  
24 watershed agreement with one or more municipal water suppliers in  
25 water resource inventory area number one to meet the objectives  
26 established in a water resource management program approved or being  
27 developed under chapter 90.82 RCW with the consent of the initiating  
28 governments of the water resource inventory area. The term of an  
29 agreement may not exceed ten years, but the agreement may be renewed  
30 or amended upon agreement of the parties.

31 (2) A watershed agreement must be consistent with:

32 (a) Growth management plans developed under chapter 36.70A RCW  
33 where these plans are adopted and in effect;

34 (b) Water supply plans and small water system management programs  
35 approved under chapter 43.20 or 70.116 RCW (as recodified by this  
36 act);

37 (c) Coordinated water supply plans approved under chapter 70.116  
38 RCW (as recodified by this act); and

1 (d) Water use efficiency and conservation requirements and  
2 standards established by the state department of health or such  
3 requirements and standards as are provided in an approved watershed  
4 plan, whichever are the more stringent.

5 (3) A watershed agreement must:

6 (a) Require the public water system operated by the participating  
7 municipal water supplier to meet obligations under the watershed  
8 plan;

9 (b) Establish performance measures and timelines for measures to  
10 be completed;

11 (c) Provide for monitoring of streamflows and metering of water  
12 use as needed to ensure that the terms of the agreement are met; and

13 (d) Require annual reports from the water users regarding  
14 performance under the agreement.

15 (4) As needed to implement watershed agreement activities, the  
16 department may provide or receive funding, or both, under its  
17 existing authorities.

18 (5) The department must provide opportunity for public review of  
19 a proposed agreement before it is executed. The department must make  
20 proposed and executed watershed agreements and annual reports  
21 available on the department's internet web site.

22 (6) The department must consult with affected local governments  
23 and the state departments of health and fish and wildlife before  
24 executing an agreement.

25 (7) Before executing a watershed agreement, the department must  
26 conduct a government-to-government consultation with affected tribal  
27 governments. The municipal water suppliers operating the public water  
28 systems that are proposing to enter into the agreements must be  
29 invited to participate in the consultations. During these  
30 consultations, the department and the municipal water suppliers shall  
31 explore the potential interest of the tribal governments or  
32 governments in participating in the agreement.

33 (8) Any person aggrieved by the department's failure to satisfy  
34 the requirements in subsection (3) of this section as embodied in the  
35 department's decision to enter into a watershed agreement under this  
36 section may, within thirty days of the execution of such an  
37 agreement, appeal the department's decision to the pollution control  
38 hearings board under chapter 43.21B RCW.

39 (9) Any projects implemented by a municipal water system under  
40 the terms of an agreement reached under this section may be continued

1 and maintained by the municipal water system after the agreement  
2 expires or is terminated as long as the conditions of the agreement  
3 under which they were implemented continue to be met.

4 (10) Before December 31, 2003, and December 31, 2004, the  
5 department must report to the appropriate committees of the  
6 legislature the results of the pilot project provided for in this  
7 section. Based on the experience of the pilot project, the department  
8 must offer any suggested changes in law that would improve,  
9 facilitate, and maximize the implementation of watershed plans  
10 adopted under this chapter.

11 **Sec. 1495.** RCW 90.46.005 and 2007 c 445 s 2 are each amended to  
12 read as follows:

13 The legislature finds that by encouraging the use of reclaimed  
14 water while assuring the health and safety of all Washington citizens  
15 and the protection of its environment, the state of Washington will  
16 continue to use water in the best interests of present and future  
17 generations.

18 To facilitate the immediate use of reclaimed water for uses  
19 approved by the departments of ecology and health, the state shall  
20 expand both direct financial support and financial incentives for  
21 capital investments in water reuse and reclaimed water to effectuate  
22 the goals of this chapter. The legislature further directs the  
23 department of health and the department of ecology to coordinate  
24 efforts towards developing an efficient and streamlined process for  
25 creating and implementing processes for the use of reclaimed water.

26 It is hereby declared that the people of the state of Washington  
27 have a primary interest in the development of facilities to provide  
28 reclaimed water to replace potable water in nonpotable applications,  
29 to supplement existing surface and ground water supplies, and to  
30 assist in meeting the future water requirements of the state.

31 The legislature further finds and declares that the utilization  
32 of reclaimed water by local communities for domestic, agricultural,  
33 industrial, recreational, and fish and wildlife habitat creation and  
34 enhancement purposes, including wetland enhancement, will contribute  
35 to the peace, health, safety, and welfare of the people of the state  
36 of Washington. To the extent reclaimed water is appropriate for  
37 beneficial uses, it should be so used to preserve potable water for  
38 drinking purposes, contribute to the restoration and protection of  
39 instream flows that are crucial to preservation of the state's



1 salmonid fishery resources, contribute to the restoration of Puget  
2 Sound by reducing wastewater discharge, provide a drought resistant  
3 source of water supply for nonpotable needs, or be a source of supply  
4 integrated into state, regional, and local strategies to respond to  
5 population growth and global warming. Use of reclaimed water  
6 constitutes the development of new basic water supplies needed for  
7 future generations and local and regional water management planning  
8 should consider coordination of infrastructure, development, storage,  
9 water reclamation and reuse, and source exchange as strategies to  
10 meet water demands associated with population growth and impacts of  
11 global warming.

12 The legislature further finds and declares that the use of  
13 reclaimed water is not inconsistent with the policy of  
14 antidegradation of state waters announced in other state statutes,  
15 including the water pollution control act, chapter 90.48 RCW and the  
16 water resources act, chapter 90.54 RCW.

17 The legislature finds that other states, including California,  
18 Florida, and Arizona, have successfully used reclaimed water to  
19 supplement existing water supplies without threatening existing  
20 resources or public health.

21 It is the intent of the legislature that the department of  
22 ecology and the department of health undertake the necessary steps to  
23 encourage the development of water reclamation facilities so that  
24 reclaimed water may be made available to help meet the growing water  
25 requirements of the state.

26 The legislature further finds and declares that reclaimed water  
27 facilities are water pollution control facilities as defined in  
28 chapter 70.146 RCW (as recodified by this act) and are eligible for  
29 financial assistance as provided in chapter 70.146 RCW (as recodified  
30 by this act). The legislature finds that funding demonstration  
31 projects will ensure the future use of reclaimed water. The  
32 demonstration projects in RCW 90.46.110 are varied in nature and will  
33 provide the experience necessary to test different facets of the  
34 standards and refine a variety of technologies so that water  
35 purveyors can begin to use reclaimed water technology in a more cost-  
36 effective manner. This is especially critical in smaller cities and  
37 communities where the feasibility for such projects is great, but  
38 there are scarce resources to develop the necessary facilities.

39 The legislature further finds that the agricultural processing  
40 industry can play a critical and beneficial role in promoting the

1 efficient use of water by having the opportunity to develop and reuse  
2 agricultural industrial process water from food processing.

3 **Sec. 1496.** RCW 90.46.010 and 2009 c 456 s 1 are each amended to  
4 read as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

7 (1) "Agricultural industrial process water" means water that has  
8 been used for the purpose of agricultural processing and has been  
9 adequately and reliably treated, so that as a result of that  
10 treatment, it is suitable for other agricultural water use.

11 (2) "Agricultural processing" means the processing of crops or  
12 milk to produce a product primarily for wholesale or retail sale for  
13 human or animal consumption, including but not limited to potato,  
14 fruit, vegetable, and grain processing.

15 (3) "Agricultural water use" means the use of water for  
16 irrigation and other uses related to the production of agricultural  
17 products. These uses include, but are not limited to, construction,  
18 operation, and maintenance of agricultural facilities and livestock  
19 operations at farms, ranches, dairies, and nurseries. Examples of  
20 these uses include, but are not limited to, dust control, temperature  
21 control, and fire control.

22 (4) "Constructed beneficial use wetlands" means those wetlands  
23 intentionally constructed on nonwetland sites to produce or create  
24 natural wetland functions and values.

25 (5) "Constructed treatment wetlands" means wetland-like  
26 impoundments intentionally constructed on nonwetland sites and  
27 managed for the primary purpose of further treatment or retention of  
28 reclaimed water as distinct from creating natural wetland functions  
29 and values.

30 (6) "Direct groundwater recharge" means the controlled subsurface  
31 addition of water directly into groundwater for the purpose of  
32 replenishing groundwater.

33 (7) "Domestic wastewater" means wastewater from greywater,  
34 toilet, or urinal sources.

35 (8) "Greywater or gray water" means domestic type flows from  
36 bathtubs, showers, bathroom sinks, washing machines, dishwashers, and  
37 kitchen or utility sinks. Gray water does not include flow from a  
38 toilet or urinal.

1 (9) "Industrial reuse water" means water that has been used for  
2 the purpose of industrial processing and has been adequately and  
3 reliably treated so that, as a result of that treatment, it is  
4 suitable for other uses.

5 (10) "Land application" means use of reclaimed water as permitted  
6 under this chapter for the purpose of irrigation or watering of  
7 landscape vegetation.

8 (11) "Lead agency" means either the department of health or the  
9 department of ecology that has been designated by rule as the agency  
10 that will coordinate, review, issue, and enforce a reclaimed water  
11 permit issued under this chapter.

12 (12) "Nonlead agency" means either the department of health or  
13 the department of ecology, whichever is not the lead agency for  
14 purposes of this chapter.

15 (13) "Person" means any state, individual, public or private  
16 corporation, political subdivision, governmental subdivision,  
17 governmental agency, municipality, copartnership, association, firm,  
18 trust estate, or any other legal entity whatever.

19 (14) "Planned groundwater recharge project" means any reclaimed  
20 water project designed for the purpose of recharging groundwater.

21 (15) "Reclaimed water" means water derived in any part from  
22 wastewater with a domestic wastewater component that has been  
23 adequately and reliably treated, so that it can be used for  
24 beneficial purposes. Reclaimed water is not considered a wastewater.

