
HOUSE BILL 2246

State of Washington

66th Legislature

2020 Regular Session

By Representatives Fitzgibbon and Lekanoff

Prefiled 12/18/19. Read first time 01/13/20. Referred to Committee on Environment & Energy.

1 AN ACT Relating to the reorganization of laws related to
2 environmental health without making any substantive, policy changes;
3 amending RCW 35.21.120, 35.21.135, 35.21.154, 35.21.156, 35.21.157,
4 35.21.409, 35.21.755, 35.22.625, 35.23.351, 35.92.020, 35.94.050,
5 35A.21.152, 35A.21.153, 35A.21.324, 36.32.120, 36.32.304, 36.34.192,
6 36.58.040, 36.58.045, 36.58.050, 36.58A.010, 36.70A.130, 36.70A.200,
7 36.93.090, 36.94.010, 43.21A.020, 43.21A.175, 43.21A.702, 43.21A.711,
8 43.21B.130, 43.21B.260, 43.21B.300, 43.21C.036, 43.21C.0381,
9 43.21C.210, 43.27A.190, 43.37.050, 43.37.080, 43.37.110, 43.37.140,
10 43.37.170, 43.37.220, 43.146.900, 43.200.070, 43.200.080, 43.200.170,
11 43.200.180, 43.200.220, 43.200.230, 43.200.233, 43.200.235,
12 43.200.905, 43.200.907, 70.05.070, 70.75A.040, 70.75A.060, 70.76.020,
13 70.76.030, 70.76.040, 70.76.050, 70.76.090, 70.76.100, 70.93.095,
14 70.93.200, 70.93.220, 70.93.250, 70.94.015, 70.94.030, 70.94.040,
15 70.94.041, 70.94.053, 70.94.069, 70.94.100, 70.94.130, 70.94.142,
16 70.94.143, 70.94.151, 70.94.153, 70.94.154, 70.94.161, 70.94.162,
17 70.94.163, 70.94.165, 70.94.181, 70.94.211, 70.94.231, 70.94.262,
18 70.94.302, 70.94.331, 70.94.332, 70.94.335, 70.94.385, 70.94.390,
19 70.94.400, 70.94.410, 70.94.422, 70.94.430, 70.94.431, 70.94.435,
20 70.94.450, 70.94.453, 70.94.460, 70.94.463, 70.94.467, 70.94.473,
21 70.94.475, 70.94.477, 70.94.480, 70.94.483, 70.94.524, 70.94.527,
22 70.94.528, 70.94.531, 70.94.534, 70.94.541, 70.94.544, 70.94.551,
23 70.94.640, 70.94.6512, 70.94.6514, 70.94.6516, 70.94.6518,

1	70.94.6520,	70.94.6522,	70.94.6524,	70.94.6528,	70.94.6530,	
2	70.94.6532,	70.94.6534,	70.94.6538,	70.94.6540,	70.94.6542,	
3	70.94.6546,	70.94.6548,	70.94.6552,	70.94.6554,	70.94.6556,	
4	70.94.715,	70.94.725,	70.94.730,	70.94.785,	70.94.805,	70.94.850,
5	70.94.892,	70.94.960,	70.94.990,	70.95.030,	70.95.065,	70.95.092,
6	70.95.095,	70.95.100,	70.95.110,	70.95.130,	70.95.150,	70.95.160,
7	70.95.167,	70.95.170,	70.95.185,	70.95.190,	70.95.205,	70.95.207,
8	70.95.218,	70.95.240,	70.95.250,	70.95.270,	70.95.280,	70.95.285,
9	70.95.290,	70.95.295,	70.95.315,	70.95.330,	70.95.400,	70.95.420,
10	70.95.430,	70.95.510,	70.95.530,	70.95.532,	70.95.535,	70.95.550,
11	70.95.555,	70.95.560,	70.95.610,	70.95.630,	70.95.650,	70.95.660,
12	70.95.670,	70.95.715,	70.95.807,	70.95.815,	70.95A.070,	70.95A.100,
13	70.95B.060,	70.95B.090,	70.95B.095,	70.95B.120,	70.95B.151,	
14	70.95C.010,	70.95C.020,	70.95C.030,	70.95C.040,	70.95C.070,	
15	70.95C.210,	70.95C.220,	70.95C.230,	70.95D.010,	70.95E.010,	
16	70.95E.020,	70.95E.030,	70.95E.040,	70.95E.050,	70.95E.080,	
17	70.95E.090,	70.95F.020,	70.95F.030,	70.95G.030,	70.95G.040,	
18	70.95G.060,	70.95I.010,	70.95I.020,	70.95I.030,	70.95I.040,	
19	70.95I.060,	70.95I.070,	70.95J.010,	70.95J.090,	70.95K.010,	
20	70.95K.011,	70.95L.010,	70.95L.040,	70.95M.080,	70.95M.110,	
21	70.95N.040,	70.95N.060,	70.95N.070,	70.95N.080,	70.95N.130,	
22	70.95N.170,	70.95N.180,	70.95N.190,	70.95N.200,	70.95N.230,	
23	70.95N.260,	70.95N.280,	70.95N.300,	70.95N.310,	70.98.020,	70.98.085,
24	70.98.095,	70.98.098,	70.98.122,	70.98.220,	70.98.910,	70.99.050,
25	70.102.020,	70.103.030,	70.103.040,	70.103.050,	70.103.060,	
26	70.103.070,	70.105.005,	70.105.010,	70.105.020,	70.105.035,	
27	70.105.050,	70.105.090,	70.105.105,	70.105.110,	70.105.111,	
28	70.105.112,	70.105.116,	70.105.135,	70.105.140,	70.105.145,	
29	70.105.160,	70.105.165,	70.105.170,	70.105.200,	70.105.210,	
30	70.105.220,	70.105.221,	70.105.225,	70.105.235,	70.105.240,	
31	70.105.250,	70.105.270,	70.105.280,	70.105.310,	70.105D.040,	
32	70.105D.050,	70.105D.055,	70.105D.060,	70.105D.080,	70.105D.090,	
33	70.105D.110,	70.105D.130,	70.105D.140,	70.105D.160,	70.105D.180,	
34	70.105D.190,	70.105D.200,	70.105D.210,	70.105E.020,	70.105E.030,	
35	70.105E.040,	70.105E.050,	70.105E.060,	70.105E.100,	70.106.030,	
36	70.106.070,	70.106.100,	70.106.110,	70.107.070,	70.116.050,	
37	70.116.060,	70.116.070,	70.118.060,	70.118.070,	70.118.080,	
38	70.118.130,	70.118A.020,	70.118A.040,	70.118A.050,	70.118A.070,	
39	70.118A.080,	70.118A.090,	70.118B.005,	70.118B.020,	70.118B.030,	
40	70.119.030,	70.119.050,	70.119.060,	70.119.070,	70.119.090,	