25 (16) "State drinking water contaminant criteria" means the  
26 contaminant criteria found in the drinking water quality standards  
27 adopted by the state board of health pursuant to chapter 43.20 RCW  
28 and the department of health pursuant to chapter 70.119A RCW (as  
29 recodified by this act).

30 (17) "Streamflow or surface water augmentation" means the  
31 intentional use of reclaimed water for rivers and streams of the  
32 state or other surface water bodies, for the purpose of increasing  
33 volumes.

34 (18) "Surface percolation" means the controlled application of  
35 water to the ground surface or to unsaturated soil for the purpose of  
36 replenishing groundwater.

37 (19) "User" means any person who uses reclaimed water.

38 (20) "Wastewater" means water-carried wastes from residences,  
39 buildings, industrial and commercial establishments, or other places,

1 together with such groundwater infiltration and inflow as may be  
2 present.

3 (21) "Wetland or wetlands" means areas that are inundated or  
4 saturated by surface water or groundwater at a frequency and duration  
5 sufficient to support, and that under normal circumstances do  
6 support, a prevalence of vegetation typically adapted to life in  
7 saturated soil conditions. Wetlands generally include swamps,  
8 marshes, bogs, and similar areas. Wetlands regulated under this  
9 chapter shall be delineated in accordance with the manual adopted by  
10 the department of ecology pursuant to RCW 90.58.380.

11 **Sec. 1497.** RCW 90.46.120 and 2009 c 456 s 5 are each amended to  
12 read as follows:

13 (1) The owner of a wastewater treatment facility that is  
14 reclaiming water with a permit issued under this chapter has the  
15 exclusive right to any reclaimed water generated by the wastewater  
16 treatment facility. Use, distribution, storage, and the recovery from  
17 storage of reclaimed water permitted under this chapter is exempt  
18 from the permit requirements of RCW 90.03.250 and 90.44.060, provided  
19 that a permit for recovery of reclaimed water from aquifer storage  
20 shall be reviewed under the standards established under RCW  
21 90.03.370(2) for aquifer storage and recovery projects. Revenues  
22 derived from the reclaimed water facility shall be used only to  
23 offset the cost of operation of the wastewater utility fund or other  
24 applicable source of systemwide funding.

25 (2) If the proposed use of reclaimed water is to augment or  
26 replace potable water supplies or to create the potential for the  
27 development of an additional new potable water supply, then regional  
28 water supply plans, or any other potable water supply plans prepared  
29 by multiple water purveyors, must consider the proposed use of the  
30 reclaimed water as they are developed or updated.

31 (a) Regional water supply plans include those adopted under state  
32 board of health laws (chapter 43.20 RCW), the public water system  
33 coordination act of 1977 (chapter 70.116 RCW as recodified by this  
34 act), groundwater protection laws (chapter 90.44 RCW), and the  
35 watershed planning act (chapter 90.82 RCW).

36 (b) The requirement to consider the use of reclaimed water does  
37 not change the plan approval process established under these  
38 statutes.

1 (c) When regional water supply plans are being developed, the  
2 owners of wastewater treatment facilities that produce or propose to  
3 produce reclaimed water for use within the planning area must be  
4 included in the planning process.

5 (3) When reclaimed water is available or is proposed for use  
6 under a water supply or wastewater plan developed under chapter  
7 43.20, 70.116 (as recodified by this act), 90.44, 90.48, or 90.82 RCW  
8 these plans must be coordinated to ensure that opportunities for  
9 reclaimed water are evaluated. The requirements of this subsection  
10 (3) do not apply to water system plans developed under chapter 43.20  
11 RCW for utilities serving less than one thousand service connections.

12 (4) The provisions of any plan for reclaimed water, developed  
13 under the authorities in subsections (2) and (3) of this section,  
14 should be included by a city, town, or county in reviewing provisions  
15 for water supplies in a proposed short plat, short subdivision, or  
16 subdivision under chapter 58.17 RCW, where reclaimed water supplies  
17 may be proposed for nonpotable purposes in the short plat, short  
18 subdivision, or subdivision.

19 (5) By November 30, 2009, the department of ecology shall review  
20 comments from the reclaimed water advisory committee under RCW  
21 90.46.050 and the reclaimed water and water rights advisory committee  
22 under the direction of the department of ecology and submit a  
23 recommendation to the legislature on the impairment requirements and  
24 standards for reclaimed water. The department of ecology shall also  
25 provide a report to the legislature that describes the opinions of  
26 the stakeholders on the impairment requirements and standards for  
27 reclaimed water.

28 **Sec. 1498.** RCW 90.48.039 and 1994 c 257 s 19 are each amended to  
29 read as follows:

30 The procedural requirements of this chapter shall not apply to  
31 any person conducting a remedial action at a facility pursuant to a  
32 consent decree, order, or agreed order issued pursuant to chapter  
33 70.105D RCW (as recodified by this act), or to the department of  
34 ecology when it conducts a remedial action under chapter 70.105D RCW  
35 (as recodified by this act). The department of ecology shall ensure  
36 compliance with the substantive requirements of this chapter through  
37 the consent decree, order, or agreed order issued pursuant to chapter  
38 70.105D RCW (as recodified by this act), or during the department-

1 conducted remedial action, through the procedures developed by the  
2 department pursuant to RCW 70.105D.090 (as recodified by this act).

3 **Sec. 1499.** RCW 90.48.110 and 2007 c 343 s 13 are each amended to  
4 read as follows:

5 (1) Except under subsection (2) of this section, all engineering  
6 reports, plans, and specifications for the construction of new  
7 sewerage systems, sewage treatment or disposal plants or systems, or  
8 for improvements or extensions to existing sewerage systems or sewage  
9 treatment or disposal plants, and the proposed method of future  
10 operation and maintenance of said facility or facilities, shall be  
11 submitted to and be approved by the department, before construction  
12 thereof may begin. No approval shall be given until the department is  
13 satisfied that said plans and specifications and the methods of  
14 operation and maintenance submitted are adequate to protect the  
15 quality of the state's waters as provided for in this chapter.  
16 Approval under this chapter is not required for large on-site sewage  
17 systems permitted by the department of health under chapter 70.118B  
18 RCW (as recodified by this act) or for on-site sewage systems  
19 regulated by local health jurisdictions under rules of the state  
20 board of health.

21 (2) To promote efficiency in service delivery and  
22 intergovernmental cooperation in protecting the quality of the  
23 state's waters, the department may delegate the authority for review  
24 and approval of engineering reports, plans, and specifications for  
25 the construction of new sewerage systems, sewage treatment or  
26 disposal plants or systems, or for improvements or extensions to  
27 existing sewerage system or sewage treatment or disposal plants, and  
28 the proposed method of future operations and maintenance of said  
29 facility or facilities and industrial pretreatment systems, to local  
30 units of government requesting such delegation and meeting criteria  
31 established by the department.

32 (3) For any new or revised general sewer plan submitted for  
33 review under this section, the department shall review and either  
34 approve, conditionally approve, reject, or request amendments within  
35 ninety days of the receipt of the submission of the plan. The  
36 department may extend this ninety-day time limitation for new  
37 submittals by up to an additional ninety days if insufficient time  
38 exists to adequately review the general sewer plan. For rejections of  
39 plans or extensions of the timeline, the department shall provide in

1 writing to the local government entity the reason for such action. In  
2 addition, the governing body of the local government entity and the  
3 department may mutually agree to an extension of the deadlines  
4 contained in this section.

5 **Sec. 1500.** RCW 90.48.162 and 2007 c 343 s 12 are each amended to  
6 read as follows:

7 Any county or any municipal or public corporation operating or  
8 proposing to operate a sewerage system, including any system which  
9 collects only domestic sewerage, which results in the disposal of  
10 waste material into the waters of the state shall procure a permit  
11 from the department of ecology before so disposing of such materials.  
12 This section is intended to extend the permit system of RCW 90.48.160  
13 to counties and municipal or public corporations and the provisions  
14 of RCW 90.48.170 through 90.48.200 and 90.52.040 shall be applicable  
15 to the permit requirement imposed under this section. A permit under  
16 this chapter is not required for large on-site sewage systems  
17 permitted by the department of health under chapter 70.118B RCW (as  
18 recodified by this act) or for on-site sewage systems permitted by  
19 local health jurisdictions under rules of the state board of health.

20 **Sec. 1501.** RCW 90.48.285 and 2005 c 469 s 4 are each amended to  
21 read as follows:

22 The department is authorized to enter into contracts with any  
23 municipal or public corporation or political subdivision within the  
24 state for the purpose of assisting such agencies to finance the  
25 design and construction of water pollution control projects, whether  
26 procured through chapter 39.10 or 70.150 RCW (as recodified by this  
27 act), or otherwise, that are necessary to prevent the discharge of  
28 untreated or inadequately treated sewage or other waste into the  
29 waters of the state, including but not limited to, systems for the  
30 control of storm or surface waters which will provide for the removal  
31 of waste or polluting materials in a manner conforming to the  
32 comprehensive plan of water pollution control and abatement proposed  
33 by the agencies and approved by the department. Any such contract may  
34 provide for:

35 The payment by the department to a municipal or public  
36 corporation or political subdivision on a monthly, quarterly, or  
37 annual basis of varying amounts of moneys as advances which shall be

1 repayable by said municipal or public corporation, or political  
2 subdivision under conditions determined by the department.

3 Contracts made by the department shall be subject to the  
4 following limitations:

5 (1) No contract shall be made unless the department shall find  
6 that the project cannot be financed at reasonable cost or within  
7 statutory limitations by the borrower without the making of such  
8 contract.

9 (2) No contract shall be made with any public or municipal  
10 corporation or political subdivision to assist in the financing of  
11 any project located within a sewage drainage basin for which the  
12 department shall have previously adopted a comprehensive water  
13 pollution control and abatement plan unless the project is found by  
14 the department to conform with the basin comprehensive plan.

15 (3) The department shall determine the interest rate, not to  
16 exceed ten percent per annum, which such advances shall bear.

17 (4) The department shall provide such reasonable terms and  
18 conditions of repayment of advances as it may determine.

19 (5) The total outstanding amount which the department may at any  
20 time be obligated to pay under all outstanding contracts made  
21 pursuant to this section shall not exceed the moneys available for  
22 such payment.

23 (6) Municipal or public corporations or political subdivisions  
24 shall meet such qualifications and follow such procedures in applying  
25 for contract assistance as shall be established by the department.

26 In making such contracts the department shall give priority to  
27 projects which will provide relief from actual or potential public  
28 health hazards or water pollution conditions and which provide  
29 substantial capacity beyond present requirements to meet anticipated  
30 future demand.

31 **Sec. 1502.** RCW 90.48.530 and 2003 c 210 s 1 are each amended to  
32 read as follows:

33 (1) In order to ensure that construction projects involving the  
34 use of fill material do not pose a threat to water quality, the  
35 department may require that the suitability of potential fill  
36 material be evaluated using a leaching test included in the soil  
37 clean-up rules adopted by the department under chapter 70.105D RCW  
38 (as recodified by this act) in any water quality certification issued  
39 under section 401 of the federal clean water act and in any



1 administrative order issued under this chapter, where such  
2 certification or administrative order authorizes the placement of  
3 fill material, some or all of which will be placed in waters of the  
4 state. Any such requirement imposed by the department in a water  
5 quality certification or administrative order issued prior to May 9,  
6 2003, is ratified and approved by the legislature as a valid and  
7 reliable method for determining concentrations of chemical  
8 constituents that can be present in fill material without posing an  
9 unacceptable risk of violating water quality standards, and shall be  
10 in effect as imposed by the department for all work not completed by  
11 June 1, 2003.

12 (2) Nothing in this section limits, in any way, the department's  
13 authority under this chapter.

14 **Sec. 1503.** RCW 90.48.531 and 2003 c 210 s 2 are each amended to  
15 read as follows:

16 The department shall identify the leaching tests utilized for  
17 evaluating the potential impacts to water quality in situations where  
18 fill material is imported. The tests may include those identified in  
19 the soil clean-up rules adopted by the department under chapter  
20 70.105D RCW (as recodified by this act). Within existing resources,  
21 the department shall assess whether this list of leaching tests  
22 provides appropriate methods for analyzing water quality impacts for  
23 all types of projects and in all circumstances where fill material is  
24 imported. The department shall also identify any gaps in leaching  
25 test methodology. The department shall report both the leaching test  
26 list and the list of test methodology gaps to the appropriate  
27 committees of the legislature by December 31, 2003.

28 **Sec. 1504.** RCW 90.52.030 and 1971 ex.s. c 160 s 3 are each  
29 amended to read as follows:

30 Operation of an industrial or commercial operation in violation  
31 of RCW 90.52.010 may be enjoined on petition of the attorney general  
32 to the superior court of Thurston county or of the county in which  
33 the operation is located.

34 Operation of an industrial or commercial operation in violation  
35 of this chapter shall provide the basis of a civil penalty under RCW  
36 90.48.144 or 70.94.431 (as recodified by this act) as now or are  
37 hereafter amended. No person may discharge wastes into the waters or

1 air of the state who fails to satisfy the requirements of RCW  
2 90.52.010 and 90.52.040.

3 **Sec. 1505.** RCW 90.56.010 and 2015 c 274 s 3 are each reenacted  
4 and amended to read as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

7 (1) "Best achievable protection" means the highest level of  
8 protection that can be achieved through the use of the best  
9 achievable technology and those staffing levels, training procedures,  
10 and operational methods that provide the greatest degree of  
11 protection achievable. The director's determination of best  
12 achievable protection shall be guided by the critical need to protect  
13 the state's natural resources and waters, while considering (a) the  
14 additional protection provided by the measures; (b) the technological  
15 achievability of the measures; and (c) the cost of the measures.

16 (2) "Best achievable technology" means the technology that  
17 provides the greatest degree of protection taking into consideration  
18 (a) processes that are being developed, or could feasibly be  
19 developed, given overall reasonable expenditures on research and  
20 development, and (b) processes that are currently in use. In  
21 determining what is best achievable technology, the director shall  
22 consider the effectiveness, engineering feasibility, and commercial  
23 availability of the technology.

24 (3) "Board" means the pollution control hearings board.

25 (4) "Bulk" means material that is stored or transported in a  
26 loose, unpackaged liquid, powder, or granular form capable of being  
27 conveyed by a pipe, bucket, chute, or belt system.

28 (5) "Cargo vessel" means a self-propelled ship in commerce, other  
29 than a tank vessel or a passenger vessel, three hundred or more gross  
30 tons, including but not limited to, commercial fish processing  
31 vessels and freighters.

32 (6) "Committee" means the preassessment screening committee  
33 established under RCW 90.48.368.

34 (7) "Covered vessel" means a tank vessel, cargo vessel, or  
35 passenger vessel.

36 (8) "Crude oil" means any naturally occurring hydrocarbons coming  
37 from the earth that are liquid at twenty-five degrees Celsius and one  
38 atmosphere of pressure including, but not limited to, crude oil,

1 bitumen and diluted bitumen, synthetic crude oil, and natural gas  
2 well condensate.

3 (9) "Department" means the department of ecology.

4 (10) "Director" means the director of the department of ecology.

5 (11) "Discharge" means any spilling, leaking, pumping, pouring,  
6 emitting, emptying, or dumping.

7 (12)(a) "Facility" means any structure, group of structures,  
8 equipment, pipeline, or device, other than a vessel, located on or  
9 near the navigable waters of the state that transfers oil in bulk to  
10 or from a tank vessel or pipeline, that is used for producing,  
11 storing, handling, transferring, processing, or transporting oil in  
12 bulk.

13 (b) For the purposes of oil spill contingency planning in RCW  
14 90.56.210, facility also means a railroad that is not owned by the  
15 state that transports oil as bulk cargo.

16 (c) Except as provided in (b) of this subsection, a facility does  
17 not include any: (i) Railroad car, motor vehicle, or other rolling  
18 stock while transporting oil over the highways or rail lines of this  
19 state; (ii) underground storage tank regulated by the department or a  
20 local government under chapter 90.76 RCW (as recodified by this act);  
21 (iii) motor vehicle motor fuel outlet; (iv) facility that is operated  
22 as part of an exempt agricultural activity as provided in RCW  
23 82.04.330; or (v) marine fuel outlet that does not dispense more than  
24 three thousand gallons of fuel to a ship that is not a covered  
25 vessel, in a single transaction.

26 (13) "Fund" means the state coastal protection fund as provided  
27 in RCW 90.48.390 and 90.48.400.

28 (14) "Having control over oil" shall include but not be limited  
29 to any person using, storing, or transporting oil immediately prior  
30 to entry of such oil into the waters of the state, and shall  
31 specifically include carriers and bailees of such oil.

32 (15) "Marine facility" means any facility used for tank vessel  
33 wharfage or anchorage, including any equipment used for the purpose  
34 of handling or transferring oil in bulk to or from a tank vessel.

35 (16) "Navigable waters of the state" means those waters of the  
36 state, and their adjoining shorelines, that are subject to the ebb  
37 and flow of the tide and/or are presently used, have been used in the  
38 past, or may be susceptible for use to transport intrastate,  
39 interstate, or foreign commerce.

1 (17) "Necessary expenses" means the expenses incurred by the  
2 department and assisting state agencies for (a) investigating the  
3 source of the discharge; (b) investigating the extent of the  
4 environmental damage caused by the discharge; (c) conducting actions  
5 necessary to clean up the discharge; (d) conducting predamage and  
6 damage assessment studies; and (e) enforcing the provisions of this  
7 chapter and collecting for damages caused by a discharge.

8 (18) "Offshore facility" means any facility located in, on, or  
9 under any of the navigable waters of the state, but does not include  
10 a facility any part of which is located in, on, or under any land of  
11 the state, other than submerged land.

12 (19) "Oil" or "oils" means oil of any kind that is liquid at  
13 twenty-five degrees Celsius and one atmosphere of pressure and any  
14 fractionation thereof, including, but not limited to, crude oil,  
15 bitumen, synthetic crude oil, natural gas well condensate, petroleum,  
16 gasoline, fuel oil, diesel oil, biological oils and blends, oil  
17 sludge, oil refuse, and oil mixed with wastes other than dredged  
18 spoil. Oil does not include any substance listed in Table 302.4 of 40  
19 C.F.R. Part 302 adopted August 14, 1989, under section 102(a) of the  
20 federal comprehensive environmental response, compensation, and  
21 liability act of 1980, as amended by P.L. 99-499.

22 (20) "Onshore facility" means any facility any part of which is  
23 located in, on, or under any land of the state, other than submerged  
24 land, that because of its location, could reasonably be expected to  
25 cause substantial harm to the environment by discharging oil into or  
26 on the navigable waters of the state or the adjoining shorelines.

27 (21)(a) "Owner or operator" means (i) in the case of a vessel,  
28 any person owning, operating, or chartering by demise, the vessel;  
29 (ii) in the case of an onshore or offshore facility, any person  
30 owning or operating the facility; and (iii) in the case of an  
31 abandoned vessel or onshore or offshore facility, the person who  
32 owned or operated the vessel or facility immediately before its  
33 abandonment.

34 (b) "Operator" does not include any person who owns the land  
35 underlying a facility if the person is not involved in the operations  
36 of the facility.

37 (22) "Passenger vessel" means a ship of three hundred or more  
38 gross tons with a fuel capacity of at least six thousand gallons  
39 carrying passengers for compensation.

1 (23) "Person" means any political subdivision, government agency,  
2 municipality, industry, public or private corporation, copartnership,  
3 association, firm, individual, or any other entity whatsoever.

4 (24) "Ship" means any boat, ship, vessel, barge, or other  
5 floating craft of any kind.

6 (25) "Spill" means an unauthorized discharge of oil or hazardous  
7 substances into the waters of the state.