1 70.119.100, 70.119.120, 70.119.130, 70.119.150, 70.119.170,
2 70.119A.030, 70.119A.050, 70.119A.060, 70.119A.110, 70.119A.120,
3 70.119A.190, 70.120.010, 70.120.070, 70.120.080, 70.120.120,
4 70.120.130, 70.120.190, 70.120A.010, 70.120A.020, 70.121.020,
5 70.121.050, 70.121.060, 70.121.070, 70.121.080, 70.121.110,
6 70.138.010, 70.138.020, 70.138.030, 70.142.050, 70.146.030,
7 70.146.060, 70.146.070, 70.146.100, 70.146.110, 70.148.020,
8 70.148.025, 70.148.070, 70.149.030, 70.149.040, 70.149.070,
9 70.149.120, 70.150.030, 70.150.070, 70.164.020, 70.164.030,
10 70.220.020, 70.220.030, 70.220.050, 70.235.005, 70.235.020,
11 70.235.030, 70.235.040, 70.235.050, 70.235.060, 70.235.070,
12 70.235.080, 70.240.025, 70.240.035, 70.240.040, 70.240.050,
13 70.260.010, 70.270.030, 70.270.040, 70.270.050, 70.275.030,
14 70.275.040, 70.275.050, 70.275.160, 70.280.040, 70.280.050,
15 70.285.020, 70.285.040, 70.285.050, 70.285.090, 70.300.040,
16 70.310.030, 70.310.040, 70.310.050, 70.315.010, 70.315.020,
17 70.315.050, 70.325.020, 70.325.040, 70.325.050, 70.340.020,
18 70.340.030, 70.340.040, 70.340.050, 70.340.060, 70.340.080,
19 70.340.090, 70.340.100, 70.340.120, 70.340.130, 70.340.900,
20 70.360.060, 70.360.070, 70.360.090, 70.360.100, 70.360.110,
21 70.365.020, 70.365.030, 70.365.040, 70.365.050, 70.365.070,
22 70.365.080, 70.375.020, 70.375.040, 70.375.050, 70.375.060,
23 70.375.080, 70.375.090, 70.380.020, 82.04.660, 82.04.755, 82.04.765,
24 82.08.0287, 82.08.810, 82.08.811, 82.08.036, 82.08.998, 82.12.0282,
25 82.12.038, 82.12.810, 82.12.811, 82.12.998, 82.19.040, 82.23A.020,
26 82.23A.902, 82.34.030, 82.34.100, 82.44.015, 90.03.383, 90.03.386,
27 90.03.570, 90.03.590, 90.48.039, 90.48.110, 90.48.162, 90.48.285,
28 90.48.530, 90.48.531, 90.52.030, 90.58.355, 90.71.270, 90.71.340,
29 90.71.370, 90.76.040, 90.76.050, 90.76.070, 90.76.090, 90.76.100,
30 90.76.110, and 90.76.902; reenacting and amending RCW 43.21B.110,
31 43.21B.110, 43.200.015, 70.93.180, 70.94.152, 70.95.090, 70.95N.020,
32 70.95N.140, 70.105D.020, 70.105D.030, 70.119A.020, 70.240.010,
33 70.275.020, 70.365.010, and 90.56.010; adding a new title to the
34 Revised Code of Washington to be codified as Title 70A RCW; creating
35 new sections; recodifying RCW 43.21M.010, 43.21M.020, 43.21M.030,
36 43.21M.040, 43.21M.900, 43.37.010, 43.37.030, 43.37.040, 43.37.050,
37 43.37.060, 43.37.080, 43.37.090, 43.37.100, 43.37.110, 43.37.120,
38 43.37.130, 43.37.140, 43.37.150, 43.37.160, 43.37.170, 43.37.180,
39 43.37.190, 43.37.200, 43.37.210, 43.37.215, 43.37.220, 43.37.910,
40 43.145.010, 43.145.020, 43.145.030, 43.146.010, 43.146.900,

1	43.200.010,	43.200.015,	43.200.020,	43.200.030,	43.200.070,
2	43.200.080,	43.200.170,	43.200.180,	43.200.190,	43.200.200,
3	43.200.220,	43.200.230,	43.200.233,	43.200.235,	43.200.900,
4	43.200.901,	43.200.905,	43.200.907,	43.205.010,	43.205.020,
5	70.75A.005,	70.75A.010,	70.75A.020,	70.75A.030,	70.75A.040,
6	70.75A.050,	70.75A.060,	70.76.005,	70.76.010,	70.76.020,
7	70.76.040,	70.76.050,	70.76.060,	70.76.070,	70.76.080,
8	70.76.100,	70.76.110,	70.93.010,	70.93.020,	70.93.030,
9	70.93.050,	70.93.060,	70.93.070,	70.93.080,	70.93.090,
10	70.93.095,	70.93.097,	70.93.110,	70.93.180,	70.93.200,
11	70.93.220,	70.93.230,	70.93.250,	70.93.910,	70.94.011,
12	70.94.017,	70.94.030,	70.94.033,	70.94.035,	70.94.037,
13	70.94.041,	70.94.053,	70.94.055,	70.94.057,	70.94.068,
14	70.94.070,	70.94.081,	70.94.085,	70.94.091,	70.94.092,
15	70.94.094,	70.94.095,	70.94.096,	70.94.097,	70.94.100,
16	70.94.120,	70.94.130,	70.94.141,	70.94.142,	70.94.143,
17	70.94.152,	70.94.153,	70.94.154,	70.94.155,	70.94.157,
18	70.94.162,	70.94.163,	70.94.165,	70.94.170,	70.94.181,
19	70.94.205,	70.94.211,	70.94.221,	70.94.230,	70.94.231,
20	70.94.260,	70.94.262,	70.94.302,	70.94.331,	70.94.332,
21	70.94.350,	70.94.370,	70.94.380,	70.94.385,	70.94.390,
22	70.94.400,	70.94.405,	70.94.410,	70.94.420,	70.94.422,
23	70.94.430,	70.94.431,	70.94.435,	70.94.440,	70.94.450,
24	70.94.455,	70.94.457,	70.94.460,	70.94.463,	70.94.467,
25	70.94.473,	70.94.475,	70.94.477,	70.94.480,	70.94.483,
26	70.94.510,	70.94.521,	70.94.524,	70.94.527,	70.94.528,
27	70.94.534,	70.94.537,	70.94.541,	70.94.544,	70.94.547,
28	70.94.555,	70.94.600,	70.94.610,	70.94.620,	70.94.640,
29	70.94.6511,	70.94.6512,	70.94.6514,	70.94.6516,	70.94.6518,
30	70.94.6520,	70.94.6522,	70.94.6524,	70.94.6526,	70.94.6528,
31	70.94.6530,	70.94.6532,	70.94.6534,	70.94.6536,	70.94.6538,
32	70.94.6540,	70.94.6542,	70.94.6544,	70.94.6546,	70.94.6548,
33	70.94.6550,	70.94.6552,	70.94.6554,	70.94.6556,	70.94.710,
34	70.94.720,	70.94.725,	70.94.730,	70.94.785,	70.94.800,
35	70.94.820,	70.94.850,	70.94.860,	70.94.875,	70.94.880,
36	70.94.901,	70.94.902,	70.94.904,	70.94.911,	70.94.960,
37	70.94.980,	70.94.990,	70.94.991,	70.94.992,	70.95.010,
38	70.95.030,	70.95.055,	70.95.060,	70.95.065,	70.95.075,
39	70.95.090,	70.95.092,	70.95.094,	70.95.095,	70.95.096,
40	70.95.110,	70.95.130,	70.95.140,	70.95.150,	70.95.160,

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

1	70.95N.100,	70.95N.110,	70.95N.120,	70.95N.130,	70.95N.140,
2	70.95N.150,	70.95N.160,	70.95N.170,	70.95N.180,	70.95N.190,
3	70.95N.200,	70.95N.210,	70.95N.220,	70.95N.230,	70.95N.240,
4	70.95N.250,	70.95N.260,	70.95N.280,	70.95N.290,	70.95N.300,
5	70.95N.310,	70.95N.320,	70.95N.330,	70.95N.340,	70.95N.350,
6	70.95N.900,	70.95N.902,	70.98.010,	70.98.020,	70.98.030,
7	70.98.080,	70.98.085,	70.98.090,	70.98.095,	70.98.098,
8	70.98.110,	70.98.120,	70.98.122,	70.98.125,	70.98.130,
9	70.98.150,	70.98.160,	70.98.170,	70.98.180,	70.98.190,
10	70.98.220,	70.98.910,	70.98.920,	70.99.010,	70.99.020,
11	70.99.040,	70.99.050,	70.99.060,	70.99.900,	70.99.910,
12	70.102.020,	70.103.010,	70.103.020,	70.103.030,	70.103.040,
13	70.103.050,	70.103.060,	70.103.070,	70.103.080,	70.103.090,
14	70.105.005,	70.105.007,	70.105.010,	70.105.020,	70.105.025,
15	70.105.030,	70.105.035,	70.105.040,	70.105.050,	70.105.070,
16	70.105.080,	70.105.085,	70.105.090,	70.105.095,	70.105.097,
17	70.105.100,	70.105.105,	70.105.109,	70.105.110,	70.105.111,
18	70.105.112,	70.105.116,	70.105.120,	70.105.130,	70.105.135,
19	70.105.140,	70.105.145,	70.105.150,	70.105.160,	70.105.165,
20	70.105.170,	70.105.180,	70.105.200,	70.105.210,	70.105.215,
21	70.105.217,	70.105.220,	70.105.221,	70.105.225,	70.105.230,
22	70.105.235,	70.105.240,	70.105.245,	70.105.250,	70.105.255,
23	70.105.260,	70.105.270,	70.105.280,	70.105.300,	70.105.310,
24	70.105.900,	70.105D.010,	70.105D.020,	70.105D.030,	70.105D.040,
25	70.105D.050,	70.105D.055,	70.105D.060,	70.105D.080,	70.105D.090,
26	70.105D.100,	70.105D.110,	70.105D.120,	70.105D.130,	70.105D.140,
27	70.105D.150,	70.105D.160,	70.105D.180,	70.105D.190,	70.105D.200,
28	70.105D.210,	70.105D.900,	70.105D.905,	70.105D.910,	70.105D.915,
29	70.105D.920,	70.105E.010,	70.105E.020,	70.105E.030,	70.105E.040,
30	70.105E.050,	70.105E.060,	70.105E.080,	70.105E.100,	70.105E.900,
31	70.105E.901,	70.106.010,	70.106.020,	70.106.030,	70.106.040,
32	70.106.050,	70.106.060,	70.106.070,	70.106.080,	70.106.090,
33	70.106.100,	70.106.110,	70.106.120,	70.106.140,	70.106.150,
34	70.106.905,	70.106.910,	70.107.010,	70.107.020,	70.107.030,
35	70.107.040,	70.107.050,	70.107.060,	70.107.070,	70.107.080,
36	70.107.900,	70.107.910,	70.116.010,	70.116.020,	70.116.030,
37	70.116.040,	70.116.050,	70.116.060,	70.116.070,	70.116.080,
38	70.116.090,	70.116.100,	70.116.110,	70.116.120,	70.116.134,
39	70.116.140,	70.118.010,	70.118.020,	70.118.030,	70.118.040,
40	70.118.050,	70.118.060,	70.118.070,	70.118.080,	70.118.090,

1	70.118.110,	70.118.120,	70.118.130,	70.118A.010,	70.118A.020,
2	70.118A.030,	70.118A.040,	70.118A.050,	70.118A.060,	70.118A.070,
3	70.118A.080,	70.118A.090,	70.118A.100,	70.118B.005,	70.118B.010,
4	70.118B.020,	70.118B.030,	70.118B.040,	70.118B.050,	70.118B.060,
5	70.118B.070,	70.119.010,	70.119.020,	70.119.030,	70.119.040,
6	70.119.050,	70.119.060,	70.119.070,	70.119.081,	70.119.090,
7	70.119.100,	70.119.110,	70.119.120,	70.119.130,	70.119.140,
8	70.119.150,	70.119.160,	70.119.170,	70.119.180,	70.119.900,
9	70.119A.020,	70.119A.025,	70.119A.030,	70.119A.040,	70.119A.050,
10	70.119A.060,	70.119A.070,	70.119A.080,	70.119A.100,	70.119A.110,
11	70.119A.115,	70.119A.120,	70.119A.130,	70.119A.140,	70.119A.150,
12	70.119A.170,	70.119A.180,	70.119A.190,	70.119A.200,	70.119A.210,
13	70.119A.900,	70.120.010,	70.120.020,	70.120.070,	70.120.080,
14	70.120.100,	70.120.120,	70.120.130,	70.120.150,	70.120.160,
15	70.120.170,	70.120.190,	70.120.210,	70.120.230,	70.120.902,
16	70.120A.010,	70.120A.020,	70.120A.030,	70.120A.050,	70.121.010,
17	70.121.020,	70.121.030,	70.121.040,	70.121.050,	70.121.060,
18	70.121.070,	70.121.080,	70.121.090,	70.121.100,	70.121.110,
19	70.121.120,	70.121.130,	70.121.140,	70.121.150,	70.121.900,
20	70.121.905,	70.132.010,	70.132.020,	70.132.030,	70.132.040,
21	70.132.050,	70.132.900,	70.138.010,	70.138.020,	70.138.030,
22	70.138.040,	70.138.050,	70.138.060,	70.138.070,	70.138.900,
23	70.138.901,	70.140.010,	70.140.020,	70.140.030,	70.140.040,
24	70.140.050,	70.140.060,	70.140.070,	70.140.080,	70.142.010,
25	70.142.020,	70.142.030,	70.142.040,	70.142.050,	70.146.010,
26	70.146.020,	70.146.030,	70.146.040,	70.146.050,	70.146.060,
27	70.146.070,	70.146.075,	70.146.090,	70.146.100,	70.146.110,
28	70.146.120,	70.148.005,	70.148.010,	70.148.020,	70.148.025,
29	70.148.030,	70.148.035,	70.148.040,	70.148.050,	70.148.060,
30	70.148.070,	70.148.080,	70.148.090,	70.148.110,	70.148.900,
31	70.149.010,	70.149.020,	70.149.030,	70.149.040,	70.149.050,
32	70.149.060,	70.149.070,	70.149.080,	70.149.090,	70.149.100,
33	70.149.120,	70.149.800,	70.149.801,	70.149.900,	70.150.010,
34	70.150.020,	70.150.030,	70.150.040,	70.150.050,	70.150.060,
35	70.150.070,	70.150.080,	70.150.900,	70.164.010,	70.164.020,
36	70.164.030,	70.164.040,	70.164.050,	70.164.060,	70.164.070,
37	70.220.010,	70.220.020,	70.220.030,	70.220.040,	70.220.050,
38	70.235.005,	70.235.010,	70.235.020,	70.235.030,	70.235.040,
39	70.235.050,	70.235.060,	70.235.070,	70.235.080,	70.235.900,
40	70.240.010,	70.240.020,	70.240.025,	70.240.030,	70.240.035,

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

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

32 NEW SECTION. **Sec. 101.** This act is intended to make technical
33 amendments to certain codified statutes that involve environmental
34 and public health. Any statutory changes made by this act should be
35 interpreted as technical in nature and not interpreted to have any
36 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 1442 through 1446 of this act
13 take effect July 1, 2020.

14 NEW SECTION. **Sec. 105.** Section 1030 of this act expires June
15 30, 2021.

16 NEW SECTION. **Sec. 106.** Section 1031 of this act takes effect
17 June 30, 2021.

18 **Sec. 1001.** RCW 35.21.120 and 1989 c 399 s 1 are each amended to
19 read as follows:

20 A city or town may by ordinance provide for the establishment of
21 a system or systems of solid waste handling for the entire city or
22 town or for portions thereof. A city or town may provide for solid
23 waste handling by or under the direction of officials and employees
24 of the city or town or may award contracts for any service related to
25 solid waste handling including contracts entered into under RCW
26 35.21.152. Contracts for solid waste handling may provide that a city
27 or town provide for a minimum periodic fee or other method of
28 compensation in consideration of the operational availability of a
29 solid waste handling system, plant, site, or other facility at a
30 specified minimum level, without regard to the ownership of the
31 system, plant, site, or other facility, or the amount of solid waste
32 actually handled during all or any part of the contract period. When
33 a minimum level of solid waste is specified in a contract for solid
34 waste handling, there shall be a specific allocation of financial

1 responsibility in the event the amount of solid waste handled falls
2 below the minimum level provided in the contract.

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

6 **Sec. 1002.** RCW 35.21.135 and 1991 c 319 s 404 are each amended
7 to read as follows:

8 (1) Each city or town providing by ordinance or resolution a
9 reduced solid waste collection rate to residents participating in a
10 residential curbside recycling program implemented under RCW
11 70.95.090 (as recodified by this act), may provide a similar reduced
12 rate to residents participating in any other recycling program, if
13 such program is approved by the jurisdiction. Nothing in this section
14 shall be interpreted to reduce the authority of a city to adopt
15 ordinances under RCW 35.21.130(1).

16 (2) For the purposes of this section, "reduced rate" means a
17 residential solid waste collection rate incorporating a rebate,
18 refund, or discount. Reduced rate shall not include residential solid
19 waste collection rate based on the volume or weight of solid waste
20 set out for collection.

21 **Sec. 1003.** RCW 35.21.154 and 1989 c 399 s 3 are each amended to
22 read as follows:

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

26 **Sec. 1004.** RCW 35.21.156 and 1989 c 399 s 7 are each amended to
27 read as follows:

28 (1) Notwithstanding the provisions of any city charter, or any
29 law to the contrary, and in addition to any other authority provided
30 by law, the legislative authority of a city or town may contract with
31 one or more vendors for one or more of the design, construction, or
32 operation of, or other service related to, the systems, plants,
33 sites, or other facilities for solid waste handling in accordance
34 with the procedures set forth in this section. Solid waste handling
35 systems, plants, sites, or other facilities constructed, purchased,
36 acquired, leased, added to, altered, extended, maintained, managed,
37 utilized, or operated pursuant to this section, RCW 35.21.120 and

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

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

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

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

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

1 section. If the legislative authority decides to continue the process
2 of selection, negotiations shall continue with a qualified vendor or
3 vendors in accordance with this section at the sole discretion of the
4 legislative authority until an agreement is reached with one or more
5 qualified vendors, or the process is terminated by the legislative
6 authority. The process may be repeated until an agreement is reached.

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

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

18 (8) The provisions of chapters 39.12(~~(7)~~) and 39.19(~~(7) and~~
19 ~~39.25~~) RCW shall apply to a contract entered into under this section
20 to the same extent as if the systems and plants were owned by a
21 public body.

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

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

33 **Sec. 1005.** RCW 35.21.157 and 1994 c 161 s 2 are each amended to
34 read as follows:

35 (1) A city that contracts for the collection of solid waste, or
36 provides for the collection of solid waste directly, shall notify the
37 public of each proposed rate increase for a solid waste handling
38 service. The notice may be mailed to each affected ratepayer or
39 published once a week for two consecutive weeks in a newspaper of

1 general circulation in the collection area. The notice shall be
2 available to affected ratepayers at least forty-five days prior to
3 the proposed effective date of the rate increase.