8 (26) "Tank vessel" means a ship that is constructed or adapted to  
9 carry, or that carries, oil in bulk as cargo or cargo residue, and  
10 that:

11 (a) Operates on the waters of the state; or

12 (b) Transfers oil in a port or place subject to the jurisdiction  
13 of this state.

14 (27) "Waters of the state" includes lakes, rivers, ponds,  
15 streams, inland waters, underground water, salt waters, estuaries,  
16 tidal flats, beaches and lands adjoining the seacoast of the state,  
17 sewers, and all other surface waters and watercourses within the  
18 jurisdiction of the state of Washington.

19 (28) "Worst case spill" means: (a) In the case of a vessel, a  
20 spill of the entire cargo and fuel of the vessel complicated by  
21 adverse weather conditions; and (b) in the case of an onshore or  
22 offshore facility, the largest foreseeable spill in adverse weather  
23 conditions.

24 **Sec. 1506.** RCW 90.58.355 and 2015 3rd sp.s. c 15 s 9 are each  
25 amended to read as follows:

26 Requirements to obtain a substantial development permit,  
27 conditional use permit, variance, letter of exemption, or other  
28 review conducted by a local government to implement this chapter do  
29 not apply to:

30 (1) Any person conducting a remedial action at a facility  
31 pursuant to a consent decree, order, or agreed order issued pursuant  
32 to chapter 70.105D RCW (as recodified by this act), or to the  
33 department of ecology when it conducts a remedial action under  
34 chapter 70.105D RCW (as recodified by this act). The department must  
35 ensure compliance with the substantive requirements of this chapter  
36 through the consent decree, order, or agreed order issued pursuant to  
37 chapter 70.105D RCW (as recodified by this act), or during the  
38 department-conducted remedial action, through the procedures

1 developed by the department pursuant to RCW 70.105D.090 (as  
2 recodified by this act);

3 (2) Any person installing site improvements for stormwater  
4 treatment in an existing boatyard facility to meet requirements of a  
5 national pollutant discharge elimination system stormwater general  
6 permit. The department must ensure compliance with the substantive  
7 requirements of this chapter through the review of engineering  
8 reports, site plans, and other documents related to the installation  
9 of boatyard stormwater treatment facilities; or

10 (3) The department of transportation projects and activities that  
11 meet the conditions of RCW 90.58.356.

12 **Sec. 1507.** RCW 90.71.270 and 2007 c 341 s 9 are each amended to  
13 read as follows:

14 (1) The council shall appoint a nine-member Puget Sound science  
15 panel to provide independent, nonrepresentational scientific advice  
16 to the council and expertise in identifying environmental indicators  
17 and benchmarks for incorporation into the action agenda.

18 (2) In establishing the panel, the council shall request the  
19 Washington academy of sciences, created in chapter 70.220 RCW (as  
20 recodified by this act), to nominate fifteen scientists with  
21 recognized expertise in fields of science essential to the recovery  
22 of Puget Sound. Nominees should reflect the full range of scientific  
23 and engineering disciplines involved in Puget Sound recovery. At a  
24 minimum, the Washington academy of sciences shall consider making  
25 nominations from scientists associated with federal, state, and local  
26 agencies, tribes, the business and environmental communities, members  
27 of the K-12, college, and university communities, and members of the  
28 board. The solicitation should be to all sectors, and candidates may  
29 be from all public and private sectors. Persons nominated by the  
30 Washington academy of sciences must disclose any potential conflicts  
31 of interest, and any financial relationship with any leadership  
32 councilmember, and disclose sources of current financial support and  
33 contracts relating to Puget Sound recovery.

34 (3) The panel shall select a chair and a vice chair. Panel  
35 members shall serve four-year terms, except that the council shall  
36 determine initial terms of two, three, and four years to provide for  
37 staggered terms. The council shall determine reappointments and  
38 select replacements or additional members of the panel. No panel  
39 member may serve longer than twelve years.

1 (4) The executive director shall designate a lead staff scientist  
2 to coordinate panel actions, and administrative staff to support  
3 panel activities. The legislature intends to provide ongoing funding  
4 for staffing of the panel to ensure that it has sufficient capacity  
5 to provide independent scientific advice.

6 (5) The executive director of the partnership and the science  
7 panel shall explore a shared state and federal responsibility for the  
8 staffing and administration of the panel. In the event that a  
9 federally sponsored Puget Sound recovery office is created, the  
10 council may propose that such office provide for staffing and  
11 administration of the panel.

12 (6) The panel shall assist the council in developing and revising  
13 the action agenda, making recommendations to the action agenda, and  
14 making recommendations to the council for updates or revisions.

15 (7) Members of the panel shall be reimbursed for travel expenses  
16 under RCW 43.03.050 and 43.03.060, and based upon the availability of  
17 funds, the council may contract with members of the panel for  
18 compensation for their services under chapter 39.29 RCW. If  
19 appointees to the panel are employed by the federal, state, tribal,  
20 or local governments, the council may enter into interagency  
21 personnel agreements.

22 **Sec. 1508.** RCW 90.71.340 and 2007 c 341 s 16 are each amended to  
23 read as follows:

24 (1) The legislature intends that fiscal incentives and  
25 disincentives be used as accountability measures designed to achieve  
26 consistency with the action agenda by:

27 (a) Ensuring that projects and activities in conflict with the  
28 action agenda are not funded;

29 (b) Aligning environmental investments with strategic priorities  
30 of the action agenda; and

31 (c) Using state grant and loan programs to encourage consistency  
32 with the action agenda.

33 (2) The council shall adopt measures to ensure that funds  
34 appropriated for implementation of the action agenda and identified  
35 by proviso or specifically referenced in the omnibus appropriations  
36 act pursuant to RCW 43.88.030(1)(g) are expended in a manner that  
37 will achieve the intended results. In developing such performance  
38 measures, the council shall establish criteria for the expenditure of  
39 the funds consistent with the responsibilities and timelines under

1 the action agenda, and require reporting and tracking of funds  
2 expended. The council may adopt other measures, such as requiring  
3 interagency agreements regarding the expenditure of provided or  
4 specifically referenced Puget Sound funds.

5 (3) The partnership shall work with other state agencies  
6 providing grant and loan funds or other financial assistance for  
7 projects and activities that impact the health of the Puget Sound  
8 ecosystem under chapters 43.155, 70.105D (as recodified by this act),  
9 70.146 (as recodified by this act), 77.85, 79.105, 79A.15, 89.08, and  
10 90.50A RCW to, within the authorities of the programs, develop  
11 consistent funding criteria that prohibits funding projects and  
12 activities that are in conflict with the action agenda.

13 (4) The partnership shall develop a process and criteria by which  
14 entities that consistently achieve outstanding progress in  
15 implementing the action agenda are designated as Puget Sound  
16 partners. State agencies shall work with the partnership to revise  
17 their grant, loan, or other financial assistance allocation criteria  
18 to create a preference for entities designated as Puget Sound  
19 partners for funds allocated to the Puget Sound basin, pursuant to  
20 RCW 43.155.070, (~~(70.105D.070,)~~) 70.105D.190 (as recodified by this  
21 act), 70.105D.200 (as recodified by this act), 70.105D.210 (as  
22 recodified by this act), 70.146.070 (as recodified by this act),  
23 77.85.130, 79.105.150, 79A.15.040, 89.08.520, and 90.50A.040. This  
24 process shall be developed on a timeline that takes into  
25 consideration state grant and loan funding cycles.

26 (5) Any entity that receives state funds to implement actions  
27 required in the action agenda shall report biennially to the council  
28 on progress in completing the action and whether expected results  
29 have been achieved within the time frames specified in the action  
30 agenda.

31 **Sec. 1509.** RCW 90.71.370 and 2019 c 422 s 412 are each amended  
32 to read as follows:

33 (1) By December 1, 2008, and by September 1st of each even-  
34 numbered year beginning in 2010, the council must provide to the  
35 governor and the appropriate fiscal committees of the senate and  
36 house of representatives its recommendations for the funding  
37 necessary to implement the action agenda in the succeeding biennium.  
38 The recommendations must:

39 (a) Identify the funding needed by action agenda element;



1 (b) Address funding responsibilities among local, state, and  
2 federal governments, as well as nongovernmental funding; and

3 (c) Address funding needed to support the work of the  
4 partnership, the panel, the ecosystem work group, and entities  
5 assisting in coordinating local efforts to implement the plan.

6 (2) In the 2008 report required under subsection (1) of this  
7 section, the council must include recommendations for projected  
8 funding needed through 2020 to implement the action agenda; funding  
9 needs for science panel staff; identify methods to secure stable and  
10 sufficient funding to meet these needs; and include proposals for new  
11 sources of funding to be dedicated to Puget Sound protection and  
12 recovery. In preparing the science panel staffing proposal, the  
13 council must consult with the panel.

14 (3) By November 1st of each odd-numbered year beginning in 2009,  
15 the council must produce a state of the Sound report that includes,  
16 at a minimum:

17 (a) An assessment of progress by state and nonstate entities in  
18 implementing the action agenda, including accomplishments in the use  
19 of state funds for action agenda implementation;

20 (b) A description of actions by implementing entities that are  
21 inconsistent with the action agenda and steps taken to remedy the  
22 inconsistency;

23 (c) The comments by the panel on progress in implementing the  
24 plan, as well as findings arising from the assessment and monitoring  
25 program;

26 (d) A review of citizen concerns provided to the partnership and  
27 the disposition of those concerns;

28 (e) A review of the expenditures of funds to state agencies for  
29 the implementation of programs affecting the protection and recovery  
30 of Puget Sound, and an assessment of whether the use of the funds is  
31 consistent with the action agenda; and

32 (f) An identification of all funds provided to the partnership,  
33 and recommendations as to how future state expenditures for all  
34 entities, including the partnership, could better match the  
35 priorities of the action agenda.

36 (4) (a) The council must review state programs that fund  
37 facilities and activities that may contribute to action agenda  
38 implementation. By November 1, 2009, the council must provide initial  
39 recommendations regarding program changes to the governor and  
40 appropriate fiscal and policy committees of the senate and house of

1 representatives. By November 1, 2010, the council must provide final  
2 recommendations regarding program changes, including proposed  
3 legislation to implement the recommendation, to the governor and  
4 appropriate fiscal and policy committees of the senate and house of  
5 representatives.