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

7 **Sec. 1006.** RCW 35.21.409 and 2013 c 291 s 16 are each amended to
8 read as follows:

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

12 (a) The purposes for which the transferee intends to use the
13 vessel; and

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

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

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

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

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

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

32 (3) Prior to sale, and unless the vessel has a title or valid
33 marine document, the city or town is required to apply for a
34 certificate of title for the vessel under RCW 88.02.510 and register
35 the vessel under RCW 88.02.550.

36 **Sec. 1007.** RCW 35.21.755 and 2007 c 104 s 16 are each amended to
37 read as follows:

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

1 taxation as if such property had been within a district listed on any
2 such federal or state register of historical sites as of January 1,
3 1976, and controlled by a public corporation, commission, or
4 authority created pursuant to RCW 35.21.730 or 35.21.660 which was in
5 existence prior to January 1, 1976.

6 (2) As used in this section:

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

9 (b) "Area median income" means:

10 (i) For an area within a standard metropolitan statistical area,
11 the area median income reported by the United States department of
12 housing and urban development for that standard metropolitan
13 statistical area; or

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

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

20 **Sec. 1008.** RCW 35.22.625 and 1989 c 399 s 4 are each amended to
21 read as follows:

22 RCW 35.22.620 does not apply to the selection of persons or
23 entities to construct or develop water pollution control facilities
24 or to provide water pollution control services under RCW 70.150.040
25 (as recodified by this act) or the selection of persons or entities
26 to construct or develop solid waste handling facilities or to provide
27 solid waste handling services under RCW 35.21.156.

28 **Sec. 1009.** RCW 35.23.351 and 1989 c 399 s 5 are each amended to
29 read as follows:

30 RCW 35.23.352 does not apply to the selection of persons or
31 entities to construct or develop water pollution control facilities
32 or to provide water pollution control services under RCW 70.150.040
33 (as recodified by this act) or the selection of persons or entities
34 to construct or develop solid waste handling facilities or to provide
35 solid waste handling services under RCW 35.21.156.

36 **Sec. 1010.** RCW 35.92.020 and 2003 c 394 s 2 are each amended to
37 read as follows:

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

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

16 (a) The difference in cost of service and facilities to
17 customers;

18 (b) The location of customers within and without the city or
19 town;

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

22 (d) The different character of the service and facilities
23 furnished to customers;

24 (e) The quantity and quality of the sewage delivered and the time
25 of its delivery;

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

28 (g) The nonprofit public benefit status, as defined in RCW
29 24.03.490, of the land user; and

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

32 (3) The rate a city or town may charge under this section for
33 storm or surface water sewer systems or the portion of the rate
34 allocable to the storm or surface water sewer system of combined
35 sanitary sewage and storm or surface water sewer systems shall be
36 reduced by a minimum of ten percent for any new or remodeled
37 commercial building that utilizes a permissive rainwater harvesting
38 system. Rainwater harvesting systems shall be properly sized to
39 utilize the available roof surface of the building. The jurisdiction

1 shall consider rate reductions in excess of ten percent dependent
2 upon the amount of rainwater harvested.

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

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

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

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

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

31 **Sec. 1011.** RCW 35.94.050 and 1986 c 244 s 11 are each amended to
32 read as follows:

33 This chapter does not apply to dispositions of utility property
34 in connection with an agreement entered into pursuant to chapter
35 70.150 RCW (as recodified by this act) provided there is compliance
36 with the procurement procedure under RCW 70.150.040 (as recodified by
37 this act).

1 **Sec. 1012.** RCW 35A.21.152 and 1994 c 161 s 3 are each amended to
2 read as follows:

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

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

14 **Sec. 1013.** RCW 35A.21.153 and 1991 c 319 s 405 are each amended
15 to read as follows:

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

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

29 **Sec. 1014.** RCW 35A.21.324 and 2013 c 291 s 18 are each amended
30 to read as follows:

31 (1) Following the inspection required under RCW 35A.21.322 and
32 prior to transferring ownership of a code city-owned vessel, a code
33 city 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 code city.

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

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

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

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

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

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

20 **Sec. 1015.** RCW 36.32.120 and 2003 c 337 s 6 are each amended to
21 read as follows:

22 The legislative authorities of the several counties shall:

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

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

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

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

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

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

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

1 of the proposed regulation will be mailed upon request. An
2 inadvertent mistake or omission in publishing the text or a summary
3 of the content of a proposed regulation shall not render the
4 regulation invalid if it is adopted. The notice shall also include
5 the day, hour, and place of hearing and must be given by publication
6 in the newspaper in which legal notices of the county are printed;

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

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

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

25 **Sec. 1016.** RCW 36.32.304 and 2013 c 291 s 20 are each amended to
26 read as follows:

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

30 (a) The purposes for which the transferee intends to use the
31 vessel; and

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

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

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

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

5 (ii) A reasonable amount of fuel as determined by the county,
6 based on factors including the vessel's size, condition, and
7 anticipated use of the vessel including initial destination following
8 transfer.

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

11 (3) Prior to sale, and unless the vessel has a title or valid
12 marine document, the county is required to apply for a certificate of
13 title for the vessel under RCW 88.02.510 and register the vessel
14 under RCW 88.02.550.

15 **Sec. 1017.** RCW 36.34.192 and 1986 c 244 s 12 are each amended to
16 read as follows:

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

21 **Sec. 1018.** RCW 36.58.040 and 1992 c 131 s 3 are each amended to
22 read as follows:

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

36 (2) A county may construct, lease, purchase, acquire, add to,
37 alter, or extend solid waste handling systems, plants, sites, or
38 other facilities and shall have full jurisdiction and authority to

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

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

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

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

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

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

10 (6) This election may be made by counties at any time after July
11 23, 1989. An initial election must be made no later than ninety days
12 following approval of the local comprehensive waste management plan
13 required by RCW 70.95.090 (as recodified by this act).

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

18 **Sec. 1019.** RCW 36.58.045 and 1989 c 431 s 15 are each amended to
19 read as follows:

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

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

31 **Sec. 1020.** RCW 36.58.050 and 1975-'76 2nd ex.s. c 58 s 3 are
32 each amended to read as follows:

33 When a comprehensive solid waste plan, as provided in RCW
34 70.95.080 (as recodified by this act), incorporates the use of
35 transfer stations, such stations shall be considered part of the
36 disposal site and as such, along with the transportation of solid
37 wastes between disposal sites, shall be exempt from regulation by the

1 Washington utilities and transportation commission as provided in
2 chapter 81.77 RCW.

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

8 **Sec. 1021.** RCW 36.58A.010 and 1971 ex.s. c 293 s 2 are each
9 amended to read as follows:

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

23 **Sec. 1022.** RCW 36.70A.130 and 2012 c 191 s 1 are each amended to
24 read as follows:

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

33 (b) Except as otherwise provided, a county or city not planning
34 under RCW 36.70A.040 shall take action to review and, if needed,
35 revise its policies and development regulations regarding critical
36 areas and natural resource lands adopted according to this chapter to
37 ensure these policies and regulations comply with the requirements of
38 this chapter according to the deadlines in subsections (4) and (5) of

1 this section. Legislative action means the adoption of a resolution
2 or ordinance following notice and a public hearing indicating at a
3 minimum, a finding that a review and evaluation has occurred and
4 identifying the revisions made, or that a revision was not needed and
5 the reasons therefor.

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

11 (d) Any amendment of or revision to a comprehensive land use plan
12 shall conform to this chapter. Any amendment of or revision to
13 development regulations shall be consistent with and implement the
14 comprehensive plan.

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

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

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

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

1 (iv) The amendment of the capital facilities element of a
2 comprehensive plan that occurs concurrently with the adoption or
3 amendment of a county or city budget; or

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

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

19 (3)(a) Each county that designates urban growth areas under RCW
20 36.70A.110 shall review, according to the schedules established in
21 subsection (5) of this section, its designated urban growth area or
22 areas, and the densities permitted within both the incorporated and
23 unincorporated portions of each urban growth area. In conjunction
24 with this review by the county, each city located within an urban
25 growth area shall review the densities permitted within its
26 boundaries, and the extent to which the urban growth occurring within
27 the county has located within each city and the unincorporated
28 portions of the urban growth areas.

29 (b) The county comprehensive plan designating urban growth areas,
30 and the densities permitted in the urban growth areas by the
31 comprehensive plans of the county and each city located within the
32 urban growth areas, shall be revised to accommodate the urban growth
33 projected to occur in the county for the succeeding twenty-year
34 period. The review required by this subsection may be combined with
35 the review and evaluation required by RCW 36.70A.215.