6 (b) The review in this subsection must be conducted with the  
7 active assistance and collaboration of the agencies administering  
8 these programs, and in consultation with local governments and other  
9 entities receiving funding from these programs:

10 (i) Water pollution control facilities financing, chapter 70.146  
11 RCW (as recodified by this act);

12 (ii) The water pollution control revolving fund, chapter 90.50A  
13 RCW;

14 (iii) The public works assistance account, chapter 43.155 RCW;

15 (iv) The aquatic lands enhancement account, RCW 79.105.150;

16 (v) The model toxics control operating, capital, and stormwater  
17 accounts and clean-up program, chapter 70.105D RCW (as recodified by  
18 this act);

19 (vi) The acquisition of habitat conservation and outdoor  
20 recreation land, chapter 79A.15 RCW;

21 (vii) The salmon recovery funding board, RCW 77.85.110 through  
22 77.85.150;

23 (viii) The community economic revitalization board, chapter  
24 43.160 RCW;

25 (ix) Other state financial assistance to water quality-related  
26 projects and activities; and

27 (x) Water quality financial assistance from federal programs  
28 administered through state programs or provided directly to local  
29 governments in the Puget Sound basin.

30 (c) The council's review must include but not be limited to:

31 (i) Determining the level of funding and types of projects and  
32 activities funded through the programs that contribute to  
33 implementation of the action agenda;

34 (ii) Evaluating the procedures and criteria in each program for  
35 determining which projects and activities to fund, and their  
36 relationship to the goals and priorities of the action agenda;

37 (iii) Assessing methods for ensuring that the goals and  
38 priorities of the action agenda are given priority when program  
39 funding decisions are made regarding water quality-related projects

1 and activities in the Puget Sound basin and habitat-related projects  
2 and activities in the Puget Sound basin;

3 (iv) Modifying funding criteria so that projects, programs, and  
4 activities that are inconsistent with the action agenda are  
5 ineligible for funding;

6 (v) Assessing ways to incorporate a strategic funding approach  
7 for the action agenda within the outcome-focused performance measures  
8 required by RCW 43.41.270 in administering natural resource-related  
9 and environmentally based grant and loan programs.

10 (5) During the 2009-2011 fiscal biennium, the council's review  
11 must result in a ranking of projects affecting the protection and  
12 recovery of the Puget Sound basin that are proposed in the governor's  
13 capital budget submitted under RCW 43.88.060. The ranking must  
14 include recommendations for reallocation of total requested funds for  
15 Puget Sound basin projects to achieve the greatest positive outcomes  
16 for protection and recovery of Puget Sound and must be submitted to  
17 the appropriate fiscal committees of the legislature no later than  
18 February 1, 2011.

19 (6) During the 2011-2013 fiscal biennium, the council must by  
20 November 1, 2012, produce the state of the Sound report as defined in  
21 subsection (3) of this section.

22 **Sec. 1510.** RCW 90.76.040 and 1998 c 155 s 3 are each amended to  
23 read as follows:

24 (1) A city, town, or county may apply to the department to have  
25 an area within its jurisdictional boundaries designated an  
26 environmentally sensitive area. A city, town, or county may submit a  
27 joint application with any other city, town, or county for joint  
28 administration under chapter 39.34 RCW of a single environmentally  
29 sensitive area located in both jurisdictions.

30 (2) A city, town, or county may adopt proposed ordinances or  
31 resolutions establishing requirements for underground storage tanks  
32 located within an environmentally sensitive area that are more  
33 stringent than the statewide standards established under RCW  
34 90.76.020 (as recodified by this act). Proposed local ordinances and  
35 resolutions shall only apply to new underground storage tank  
36 installations. The local government adopting the ordinances and  
37 resolutions shall submit them to the department for approval.  
38 Disapproved ordinances and resolutions may be modified and

1 resubmitted to the department for approval. Proposed local ordinances  
2 and resolutions become effective when approved by the department.

3 (3) The department shall approve or disapprove each proposed  
4 local ordinance or resolution based on the following criteria:

5 (a) The area to be regulated is found to be an environmentally  
6 sensitive area based on rules adopted by the department; and

7 (b) The proposed local regulations are reasonably consistent with  
8 previously approved local regulations for similar environmentally  
9 sensitive areas.

10 (4) A city, town, or county for which a proposed local ordinance  
11 or resolution establishing more stringent requirements is approved by  
12 the department may establish local tank fees that meet the  
13 requirements of RCW 90.76.090 (as recodified by this act), if such  
14 fees are necessary for enhanced program administration or  
15 enforcement.

16 **Sec. 1511.** RCW 90.76.050 and 2007 c 147 s 4 are each amended to  
17 read as follows:

18 (1) A person delivering regulated substances to underground  
19 storage tanks shall not deliver or deposit regulated substances to  
20 underground storage tanks or facilities that do not have a facility  
21 compliance tag displayed as required in RCW 90.76.020(5)(a) (as  
22 recodified by this act). Additionally, a person delivering regulated  
23 substances to underground storage tanks shall not deliver or deposit  
24 regulated substances to an individual underground storage tank on  
25 which the department has placed a red tag under RCW 90.76.020(6) (as  
26 recodified by this act).

27 (2) An owner or operator of an underground storage tank system or  
28 facility shall not accept delivery or deposit of regulated substances  
29 to that underground storage tank system or facility, if the system  
30 does not have a facility compliance tag displayed as required in RCW  
31 90.76.020(5)(a) (as recodified by this act). Additionally, an owner  
32 or operator of an underground storage tank system or facility shall  
33 not accept delivery or deposit of regulated substances to an  
34 individual underground storage tank on which the department has  
35 placed a red tag under RCW 90.76.020(6) (as recodified by this act).

36 (3) A supplier shall not refuse to deliver regulated substances  
37 to an underground storage tank regulated under this chapter on the  
38 basis of its potential to leak contents where the facility displays a  
39 valid facility compliance tag as required in this chapter, and the

1 department has not placed a red tag on the underground storage tank.  
2 This section does not apply to a supplier who does not directly  
3 transfer a regulated substance into an underground storage tank.

4 **Sec. 1512.** RCW 90.76.070 and 2007 c 147 s 5 are each amended to  
5 read as follows:

6 The director may seek appropriate injunctive or other judicial  
7 relief by filing an action in Thurston county superior court or issue  
8 such order as the director deems appropriate to:

9 (1) Enjoin any threatened or continuing violation of this chapter  
10 or rules adopted under this chapter;

11 (2) Restrain immediately and effectively a person from engaging  
12 in unauthorized activity that results in a violation of any  
13 requirement of this chapter or rules adopted under this chapter and  
14 is endangering or causing damage to public health or the environment;

15 (3) Require compliance with requests for information, access,  
16 testing, or monitoring under RCW 90.76.060 (as recodified by this  
17 act); or

18 (4) Assess and recover civil penalties authorized under RCW  
19 90.76.080 (as recodified by this act).

20 **Sec. 1513.** RCW 90.76.090 and 2007 c 147 s 7 are each amended to  
21 read as follows:

22 (1) An annual tank fee of one hundred twenty dollars per tank is  
23 effective July 1, 2007, to June 30, 2008. An annual tank fee of one  
24 hundred forty dollars per tank is effective from July 1, 2008, to  
25 June 30, 2009. Effective July 1, 2009, the annual tank fee will  
26 increase up to one hundred sixty dollars per tank unless the  
27 department has received sufficient additional federal grant funding  
28 to offset the increased cost of implementation of the underground  
29 storage tank compliance act of 2005 (Title XV, Subtitle B of the  
30 energy policy act of 2005). Annually, beginning on July 1, 2010, and  
31 upon a finding by the department that a fee increase is necessary,  
32 the previous tank fee amount may be increased up to the fiscal growth  
33 factor for the next year. The fiscal growth factor is calculated by  
34 the office of financial management under RCW 43.135.025 for the  
35 upcoming biennium. The department shall use the fiscal growth factor  
36 to calculate the fee for the next year and shall publish the new fee  
37 by March 1st before the year for which the new fee is effective. The

1 new tank fee is effective from July 1st to June 30th of every year.

2 The tank fee shall be paid by every person who:

3 (a) Owns an underground storage tank located in this state; and

4 (b) Was required to provide notification to the department under  
5 the federal act.

6 This fee is not required of persons who have (i) permanently  
7 closed their tanks, and (ii) if required, have completed corrective  
8 action in accordance with the rules adopted under this chapter.

9 (2) The department may authorize the imposition of additional  
10 annual local tank fees in environmentally sensitive areas designated  
11 under RCW 90.76.040 (as recodified by this act). Annual local tank  
12 fees may not exceed fifty percent of the annual state tank fee.

13 (3) State and local tank fees collected under this section shall  
14 be deposited in the account established under RCW 90.76.100 (as  
15 recodified by this act).

16 (4) Other than the annual local tank fee authorized for  
17 environmentally sensitive areas, no local government may levy an  
18 annual tank fee on the ownership or operation of an underground  
19 storage tank.

20 **Sec. 1514.** RCW 90.76.100 and 1991 sp.s. c 13 s 72 are each  
21 amended to read as follows:

22 The underground storage tank account is created in the state  
23 treasury. Money in the account may only be spent, subject to  
24 legislative appropriation, for the administration and enforcement of  
25 the underground storage tank program established under this chapter.  
26 The account shall contain:

27 (1) All fees collected under RCW 90.76.090 (as recodified by this  
28 act); and

29 (2) All fines or penalties collected under RCW 90.76.080 (as  
30 recodified by this act).

31 **Sec. 1515.** RCW 90.76.110 and 2007 c 147 s 8 are each amended to  
32 read as follows:

33 (1) Except as provided in RCW 90.76.040 (as recodified by this  
34 act) and subsections (2), (3), (4), and (5) of this section, the  
35 rules adopted under this chapter supersede and preempt any state or  
36 local underground storage tank law, ordinance, or resolution  
37 governing any aspect of regulation covered by the rules adopted under  
38 this chapter.

1 (2) Provisions of the international fire code adopted under  
2 chapter 19.27 RCW, which are not more stringent than, and do not  
3 directly conflict with, rules adopted under this chapter are not  
4 superseded or preempted.

5 (3) Local laws, ordinances, and resolutions pertaining to local  
6 authority to take immediate action in response to a release of a  
7 regulated substance are not superseded or preempted.

8 (4) City, town, or county underground storage tank ordinances  
9 that are more stringent than the federal regulations and the uniform  
10 codes adopted under chapter 19.27 RCW and that were in effect on or  
11 before November 1, 1988, are not superseded or preempted.

12 (5) Local laws, ordinances, and resolutions pertaining to permits  
13 and fees for the use of underground storage tanks in street right-of-  
14 ways that were in existence prior to July 1, 1990, are not superseded  
15 or preempted.

16 **Sec. 1516.** RCW 90.76.902 and 1989 c 346 s 18 are each amended to  
17 read as follows:

18 (1) Except as provided in subsection (2) of this section, RCW  
19 90.76.050 (as recodified by this act), 90.76.110 (as recodified by  
20 this act), and 19.27.080 take effect on July 1, 1990.

21 (2) This section shall apply only if this act becomes effective  
22 as provided under section 20(2) of this act.

23 NEW SECTION. **Sec. 2001.** RCW 43.21M.010, 43.21M.020, 43.21M.030,  
24 43.21M.040, and 43.21M.900 are recodified as a new chapter in the new  
25 title created in section 103 of this act.

26 NEW SECTION. **Sec. 2002.** RCW 43.37.010, 43.37.030, 43.37.040,  
27 43.37.050, 43.37.060, 43.37.080, 43.37.090, 43.37.100, 43.37.110,  
28 43.37.120, 43.37.130, 43.37.140, 43.37.150, 43.37.160, 43.37.170,  
29 43.37.180, 43.37.190, 43.37.200, 43.37.210, 43.37.215, 43.37.220, and  
30 43.37.910 are recodified as a new chapter in the new title created in  
31 section 103 of this act.

32 NEW SECTION. **Sec. 2003.** RCW 43.145.010, 43.145.020, and  
33 43.145.030 are recodified as a new chapter in the new title created  
34 in section 103 of this act.

1        NEW SECTION.     **Sec. 2004.**     RCW 43.146.010 and 43.146.900 are  
2 recodified as a new chapter in the new title created in section 103  
3 of this act.

4        NEW SECTION.     **Sec. 2005.**     RCW 43.200.010, 43.200.015, 43.200.020,  
5 43.200.030,     43.200.070,     43.200.080,     43.200.170,     43.200.180,  
6 43.200.190,     43.200.200,     43.200.220,     43.200.230,     43.200.233,  
7 43.200.235, 43.200.900, 43.200.901, 43.200.905, and 43.200.907 are  
8 recodified as a new chapter in the new title created in section 103  
9 of this act.

10       NEW SECTION.     **Sec. 2006.**     RCW 43.205.010 and 43.205.020 are  
11 recodified as a new chapter in the new title created in section 103  
12 of this act.

13       NEW SECTION.     **Sec. 2007.**     RCW 70.75A.005, 70.75A.010, 70.75A.020,  
14 70.75A.030, 70.75A.040, 70.75A.050, and 70.75A.060 are recodified as  
15 a new chapter in the new title created in section 103 of this act.

16       NEW SECTION.     **Sec. 2008.**     RCW 70.76.005, 70.76.010, 70.76.020,  
17 70.76.030, 70.76.040, 70.76.050, 70.76.060, 70.76.070, 70.76.080,  
18 70.76.090, 70.76.100, and 70.76.110 are recodified as a new chapter  
19 in the new title created in section 103 of this act.

20       NEW SECTION.     **Sec. 2009.**     RCW 70.93.010, 70.93.020, 70.93.030,  
21 70.93.040, 70.93.050, 70.93.060, 70.93.070, 70.93.080, 70.93.090,  
22 70.93.093, 70.93.095, 70.93.097, 70.93.110, 70.93.180, 70.93.200,  
23 70.93.210, 70.93.220, 70.93.230, 70.93.250, and 70.93.910 are  
24 recodified as a new chapter in the new title created in section 103  
25 of this act.

26       NEW SECTION.     **Sec. 2010.**     RCW 70.94.011, 70.94.015, 70.94.017,  
27 70.94.030, 70.94.033, 70.94.035, 70.94.037, 70.94.040, 70.94.041,  
28 70.94.053, 70.94.055, 70.94.057, 70.94.068, 70.94.069, 70.94.070,  
29 70.94.081, 70.94.085, 70.94.091, 70.94.092, 70.94.093, 70.94.094,  
30 70.94.095, 70.94.096, 70.94.097, 70.94.100, 70.94.110, 70.94.120,  
31 70.94.130, 70.94.141, 70.94.142, 70.94.143, 70.94.151, 70.94.152,  
32 70.94.153, 70.94.154, 70.94.155, 70.94.157, 70.94.161, 70.94.162,  
33 70.94.163, 70.94.165, 70.94.170, 70.94.181, 70.94.200, 70.94.205,  
34 70.94.211, 70.94.221, 70.94.230, 70.94.231, 70.94.240, 70.94.260,



1 70.94.262, 70.94.302, 70.94.331, 70.94.332, 70.94.335, 70.94.350,  
2 70.94.370, 70.94.380, 70.94.385, 70.94.390, 70.94.395, 70.94.400,  
3 70.94.405, 70.94.410, 70.94.420, 70.94.422, 70.94.425, 70.94.430,  
4 70.94.431, 70.94.435, 70.94.440, 70.94.450, 70.94.453, 70.94.455,  
5 70.94.457, 70.94.460, 70.94.463, 70.94.467, 70.94.470, 70.94.473,  
6 70.94.475, 70.94.477, 70.94.480, 70.94.483, 70.94.488, 70.94.510,  
7 70.94.521, 70.94.524, 70.94.527, 70.94.528, 70.94.531, 70.94.534,  
8 70.94.537, 70.94.541, 70.94.544, 70.94.547, 70.94.551, 70.94.555,  
9 70.94.600, 70.94.610, 70.94.620, 70.94.640, 70.94.645, 70.94.6511,  
10 70.94.6512, 70.94.6514, 70.94.6516, 70.94.6518, 70.94.6520,  
11 70.94.6522, 70.94.6524, 70.94.6526, 70.94.6528, 70.94.6530,  
12 70.94.6532, 70.94.6534, 70.94.6536, 70.94.6538, 70.94.6540,  
13 70.94.6542, 70.94.6544, 70.94.6546, 70.94.6548, 70.94.6550,  
14 70.94.6552, 70.94.6554, 70.94.6556, 70.94.710, 70.94.715, 70.94.720,  
15 70.94.725, 70.94.730, 70.94.785, 70.94.800, 70.94.805, 70.94.820,  
16 70.94.850, 70.94.860, 70.94.875, 70.94.880, 70.94.892, 70.94.901,  
17 70.94.902, 70.94.904, 70.94.911, 70.94.960, 70.94.970, 70.94.980,  
18 70.94.990, 70.94.991, and 70.94.992 are recodified as a new chapter  
19 in the new title created in section 103 of this act.

20 NEW SECTION. **Sec. 2011.** RCW 70.95.010, 70.95.020, 70.95.030,  
21 70.95.055, 70.95.060, 70.95.065, 70.95.075, 70.95.080, 70.95.090,  
22 70.95.092, 70.95.094, 70.95.095, 70.95.096, 70.95.100, 70.95.110,  
23 70.95.130, 70.95.140, 70.95.150, 70.95.160, 70.95.163, 70.95.165,  
24 70.95.167, 70.95.170, 70.95.180, 70.95.185, 70.95.190, 70.95.200,  
25 70.95.205, 70.95.207, 70.95.210, 70.95.212, 70.95.215, 70.95.217,  
26 70.95.218, 70.95.220, 70.95.230, 70.95.235, 70.95.240, 70.95.250,  
27 70.95.255, 70.95.260, 70.95.263, 70.95.265, 70.95.267, 70.95.268,  
28 70.95.270, 70.95.280, 70.95.285, 70.95.290, 70.95.295, 70.95.300,  
29 70.95.305, 70.95.306, 70.95.310, 70.95.315, 70.95.320, 70.95.330,  
30 70.95.400, 70.95.410, 70.95.420, 70.95.430, 70.95.440, 70.95.500,  
31 70.95.510, 70.95.515, 70.95.521, 70.95.530, 70.95.532, 70.95.535,  
32 70.95.540, 70.95.550, 70.95.555, 70.95.560, 70.95.565, 70.95.570,  
33 70.95.600, 70.95.610, 70.95.620, 70.95.630, 70.95.640, 70.95.650,  
34 70.95.660, 70.95.670, 70.95.700, 70.95.710, 70.95.715, 70.95.720,  
35 70.95.725, 70.95.805, 70.95.807, 70.95.810, 70.95.815, 70.95.900,  
36 70.95.903, and 70.95.904 are recodified as a new chapter in the new  
37 title created in section 103 of this act.

1        NEW SECTION.    **Sec. 2012.**    RCW 70.95A.010, 70.95A.020, 70.95A.030,  
2    70.95A.035,        70.95A.040,        70.95A.045,        70.95A.050,        70.95A.060,  
3    70.95A.070,        70.95A.080,        70.95A.090,        70.95A.100,        70.95A.910,  
4    70.95A.912, and 70.95A.930 are recodified as a new chapter in the new  
5    title created in section 103 of this act.