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

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

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

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

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

14 (5) Except as otherwise provided in subsections (6) and (8) of
15 this section, following the review of comprehensive plans and
16 development regulations required by subsection (4) of this section,
17 counties and cities shall take action to review and, if needed,
18 revise their comprehensive plans and development regulations to
19 ensure the plan and regulations comply with the requirements of this
20 chapter as follows:

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

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

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

32 (d) On or before June 30, 2018, and every eight years thereafter,
33 for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays
34 Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens,
35 Wahkiakum, Walla Walla, and Whitman counties and the cities within
36 those counties.

37 (6)(a) Nothing in this section precludes a county or city from
38 conducting the review and evaluation required by this section before
39 the deadlines established in subsections (4) and (5) of this section.
40 Counties and cities may begin this process early and may be eligible

1 for grants from the department, subject to available funding, if they
2 elect to do so.

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

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

20 (d) A county or city that is subject to a deadline established in
21 subsection (4)(d) of this section and that meets the criteria
22 established in (b) or (c) of this subsection may comply with the
23 requirements of subsection (4)(d) of this section at any time within
24 the thirty-six months after the extension provided in (b) or (c) of
25 this subsection.

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

34 (f) A city that is subject to a deadline established in
35 subsection (5)(b) through (d) of this section and meets the following
36 criteria may comply with the requirements of this section at any time
37 within the twenty-four months following the deadline established in
38 subsection (5) of this section: The city has a population of no more
39 than five thousand and has had its population increase by the greater
40 of either no more than one hundred persons or no more than seventeen

1 percent in the ten years preceding the deadline established in
2 subsection (5) of this section as of that date.

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

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

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

13 (ii) Demonstrating substantial progress towards compliance with
14 the schedules in this section for development regulations that
15 protect critical areas; or

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

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

24 (8) (a) Except as otherwise provided in (c) of this subsection, if
25 a participating watershed is achieving benchmarks and goals for the
26 protection of critical areas functions and values, the county is not
27 required to update development regulations to protect critical areas
28 as they specifically apply to agricultural activities in that
29 watershed.

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

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

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

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

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

6 (v) Three or more years have elapsed since the receipt of
7 funding.

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

17 **Sec. 1023.** RCW 36.70A.200 and 2013 c 275 s 5 are each amended to
18 read as follows:

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

30 (2) Each county and city planning under RCW 36.70A.040 shall, not
31 later than September 1, 2002, establish a process, or amend its
32 existing process, for identifying and siting essential public
33 facilities and adopt or amend its development regulations as
34 necessary to provide for the siting of secure community transition
35 facilities consistent with statutory requirements applicable to these
36 facilities.

37 (3) Any city or county not planning under RCW 36.70A.040 shall,
38 not later than September 1, 2002, establish a process for siting
39 secure community transition facilities and adopt or amend its

1 development regulations as necessary to provide for the siting of
2 such facilities consistent with statutory requirements applicable to
3 these facilities.

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

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

10 (6) No person may bring a cause of action for civil damages based
11 on the good faith actions of any county or city to provide for the
12 siting of secure community transition facilities in accordance with
13 this section and with the requirements of chapter 12, Laws of 2001
14 2nd sp. sess. For purposes of this subsection, "person" includes, but
15 is not limited to, any individual, agency as defined in RCW
16 42.17A.005, corporation, partnership, association, and limited
17 liability entity.

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

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

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

25 (b) A consideration for grants or loans provided under RCW
26 43.17.250(3); or

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

29 **Sec. 1024.** RCW 36.93.090 and 1996 c 230 s 1608 are each amended
30 to read as follows:

31 Whenever any of the following described actions are proposed in a
32 county in which a board has been established, the initiators of the
33 action shall file within one hundred eighty days a notice of
34 intention with the board: PROVIDED, That when the initiator is the
35 legislative body of a governmental unit, the notice of intention may
36 be filed immediately following the body's first acceptance or
37 approval of the action. The board may review any such proposed
38 actions pertaining to:

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

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

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

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

31 **Sec. 1025.** RCW 36.94.010 and 2007 c 343 s 14 are each amended to
32 read as follows:

33 As used in this chapter:

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

36 (a) Sanitary sewage collection, treatment, and/or disposal
37 facilities and services, including without limitation on-site or off-
38 site sanitary sewerage facilities, large on-site sewage systems
39 defined under RCW 70.118B.010 (as recodified by this act), inspection

1 services and maintenance services for private or public on-site
2 systems, or any other means of sewage treatment and disposal approved
3 by the county;

4 (b) Combined sanitary sewage disposal and storm or surface water
5 drains and facilities;

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

7 (d) Outfalls for storm drainage or sanitary sewage and works,
8 plants, and facilities for storm drainage or sanitary sewage
9 treatment and disposal, and rights and interests in property relating
10 to the system;

11 (e) Combined water and sewerage systems;

12 (f) Point and nonpoint water pollution monitoring programs that
13 are directly related to the sewerage facilities and programs operated
14 by a county;

15 (g) Public restroom and sanitary facilities;

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

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

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

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

22 (b) A combined water and sewerage system;

23 (c) Any combination of or any part of any or all of such
24 facilities.

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

30 (a) A sewerage general plan shall include the general location
31 and description of treatment and disposal facilities, trunk and
32 interceptor sewers, pumping stations, monitoring and control
33 facilities, channels, local service areas and a general description
34 of the collection system to serve those areas, a description of on-
35 site sanitary sewerage system inspection services and maintenance
36 services, and other facilities and services as may be required to
37 provide a functional and implementable plan, including preliminary
38 engineering to assure feasibility. The plan may also include a
39 description of the regulations deemed appropriate to carrying out
40 surface drainage plans.

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

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

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

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

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

27 **Sec. 1026.** RCW 43.21A.020 and 1970 ex.s. c 62 s 2 are each
28 amended to read as follows:

29 In recognition of the responsibility of state government to carry
30 out the policies set forth in RCW 43.21A.010, it is the purpose of
31 this chapter to establish a single state agency with the authority to
32 manage and develop our air and water resources in an orderly,
33 efficient, and effective manner and to carry out a coordinated
34 program of pollution control involving these and related land
35 resources. To this end a department of ecology is created by this
36 chapter to undertake, in an integrated manner, the various water
37 regulation, management, planning and development programs now
38 authorized to be performed by the department of water resources and
39 the water pollution control commission, the air regulation and

1 management program now performed by the state air pollution control
2 board, the solid waste regulation and management program authorized
3 to be performed by state government as provided by chapter 70.95 RCW
4 (as recodified by this act), and such other environmental, management
5 protection and development programs as may be authorized by the
6 legislature.

7 **Sec. 1027.** RCW 43.21A.175 and 1997 c 419 s 2 are each amended to
8 read as follows:

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

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

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

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

33 (5) Subsections (1), (3), and (4) of this section apply to permit
34 and other regulatory decisions made under the following: Chapters
35 70.94 (as recodified by this act), 70.95 (as recodified by this act),
36 70.105 (as recodified by this act), 70.105D (as recodified by this
37 act), 70.120 (as recodified by this act), 70.138 (as recodified by
38 this act), 90.48, 90.54, and 90.56 RCW.

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

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

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

17 **Sec. 1028.** RCW 43.21A.702 and 2013 c 291 s 24 are each amended
18 to read as follows:

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

22 (a) The purposes for which the transferee intends to use the
23 vessel; and

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

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

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

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

36 (ii) A reasonable amount of fuel as determined by the department,
37 based on factors including the vessel's size, condition, and
38 anticipated use of the vessel including initial destination following
39 transfer.

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

5 **Sec. 1029.** RCW 43.21A.711 and 2014 c 173 s 3 are each amended to
6 read as follows:

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

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

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

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

19 (ii) The best management practices for preventing and managing
20 polychlorinated biphenyl contamination, as required under RCW
21 70.95I.030 (as recodified by this act); and

22 (b) The department has determined that:

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

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

31 (3) Before January 1st of each year, the department must develop
32 and submit to the appropriate fiscal committees of the senate and
33 house of representatives a prioritized list of submitted petitions
34 that the department recommends for funding by the legislature. It is
35 the intent of the legislature that if funded, the reimbursement of
36 extraordinary city or county costs associated with polychlorinated
37 biphenyl management and compliance activities come from the model
38 toxics control ~~((accounts))~~ operating account created in RCW
39 70.105D.190 (as recodified by this act).

1 **Sec. 1030.** RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10,
2 and 2019 c 290 s 12 are each reenacted and amended to read as
3 follows:

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

12 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431
13 (as recodified by this act), 70.105.080 (as recodified by this act),
14 70.107.050 (as recodified by this act), 70.365.070 (as recodified by
15 this act), 70.375.060 (as recodified by this act), 76.09.170,
16 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
17 90.56.310, 90.56.330, and 90.64.102.