6        NEW SECTION.    **Sec. 2013.**    RCW 70.95B.010, 70.95B.020, 70.95B.030,  
7    70.95B.040,        70.95B.050,        70.95B.060,        70.95B.071,        70.95B.080,  
8    70.95B.090,        70.95B.095,        70.95B.100,        70.95B.110,        70.95B.115,  
9    70.95B.120, 70.95B.130, 70.95B.140, 70.95B.151, and 70.95B.900 are  
10    recodified as a new chapter in the new title created in section 103  
11    of this act.

12       NEW SECTION.    **Sec. 2014.**    RCW 70.95C.010, 70.95C.020, 70.95C.030,  
13    70.95C.040,        70.95C.050,        70.95C.060,        70.95C.070,        70.95C.080,  
14    70.95C.110,        70.95C.120,        70.95C.200,        70.95C.210,        70.95C.220,  
15    70.95C.230, 70.95C.240, and 70.95C.250 are recodified as a new  
16    chapter in the new title created in section 103 of this act.

17       NEW SECTION.    **Sec. 2015.**    RCW 70.95D.010, 70.95D.020, 70.95D.030,  
18    70.95D.040,        70.95D.051,        70.95D.060,        70.95D.070,        70.95D.080,  
19    70.95D.090, 70.95D.100, and 70.95D.110 are recodified as a new  
20    chapter in the new title created in section 103 of this act.

21       NEW SECTION.    **Sec. 2016.**    RCW 70.95E.010, 70.95E.020, 70.95E.030,  
22    70.95E.040, 70.95E.050, 70.95E.080, 70.95E.090, and 70.95E.100 are  
23    recodified as a new chapter in the new title created in section 103  
24    of this act.

25       NEW SECTION.        **Sec. 2017.**        RCW 70.95F.010, 70.95F.020, and  
26    70.95F.030 are recodified as a new chapter in the new title created  
27    in section 103 of this act.

28       NEW SECTION.    **Sec. 2018.**    RCW 70.95G.005, 70.95G.010, 70.95G.020,  
29    70.95G.030, 70.95G.040, 70.95G.050, 70.95G.060, and 70.95G.070 are  
30    recodified as a new chapter in the new title created in section 103  
31    of this act.

32       NEW SECTION.    **Sec. 2019.**    RCW 70.95I.005, 70.95I.010, 70.95I.020,  
33    70.95I.030,        70.95I.040,        70.95I.050,        70.95I.060,        70.95I.070,

1 70.95I.080, and 70.95I.901 are recodified as a new chapter in the new  
2 title created in section 103 of this act.

3 NEW SECTION. **Sec. 2020.** RCW 70.95J.005, 70.95J.007, 70.95J.010,  
4 70.95J.020, 70.95J.025, 70.95J.030, 70.95J.040, 70.95J.050,  
5 70.95J.060, 70.95J.070, 70.95J.080, and 70.95J.090 are recodified as  
6 a new chapter in the new title created in section 103 of this act.

7 NEW SECTION. **Sec. 2021.** RCW 70.95K.005, 70.95K.010, 70.95K.011,  
8 70.95K.020, 70.95K.030, 70.95K.040, 70.95K.900, and 70.95K.920 are  
9 recodified as a new chapter in the new title created in section 103  
10 of this act.

11 NEW SECTION. **Sec. 2022.** RCW 70.95L.005, 70.95L.010, 70.95L.020,  
12 70.95L.030, and 70.95L.040 are recodified as a new chapter in the new  
13 title created in section 103 of this act.

14 NEW SECTION. **Sec. 2023.** RCW 70.95M.010, 70.95M.020, 70.95M.030,  
15 70.95M.040, 70.95M.050, 70.95M.060, 70.95M.070, 70.95M.080,  
16 70.95M.090, 70.95M.100, 70.95M.110, 70.95M.115, 70.95M.120,  
17 70.95M.130, and 70.95M.140 are recodified as a new chapter in the new  
18 title created in section 103 of this act.

19 NEW SECTION. **Sec. 2024.** RCW 70.95N.010, 70.95N.020, 70.95N.030,  
20 70.95N.040, 70.95N.050, 70.95N.060, 70.95N.070, 70.95N.080,  
21 70.95N.090, 70.95N.100, 70.95N.110, 70.95N.120, 70.95N.130,  
22 70.95N.140, 70.95N.150, 70.95N.160, 70.95N.170, 70.95N.180,  
23 70.95N.190, 70.95N.200, 70.95N.210, 70.95N.220, 70.95N.230,  
24 70.95N.240, 70.95N.250, 70.95N.260, 70.95N.280, 70.95N.290,  
25 70.95N.300, 70.95N.310, 70.95N.320, 70.95N.330, 70.95N.340,  
26 70.95N.350, 70.95N.900, and 70.95N.902 are recodified as a new  
27 chapter in the new title created in section 103 of this act.

28 NEW SECTION. **Sec. 2025.** RCW 70.98.010, 70.98.020, 70.98.030,  
29 70.98.050, 70.98.080, 70.98.085, 70.98.090, 70.98.095, 70.98.098,  
30 70.98.100, 70.98.110, 70.98.120, 70.98.122, 70.98.125, 70.98.130,  
31 70.98.140, 70.98.150, 70.98.160, 70.98.170, 70.98.180, 70.98.190,  
32 70.98.200, 70.98.220, 70.98.910, and 70.98.920 are recodified as a  
33 new chapter in the new title created in section 103 of this act.

1        NEW SECTION.    **Sec. 2026.**    RCW 70.99.010, 70.99.020, 70.99.030,  
2 70.99.040, 70.99.050, 70.99.060, 70.99.900, and 70.99.910 are  
3 recodified as a new chapter in the new title created in section 103  
4 of this act.

5        NEW SECTION.    **Sec. 2027.**    RCW 70.102.010 and 70.102.020 are  
6 recodified as a new chapter in the new title created in section 103  
7 of this act.

8        NEW SECTION.    **Sec. 2028.**    RCW 70.103.010, 70.103.020, 70.103.030,  
9 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, and  
10 70.103.090 are recodified as a new chapter in the new title created  
11 in section 103 of this act.

12        NEW SECTION.    **Sec. 2029.**    RCW 70.105.005, 70.105.007, 70.105.010,  
13 70.105.020, 70.105.025, 70.105.030, 70.105.035, 70.105.040,  
14 70.105.050, 70.105.070, 70.105.080, 70.105.085, 70.105.090,  
15 70.105.095, 70.105.097, 70.105.100, 70.105.105, 70.105.109,  
16 70.105.110, 70.105.111, 70.105.112, 70.105.116, 70.105.120,  
17 70.105.130, 70.105.135, 70.105.140, 70.105.145, 70.105.150,  
18 70.105.160, 70.105.165, 70.105.170, 70.105.180, 70.105.200,  
19 70.105.210, 70.105.215, 70.105.217, 70.105.220, 70.105.221,  
20 70.105.225, 70.105.230, 70.105.235, 70.105.240, 70.105.245,  
21 70.105.250, 70.105.255, 70.105.260, 70.105.270, 70.105.280,  
22 70.105.300, 70.105.310, and 70.105.900 are recodified as a new  
23 chapter in the new title created in section 103 of this act.

24        NEW SECTION.    **Sec. 2030.**    RCW 70.105D.010, 70.105D.020,  
25 70.105D.030, 70.105D.040, 70.105D.050, 70.105D.055, 70.105D.060,  
26 70.105D.080, 70.105D.090, 70.105D.100, 70.105D.110, 70.105D.120,  
27 70.105D.130, 70.105D.140, 70.105D.150, 70.105D.160, 70.105D.180,  
28 70.105D.190, 70.105D.200, 70.105D.210, 70.105D.900, 70.105D.905,  
29 70.105D.910, 70.105D.915, and 70.105D.920 are recodified as a new  
30 chapter in the new title created in section 103 of this act.

31        NEW SECTION.    **Sec. 2031.**    RCW 70.106.010, 70.106.020, 70.106.030,  
32 70.106.040, 70.106.050, 70.106.060, 70.106.070, 70.106.080,  
33 70.106.090, 70.106.100, 70.106.110, 70.106.120, 70.106.140,  
34 70.106.150, 70.106.905, and 70.106.910 are recodified as a new  
35 chapter in the new title created in section 103 of this act.



1        NEW SECTION.    **Sec. 2039.**    RCW 70.120.010, 70.120.020, 70.120.070,  
2    70.120.080,    70.120.100,    70.120.120,    70.120.130,    70.120.150,  
3    70.120.160,    70.120.170,    70.120.190,    70.120.210,    70.120.230,    and  
4    70.120.902 are recodified as a new chapter in the new title created  
5    in section 103 of this act.

6        NEW SECTION.    **Sec. 2040.**    RCW 70.120A.010, 70.120A.020,  
7    70.120A.030, and 70.120A.050 are recodified as a new chapter in the  
8    new title created in section 103 of this act.

9        NEW SECTION.    **Sec. 2041.**    RCW 70.121.010, 70.121.020, 70.121.030,  
10   70.121.040,    70.121.050,    70.121.060,    70.121.070,    70.121.080,  
11   70.121.090,    70.121.100,    70.121.110,    70.121.120,    70.121.130,  
12   70.121.140, 70.121.150, 70.121.900, and 70.121.905 are recodified as  
13   a new chapter in the new title created in section 103 of this act.

14       NEW SECTION.    **Sec. 2042.**    RCW 70.132.010, 70.132.020, 70.132.030,  
15   70.132.040, 70.132.050, and 70.132.900 are recodified as a new  
16   chapter in the new title created in section 103 of this act.

17       NEW SECTION.    **Sec. 2043.**    RCW 70.138.010, 70.138.020, 70.138.030,  
18   70.138.040, 70.138.050, 70.138.060, 70.138.070, 70.138.900, and  
19   70.138.901 are recodified as a new chapter in the new title created  
20   in section 103 of this act.

21       NEW SECTION.    **Sec. 2044.**    RCW 70.140.010, 70.140.020, 70.140.030,  
22   70.140.040, 70.140.050, 70.140.060, 70.140.070, and 70.140.080 are  
23   recodified as a new chapter in the new title created in section 103  
24   of this act.