18 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
19 43.27A.190, 70.94.211 (as recodified by this act), 70.94.332 (as
20 recodified by this act), 70.105.095 (as recodified by this act),
21 70.365.070 (as recodified by this act), 86.16.020, 88.46.070,
22 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

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

37 (f) Decisions of local health departments regarding the issuance
38 and enforcement of permits to use or dispose of biosolids under RCW
39 70.95J.080 (as recodified by this act).

1 (g) Decisions of the department regarding waste-derived
2 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
3 decisions of the department regarding waste-derived soil amendments
4 under RCW 70.95.205 (as recodified by this act).

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

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

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

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

21 (l) Decisions of the department of fish and wildlife to issue,
22 deny, condition, or modify a hydraulic project approval permit under
23 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
24 comply, to issue a civil penalty, or to issue a notice of intent to
25 disapprove applications.

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

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

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

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

36 (b) Hearings conducted by the department pursuant to RCW
37 70.94.332 (as recodified by this act), 70.94.390 (as recodified by
38 this act), 70.94.395 (as recodified by this act), 70.94.400 (as
39 recodified by this act), 70.94.405 (as recodified by this act),
40 70.94.410 (as recodified by this act), and 90.44.180.

1 (c) Appeals of decisions by the department under RCW 90.03.110
2 and 90.44.220.

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

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

8 **Sec. 1031.** RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10,
9 and 2019 c 290 s 12 are each reenacted and amended to read as
10 follows:

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

19 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431
20 (as recodified by this act), 70.105.080 (as recodified by this act),
21 70.107.050 (as recodified by this act), 70.365.070 (as recodified by
22 this act), 70.375.060 (as recodified by this act), 76.09.170,
23 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
24 90.56.310, 90.56.330, and 90.64.102.

25 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
26 43.27A.190, 70.94.211 (as recodified by this act), 70.94.332 (as
27 recodified by this act), 70.105.095 (as recodified by this act),
28 70.365.070 (as recodified by this act), 86.16.020, 88.46.070,
29 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

1 (d) 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 (e) 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 (f) 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 (g) 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 (h) 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 (i) 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 (j) Forest health hazard orders issued by the commissioner of
26 public lands under RCW 76.06.180.

27 (k) 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 (l) Decisions of the department of natural resources that are
33 reviewable under RCW 78.44.270.

34 (m) 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. 1032.** RCW 43.21B.130 and 1990 c 65 s 3 are each amended to
16 read as follows:

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

27 **Sec. 1033.** RCW 43.21B.260 and 1974 ex.s. c 69 s 5 are each
28 amended to read as follows:

29 Activated air pollution control authorities, established under
30 chapter 70.94 RCW (as recodified by this act), may file certified
31 copies of their regulations and amendments thereto with the pollution
32 control hearings board of the state of Washington, and the hearings
33 board shall take judicial note of the copies so filed and the said
34 regulations and amendments shall be received and admitted, by
35 reference, in all hearings before the board, as prima facie evidence
36 that such regulations and amendments on file are in full force and
37 effect.

1 **Sec. 1034.** RCW 43.21B.300 and 2019 c 64 s 19 are each amended to
2 read as follows:

3 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431 (as
4 recodified by this act), 70.95.315 (as recodified by this act),
5 70.105.080 (as recodified by this act), 70.107.050 (as recodified by
6 this act), 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
7 90.56.330, and 90.64.102 and chapter 90.76 RCW (as recodified by this
8 act) shall be imposed by a notice in writing, either by certified
9 mail with return receipt requested or by personal service, to the
10 person incurring the penalty from the department or the local air
11 authority, describing the violation with reasonable particularity.
12 For penalties issued by local air authorities, within thirty days
13 after the notice is received, the person incurring the penalty may
14 apply in writing to the authority for the remission or mitigation of
15 the penalty. Upon receipt of the application, the authority may remit
16 or mitigate the penalty upon whatever terms the authority in its
17 discretion deems proper. The authority may ascertain the facts
18 regarding all such applications in such reasonable manner and under
19 such rules as it may deem proper and shall remit or mitigate the
20 penalty only upon a demonstration of extraordinary circumstances such
21 as the presence of information or factors not considered in setting
22 the original penalty.

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

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

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

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

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

37 (4) If the amount of any penalty is not paid to the department
38 within thirty days after it becomes due and payable, the attorney
39 general, upon request of the department, shall bring an action in the
40 name of the state of Washington in the superior court of Thurston

1 county, or of any county in which the violator does business, to
2 recover the penalty. If the amount of the penalty is not paid to the
3 authority within thirty days after it becomes due and payable, the
4 authority may bring an action to recover the penalty in the superior
5 court of the county of the authority's main office or of any county
6 in which the violator does business. In these actions, the procedures
7 and rules of evidence shall be the same as in an ordinary civil
8 action.

9 (5) All penalties recovered shall be paid into the state treasury
10 and credited to the general fund except those penalties imposed
11 pursuant to RCW 18.104.155, which shall be credited to the
12 reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431
13 (as recodified by this act), the disposition of which shall be
14 governed by that provision, RCW 70.105.080 (as recodified by this
15 act), which shall be credited to the hazardous waste control and
16 elimination account created by RCW 70.105.180 (as recodified by this
17 act), RCW 90.56.330, which shall be credited to the coastal
18 protection fund created by RCW 90.48.390, and RCW 90.76.080 (as
19 recodified by this act), which shall be credited to the underground
20 storage tank account created by RCW 90.76.100 (as recodified by this
21 act).

22 **Sec. 1035.** RCW 43.21C.036 and 1994 c 257 s 21 are each amended
23 to read as follows:

24 In conducting a remedial action at a facility pursuant to a
25 consent decree, order, or agreed order issued pursuant to chapter
26 70.105D RCW (as recodified by this act), or if conducted by the
27 department of ecology, the department of ecology to the maximum
28 extent practicable shall integrate the procedural requirements and
29 documents of this chapter with the procedures and documents under
30 chapter 70.105D RCW (as recodified by this act). Such integration
31 shall at a minimum include the public participation procedures of
32 chapter 70.105D RCW (as recodified by this act) and the public notice
33 and review requirements of this chapter.

34 **Sec. 1036.** RCW 43.21C.0381 and 1995 c 172 s 1 are each amended
35 to read as follows:

36 Decisions pertaining to the issuance, renewal, reopening, or
37 revision of an air operating permit under RCW 70.94.161 (as

1 recodified by this act) are not subject to the requirements of RCW
2 43.21C.030(2)(c).

3 **Sec. 1037.** RCW 43.21C.210 and 1981 c 278 s 4 are each amended to
4 read as follows:

5 This chapter does not apply to actions authorized by RCW
6 43.37.215 and 43.37.220 (as recodified by this act) which are
7 undertaken during a state of emergency declared by the governor under
8 RCW 43.06.210.

9 **Sec. 1038.** RCW 43.27A.190 and 2009 c 549 s 5111 are each amended
10 to read as follows:

11 Notwithstanding and in addition to any other powers granted to
12 the department of ecology, whenever it appears to the department that
13 a person is violating or is about to violate any of the provisions of
14 the following:

- 15 (1) Chapter 90.03 RCW; or
- 16 (2) Chapter 90.44 RCW; or
- 17 (3) Chapter 86.16 RCW; or
- 18 (4) Chapter 43.37 RCW (as recodified by this act); or
- 19 (5) Chapter 43.27A RCW; or
- 20 (6) Any other law relating to water resources administered by the
21 department; or

22 (7) A rule or regulation adopted, or a directive or order issued
23 by the department relating to subsections (1) through (6) of this
24 section; the department may cause a written regulatory order to be
25 served upon said person either personally, or by registered or
26 certified mail delivered to addressee only with return receipt
27 requested and acknowledged by him or her. The order shall specify the
28 provision of the statute, rule, regulation, directive or order
29 alleged to be or about to be violated, and the facts upon which the
30 conclusion of violating or potential violation is based, and shall
31 order the act constituting the violation or the potential violation
32 to cease and desist or, in appropriate cases, shall order necessary
33 corrective action to be taken with regard to such acts within a
34 specific and reasonable time. The regulation of a headgate or
35 controlling works as provided in RCW 90.03.070, by a watermaster,
36 stream patrol officer, or other person so authorized by the
37 department shall constitute a regulatory order within the meaning of
38 this section. A regulatory order issued hereunder shall become

1 effective immediately upon receipt by the person to whom the order is
2 directed, except for regulations under RCW 90.03.070 which shall
3 become effective when a written notice is attached as provided
4 therein. Any person aggrieved by such order may appeal the order
5 pursuant to RCW 43.21B.310.

6 **Sec. 1039.** RCW 43.37.050 and 2009 c 549 s 5113 are each amended
7 to read as follows:

8 In the case of hearings pursuant to RCW 43.37.180 (as recodified
9 by this act) the department shall, and in other cases may, cause a
10 record of the proceedings to be taken and filed with the department,
11 together with its findings and conclusions. For any hearing, the
12 director of the department or a representative designated by him or
13 her is authorized to administer oaths and affirmations, examine
14 witnesses, and issue, in the name of the department, notice of the
15 hearing or subpoenas requiring any person to appear and testify, or
16 to appear and produce documents, or both, at any designated place.

17 **Sec. 1040.** RCW 43.37.080 and 1973 c 64 s 6 are each amended to
18 read as follows:

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

23 **Sec. 1041.** RCW 43.37.110 and 1973 c 64 s 9 are each amended to
24 read as follows:

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

- 28 (1) If the applicant is licensed pursuant to this chapter;
29 (2) If a sufficient notice of intention is published and proof of
30 publication is filed as required by RCW 43.37.140 (as recodified by
31 this act);
32 (3) If the applicant furnishes proof of financial responsibility,
33 as provided in RCW 43.37.150 (as recodified by this act), in an
34 amount to be determined by the department but not to exceed twenty
35 thousand dollars;
36 (4) If the fee for a permit is paid as required by RCW 43.37.160
37 (as recodified by this act);

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

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

6 **Sec. 1042.** RCW 43.37.140 and 1973 c 64 s 11 are each amended to
7 read as follows:

8 (1) The applicant shall cause the notice of intention, or that
9 portion thereof including the items specified in RCW 43.37.130 (as
10 recodified by this act), to be published at least once a week for
11 three consecutive weeks in a legal newspaper having a general
12 circulation and published within any county in which the operation is
13 to be conducted and in which the affected area is located, or, if the
14 operation is to be conducted in more than one county or if the
15 affected area is located in more than one county or is located in a
16 county other than the one in which the operation is to be conducted,
17 then in a legal newspaper having a general circulation and published
18 within each of such counties. In case there is no legal newspaper
19 published within the appropriate county, publication shall be made in
20 a legal newspaper having a general circulation within the county;

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

24 **Sec. 1043.** RCW 43.37.170 and 2009 c 549 s 5117 are each amended
25 to read as follows:

26 (1) Every licensee shall keep and maintain a record of all
27 operations conducted by him or her pursuant to his or her license and
28 each permit, showing the method employed, the type of equipment used,
29 materials and amounts thereof used, the times and places of operation
30 of the equipment, the name and post office address of each individual
31 participating or assisting in the operation other than the licensee,
32 and such other general information as may be required by the
33 department and shall report the same to the department at the time
34 and in the manner required.

35 (2) The department shall require written reports in such manner
36 as it provides but not inconsistent with the provisions of this
37 chapter, covering each operation for which a permit is issued.
38 Further, the department shall require written reports from such

1 organizations as are exempted from license, permit, and liability
2 requirements as provided in RCW 43.37.090 (as recodified by this
3 act).

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

6 **Sec. 1044.** RCW 43.37.220 and 1981 c 278 s 3 are each amended to
7 read as follows:

8 Upon a proclamation of a state of emergency, related to a lack of
9 precipitation or a shortage of water supply, by the governor under
10 RCW 43.06.210, the department shall exempt a licensee from the
11 requirements of RCW 43.37.110 (2) and (6) and ~~((RCW))~~ 43.37.140 (as
12 recodified by this act).

13 **Sec. 1045.** RCW 43.146.900 and 1987 c 90 s 2 are each amended to
14 read as follows:

15 (1) Section 1 of this act shall constitute a new chapter in Title
16 ~~((43))~~ 70A RCW.

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

19 **Sec. 1046.** RCW 43.200.015 and 2012 c 19 s 1 are each reenacted
20 and amended to read as follows:

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

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

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

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

29 (4) "Low-level radioactive waste" means waste material that
30 contains radioactive nuclides emitting primarily beta or gamma
31 radiation, or both, in concentrations or quantities that exceed
32 applicable federal or state standards for unrestricted release. Low-
33 level waste does not include waste containing more than one hundred
34 nanocuries of transuranic contaminants per gram of material, nor
35 spent nuclear fuel, nor material classified as either high-level
36 radioactive waste or waste that is unsuited for disposal by near-
37 surface burial under any applicable federal regulations.

1 (5) "Radioactive waste" means both high-level and low-level
2 radioactive waste.

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

5 **Sec. 1047.** RCW 43.200.070 and 1989 c 322 s 5 are each amended to
6 read as follows:

7 The department of ecology shall adopt such rules as are necessary
8 to carry out responsibilities under this chapter. The department of
9 ecology is authorized to adopt such rules as are necessary to carry
10 out its responsibilities under chapter 43.145 RCW (as recodified by
11 this act).

12 **Sec. 1048.** RCW 43.200.080 and 2012 c 19 s 2 are each amended to
13 read as follows:

14 The director of ecology shall, in addition to the powers and
15 duties otherwise imposed by law, have the following special powers
16 and duties:

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

27 (2) To assume the responsibilities of the state under the
28 perpetual care agreement between the state of Washington and the
29 federal government executed July 29, 1965, and the sublease between
30 the state of Washington and the site operator of the commercial low-
31 level radioactive waste disposal facility. In order to finance
32 perpetual surveillance and maintenance under the agreement and ensure
33 site closure under the sublease, the department of ecology shall
34 impose and collect fees from parties holding radioactive materials
35 for waste management purposes. The fees shall be established by rule
36 adopted under chapter 34.05 RCW and shall be an amount determined by
37 the department of ecology to be necessary to defray the estimated
38 liability of the state. Such fees shall reflect equity between the

1 disposal facilities of this and other states. A site closure account
2 and a perpetual surveillance and maintenance account are hereby
3 created in the state treasury. Site use permit fees collected by the
4 department of health under RCW 70.98.085(3) (as recodified by this
5 act) must be deposited in the site closure account and must be used
6 as specified in RCW 70.98.085(3) (as recodified by this act). Funds
7 in the site closure account other than site use permit fee funds
8 shall be exclusively available to reimburse, to the extent that
9 moneys are available in the account, the site operator for its costs
10 plus a reasonable profit as agreed by the operator and the state, or
11 to reimburse the state licensing agency and any agencies under
12 contract to the state licensing agency for their costs in final
13 closure and decommissioning of the commercial low-level radioactive
14 waste disposal facility. If a balance remains in the account after
15 satisfactory performance of closure and decommissioning, this balance
16 shall be transferred to the perpetual surveillance and maintenance
17 account. The perpetual surveillance and maintenance account shall be
18 used exclusively by the state to meet post-closure surveillance and
19 maintenance costs, or for otherwise satisfying surveillance and
20 maintenance obligations. Appropriations are required to permit
21 expenditures and payment of obligations from the site closure account
22 and the perpetual surveillance and maintenance account. Receipts
23 shall be directed to the site closure account and the perpetual
24 surveillance and maintenance account as specified by the department.
25 Additional moneys specifically appropriated by the legislature or
26 received from any public or private source may be placed in the site
27 closure account and the perpetual surveillance and maintenance
28 account. During the 2003-2005 fiscal biennium, the legislature may
29 transfer up to thirteen million eight hundred thousand dollars from
30 the site closure account to the general fund;

31 (3) (a) Subject to the conditions in (b) of this subsection, on
32 July 1, 2008, and each July 1st thereafter, the treasurer shall
33 transfer from the perpetual surveillance and maintenance account to
34 the site closure account the sum of nine hundred sixty-six thousand
35 dollars. The nine hundred sixty-six thousand dollars transferred on
36 July 1, 2009, and thereafter shall be adjusted to a level equal to
37 the percentage increase in the United States implicit price deflator
38 for personal consumption. The last transfer under this section shall
39 occur on July 1, 2033.

1 (b) The transfer in (a) of this subsection shall occur only if
2 written agreement is reached between the state department of ecology
3 and the United States department of energy pursuant to section 6 of
4 the perpetual care agreement dated July 29, 1965, between the United
5 States atomic energy commission and the state of Washington. If
6 agreement cannot be reached between the state department of ecology
7 and the United States department of energy by June 1, 2008, the
8 treasurer shall transfer the funds from the general fund to the site
9 closure account according to the schedule in (a) of this subsection.

10 (c) If for any reason the commercial low-level radioactive waste
11 disposal facility is closed to further disposal operations during or
12 after the 2003-2005 biennium and before 2033, then the amount
13 remaining to be repaid from the 2003-2005 transfer of thirteen
14 million eight hundred thousand dollars from the site closure account
15 shall be transferred by the treasurer from the general fund to the
16 site closure account to fund the closure and decommissioning of the
17 facility. The treasurer shall transfer to the site closure account in
18 full the amount remaining to be repaid upon written notice from the
19 secretary of health that the department of health has authorized
20 closure or that disposal operations have ceased. The treasurer shall
21 complete the transfer within sixty days of written notice from the
22 secretary of health.