25       NEW SECTION.    **Sec. 2045.**    RCW 70.142.010, 70.142.020, 70.142.030,  
26   70.142.040, and 70.142.050 are recodified as a new chapter in the new  
27   title created in section 103 of this act.

28       NEW SECTION.    **Sec. 2046.**    RCW 70.146.010, 70.146.020, 70.146.030,  
29   70.146.040,    70.146.050,    70.146.060,    70.146.070,    70.146.075,  
30   70.146.090, 70.146.100, 70.146.110, and 70.146.120 are recodified as  
31   a new chapter in the new title created in section 103 of this act.

1        NEW SECTION.    **Sec. 2047.**    RCW 70.148.005, 70.148.010, 70.148.020,  
2    70.148.025,    70.148.030,    70.148.035,    70.148.040,    70.148.050,  
3    70.148.060,    70.148.070,    70.148.080,    70.148.090,    70.148.110,    and  
4    70.148.900 are recodified as a new chapter in the new title created  
5    in section 103 of this act.

6        NEW SECTION.    **Sec. 2048.**    RCW 70.149.010, 70.149.020, 70.149.030,  
7    70.149.040,    70.149.050,    70.149.060,    70.149.070,    70.149.080,  
8    70.149.090,    70.149.100,    70.149.120,    70.149.800,    70.149.801,    and  
9    70.149.900 are recodified as a new chapter in the new title created  
10   in section 103 of this act.

11       NEW SECTION.    **Sec. 2049.**    RCW 70.150.010, 70.150.020, 70.150.030,  
12   70.150.040,    70.150.050,    70.150.060,    70.150.070,    70.150.080,    and  
13   70.150.900 are recodified as a new chapter in the new title created  
14   in section 103 of this act.

15       NEW SECTION.    **Sec. 2050.**    RCW 70.164.010, 70.164.020, 70.164.030,  
16   70.164.040,    70.164.050,    70.164.060,    and 70.164.070 are recodified as  
17   a new chapter in the new title created in section 103 of this act.

18       NEW SECTION.    **Sec. 2051.**    RCW 70.220.010, 70.220.020, 70.220.030,  
19   70.220.040,    70.220.050 are recodified as a new chapter in the new  
20   title created in section 103 of this act.

21       NEW SECTION.    **Sec. 2052.**    RCW 70.235.005, 70.235.010, 70.235.020,  
22   70.235.030,    70.235.040,    70.235.050,    70.235.060,    70.235.070,  
23   70.235.080,    and 70.235.900 are recodified as a new chapter in the new  
24   title created in section 103 of this act.

25       NEW SECTION.    **Sec. 2053.**    RCW 70.240.010, 70.240.020, 70.240.025,  
26   70.240.030,    70.240.035,    70.240.040,    70.240.050,    and 70.240.060 are  
27   recodified as a new chapter in the new title created in section 103  
28   of this act.

29       NEW SECTION.    **Sec. 2054.**    RCW 70.260.010, 70.260.020,    and  
30   70.260.030 are recodified as a new chapter in the new title created  
31   in section 103 of this act.

1        NEW SECTION.    **Sec. 2055.**    RCW 70.270.010, 70.270.020, 70.270.030,  
2    70.270.040, 70.270.050, and 70.270.060 are recodified as a new  
3    chapter in the new title created in section 103 of this act.

4        NEW SECTION.    **Sec. 2056.**    RCW 70.275.010, 70.275.020, 70.275.030,  
5    70.275.040, 70.275.050, 70.275.060, 70.275.070, 70.275.080,  
6    70.275.090, 70.275.100, 70.275.110, 70.275.130, 70.275.140,  
7    70.275.150, 70.275.160, 70.275.170, 70.275.900, and 70.275.901 are  
8    recodified as a new chapter in the new title created in section 103  
9    of this act.

10       NEW SECTION.    **Sec. 2057.**    RCW 70.280.010, 70.280.020, 70.280.030,  
11    70.280.040, 70.280.050, and 70.280.060 are recodified as a new  
12    chapter in the new title created in section 103 of this act.

13       NEW SECTION.    **Sec. 2058.**    RCW 70.285.010, 70.285.020, 70.285.030,  
14    70.285.040, 70.285.050, 70.285.060, 70.285.070, 70.285.080,  
15    70.285.090, and 70.285.100 are recodified as a new chapter in the new  
16    title created in section 103 of this act.

17       NEW SECTION.    **Sec. 2059.**    RCW 70.295.010 and 70.295.020 are  
18    recodified as a new chapter in the new title created in section 103  
19    of this act.

20       NEW SECTION.    **Sec. 2060.**    RCW 70.300.005, 70.300.010, 70.300.020,  
21    70.300.030, 70.300.040, 70.300.050, and 70.300.060 are recodified as  
22    a new chapter in the new title created in section 103 of this act.

23       NEW SECTION.    **Sec. 2061.**    RCW 70.310.010, 70.310.020, 70.310.030,  
24    70.310.040, and 70.310.050 are recodified as a new chapter in the new  
25    title created in section 103 of this act.

26       NEW SECTION.    **Sec. 2062.**    RCW 70.315.010, 70.315.020, 70.315.030,  
27    70.315.040, 70.315.050, 70.315.060, 70.315.900, 70.315.901, and  
28    70.315.902 are recodified as a new chapter in the new title created  
29    in section 103 of this act.

30       NEW SECTION.    **Sec. 2063.**    RCW 70.325.010, 70.325.020, 70.325.030,  
31    70.325.040, and 70.325.050 are recodified as a new chapter in the new  
32    title created in section 103 of this act.



1        NEW SECTION.    **Sec. 2064.**    RCW 70.340.010, 70.340.020, 70.340.030,  
2    70.340.040,        70.340.050,        70.340.060,        70.340.070,        70.340.080,  
3    70.340.090,    70.340.100,    70.340.110,    70.340.120,    70.340.130,    and  
4    70.340.900 are recodified as a new chapter in the new title created  
5    in section 103 of this act.

6        NEW SECTION.    **Sec. 2065.**    RCW 70.355.010 is recodified as a new  
7    chapter in the new title created in section 103 of this act.

8        NEW SECTION.    **Sec. 2066.**    RCW 70.360.010, 70.360.020, 70.360.030,  
9    70.360.040,        70.360.050,        70.360.060,        70.360.070,        70.360.080,  
10   70.360.090, 70.360.100, 70.360.110, and 70.360.900 are recodified as  
11   a new chapter in the new title created in section 103 of this act.

12       NEW SECTION.    **Sec. 2067.**    RCW 70.365.010, 70.365.020, 70.365.030,  
13   70.365.040,    70.365.050,    70.365.060,    70.365.070,    70.365.080,    and  
14   70.365.900 are recodified as a new chapter in the new title created  
15   in section 103 of this act.

16       NEW SECTION.    **Sec. 2068.**    RCW 70.370.010, 70.370.020, 70.370.030,  
17   and 70.370.040 are recodified as a new chapter in the new title  
18   created in section 103 of this act.

19       NEW SECTION.    **Sec. 2069.**    RCW 70.375.010, 70.375.020, 70.375.030,  
20   70.375.040,        70.375.050,        70.375.060,        70.375.070,        70.375.080,  
21   70.375.090, 70.375.100, 70.375.110, 70.375.120, and 70.375.130 are  
22   recodified as a new chapter in the new title created in section 103  
23   of this act.

24       NEW SECTION.    **Sec. 2070.**    RCW 70.380.010, 70.380.020, 70.380.030,  
25   and 70.380.900 are recodified as a new chapter in the new title  
26   created in section 103 of this act.

27       NEW SECTION.    **Sec. 2071.**    RCW 90.76.005, 90.76.010, 90.76.020,  
28   90.76.040,    90.76.050,    90.76.060,    90.76.070,    90.76.080,    90.76.090,  
29   90.76.100,    90.76.110,    90.76.900,    90.76.901,    and 90.76.902 are  
30   recodified as a new chapter in the new title created in section 103  
31   of this act.

1        NEW SECTION.    **Sec. 3001.**    The following acts or parts of acts are  
2 each repealed:

3        (1)    RCW 70.105E.010 (Purpose) and 2005 c 1 s 1 (Initiative  
4 Measure No. 297, approved November 2, 2004);

5        (2)    RCW 70.105E.020 (Policy) and 2005 c 1 s 2 (Initiative Measure  
6 No. 297, approved November 2, 2004);

7        (3)    RCW 70.105E.030 (Definitions) and 2005 c 1 s 3 (Initiative  
8 Measure No. 297, approved November 2, 2004);

9        (4)    RCW 70.105E.040 (Duties of the department of ecology to  
10 regulate mixed wastes) and 2005 c 1 s 4 (Initiative Measure No. 297,  
11 approved November 2, 2004);

12       (5)    RCW 70.105E.050 (Releases of radioactive substances—Clean-up  
13 standards) and 2005 c 1 s 5 (Initiative Measure No. 297, approved  
14 November 2, 2004);

15       (6)    RCW 70.105E.060 (Disposal of waste in unlined trenches—  
16 Investigation and cleanup of unlined trenches—Closure of mixed waste  
17 tank systems) and 2005 c 1 s 6 (Initiative Measure No. 297, approved  
18 November 2, 2004);

19       (7)    RCW 70.105E.080 (Exemptions: Naval reactor disposal at  
20 Hanford—Low-level waste compact) and 2005 c 1 s 8 (Initiative Measure  
21 No. 297, approved November 2, 2004);

22       (8)    RCW 70.105E.100 (Enforcement and appeals) and 2005 c 1 s 10  
23 (Initiative Measure No. 297, approved November 2, 2004);

24       (9)    RCW 70.105E.900 (Construction—2005 c 1 (Initiative Measure  
25 No. 297)) and 2005 c 1 s 11 (Initiative Measure No. 297, approved  
26 November 2, 2004); and

27       (10)   RCW 70.105E.901 (Short title—2005 c 1 (Initiative Measure  
28 No. 297)) and 2005 c 1 s 12 (Initiative Measure No. 297, approved  
29 November 2, 2004).

--- END ---