23 (d) To the extent that money in the site closure account together
24 with the amount of money identified for repayment to the site closure
25 account, pursuant to (a) through (c) of this subsection, equals or
26 exceeds the cost estimate approved by the department of health for
27 closure and decommissioning of the facility, the money in the site
28 closure account together with the amount of money identified for
29 repayment to the site closure account shall constitute adequate
30 financial assurance for purposes of the department of health
31 financial assurance requirements;

32 (4) To assure maintenance of such insurance coverage by state
33 licensees, lessees, or sublessees as will adequately, in the opinion
34 of the director, protect the citizens of the state against nuclear
35 accidents or incidents that may occur on privately or state-
36 controlled nuclear facilities;

37 (5) To make application for or otherwise pursue any federal funds
38 to which the state may be eligible, through the federal resource
39 conservation and recovery act or any other federal programs, for the
40 management, treatment or disposal, and any remedial actions, of

1 wastes that are both radioactive and hazardous at all commercial low-
2 level radioactive waste disposal facilities; and

3 (6) To develop contingency plans for duties and options for the
4 department and other state agencies related to the commercial low-
5 level radioactive waste disposal facility based on various
6 projections of annual levels of waste disposal. These plans shall
7 include an analysis of expected revenue to the state in various taxes
8 and funds related to low-level radioactive waste disposal and the
9 resulting implications that any increase or decrease in revenue may
10 have on state agency duties or responsibilities. The plans shall be
11 updated annually.

12 **Sec. 1049.** RCW 43.200.170 and 2012 c 19 s 3 are each amended to
13 read as follows:

14 The governor may assess surcharges and penalty surcharges on the
15 disposal of waste at the commercial low-level radioactive waste
16 disposal facility. The surcharges may be imposed up to the maximum
17 extent permitted by federal law. Ten dollars per cubic foot of the
18 moneys received under this section shall be transmitted monthly to
19 the site closure account established under RCW 43.200.080 (as
20 recodified by this act). The rest of the moneys received under this
21 section shall be deposited in the general fund.

22 **Sec. 1050.** RCW 43.200.180 and 2012 c 19 s 4 are each amended to
23 read as follows:

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

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

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

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

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

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

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

9 **Sec. 1051.** RCW 43.200.220 and 1990 c 21 s 4 are each amended to
10 read as follows:

11 Beginning January 1, 1993, the department of ecology may impose a
12 reasonable site closure fee if necessary to be deposited in the site
13 closure account established under RCW 43.200.080 (as recodified by
14 this act). The department may continue to collect moneys for the site
15 closure account until the account contains an amount sufficient to
16 complete the closure plan, as specified in the radioactive materials
17 license issued by the department of health.

18 **Sec. 1052.** RCW 43.200.230 and 2012 c 19 s 7 are each amended to
19 read as follows:

20 The director of the department of ecology shall require that
21 generators of waste pay a fee for each cubic foot of waste disposed
22 at any facility in the state equal to six dollars and fifty cents.
23 The fee shall be imposed specifically on the generator of the waste
24 and shall not be considered to apply in any way to the low-level site
25 operator's disposal activities. The fee shall be allocated in
26 accordance with RCW 43.200.233 and 43.200.235 (as recodified by this
27 act). Failure to comply with this section may result in denial or
28 suspension of the generator's site use permit pursuant to RCW
29 70.98.085 (as recodified by this act).

30 **Sec. 1053.** RCW 43.200.233 and 1991 c 272 s 17 are each amended
31 to read as follows:

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

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

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

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

5 **Sec. 1054.** RCW 43.200.235 and 1991 c 272 s 18 are each amended
6 to read as follows:

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

11 **Sec. 1055.** RCW 43.200.905 and 1986 c 191 s 4 are each amended to
12 read as follows:

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

18 **Sec. 1056.** RCW 43.200.907 and 2012 c 19 s 14 are each amended to
19 read as follows:

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

22 (2)(a) All reports, documents, surveys, books, records, files,
23 papers, or written material in the possession of the department of
24 ecology site use permit program shall be delivered to the custody of
25 the department of health. All funds, credits, or other assets held by
26 the department of ecology site use permit program shall be assigned
27 to the department of health.

28 (b) Any appropriations made to the department of ecology for the
29 site use permit program shall be transferred and credited to the
30 department of health.

31 (3) All rules of the department of ecology site use permit
32 program shall be continued and acted upon by the department of health
33 until new rules are adopted under RCW 70.98.085 (as recodified by
34 this act). All permit applications and pending business before the
35 department of ecology site use permit program shall be continued and
36 acted upon by the department of health. All existing contracts and

1 obligations shall remain in full force and shall be performed by the
2 department of health.

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

7 **Sec. 1057.** RCW 70.05.070 and 2013 c 200 s 26 are each amended to
8 read as follows:

9 The local health officer, acting under the direction of the local
10 board of health or under direction of the administrative officer
11 appointed under RCW 70.05.040 or 70.05.035, if any, shall:

12 (1) Enforce the public health statutes of the state, rules of the
13 state board of health and the secretary of health, and all local
14 health rules, regulations and ordinances within his or her
15 jurisdiction including imposition of penalties authorized under RCW
16 70.119A.030 and 70.118.130 (as recodified by this act), the
17 confidentiality provisions in RCW 70.02.220 and rules adopted to
18 implement those provisions, and filing of actions authorized by RCW
19 43.70.190;

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

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

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

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

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

32 (7) Collect such fees as are established by the state board of
33 health or the local board of health for the issuance or renewal of
34 licenses or permits or such other fees as may be authorized by law or
35 by the rules of the state board of health;

36 (8) Inspect, as necessary, expansion or modification of existing
37 public water systems, and the construction of new public water
38 systems, to assure that the expansion, modification, or construction
39 conforms to system design and plans;

1 (9) Take such measures as he or she deems necessary in order to
2 promote the public health, to participate in the establishment of
3 health educational or training activities, and to authorize the
4 attendance of employees of the local health department or individuals
5 engaged in community health programs related to or part of the
6 programs of the local health department.

7 **Sec. 1058.** RCW 70.75A.040 and 2018 c 286 s 5 are each amended to
8 read as follows:

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

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

18 **Sec. 1059.** RCW 70.75A.060 and 2019 c 422 s 403 are each amended
19 to read as follows:

20 A manufacturer of class B firefighting foam in violation of RCW
21 70.75A.020 or 70.75A.040 (as recodified by this act) or a person in
22 violation of RCW 70.75A.010 or 70.75A.030 (as recodified by this act)
23 is subject to a civil penalty not to exceed five thousand dollars for
24 each violation in the case of a first offense. Manufacturers, local
25 governments, or persons that are repeat violators are subject to a
26 civil penalty not to exceed ten thousand dollars for each repeat
27 offense. Penalties collected under this section must be deposited in
28 the model toxics control operating account created in RCW 70.105D.190
29 (as recodified by this act).

30 **Sec. 1060.** RCW 70.76.020 and 2007 c 65 s 3 are each amended to
31 read as follows:

32 After January 1, 2008, no person may manufacture, knowingly sell,
33 offer for sale, distribute for sale, or distribute for use in this
34 state noncomestible products containing PBDEs. Exemptions from the
35 prohibition in this section are limited to the following:

36 (1) Products containing deca-bde, except as provided in RCW
37 70.76.030 (as recodified by this act);

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

4 (3) The sale or distribution of any used transportation vehicle
5 parts or new transportation vehicle parts manufactured before January
6 1, 2008, that contain PBDEs;

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

12 (5) Federal aviation administration fire worthiness requirements
13 and recommendations;

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

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

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

23 (9) The manufacture, sale, or distribution of any new product or
24 product component consisting of recycled or used materials containing
25 deca-bde;

26 (10) The sale or purchase of any previously owned product
27 containing PBDEs made in casual or isolated sales as defined in RCW
28 82.04.040 and to sales by nonprofit organizations;

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

32 (12) Medical devices.

33 **Sec. 1061.** RCW 70.76.030 and 2007 c 65 s 4 are each amended to
34 read as follows:

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

1 (2) Except as provided in RCW 70.76.090 (as recodified by this
2 act), no person may manufacture, knowingly sell, offer for sale,
3 distribute for sale, or distribute for use in this state residential
4 upholstered furniture that contains commercial deca-bde, or any
5 television or computer that has an electronic enclosure that contains
6 commercial deca-bde after the effective date established in
7 subsection (3) of this section. This prohibition may not take effect
8 until the department and the department of health identify that a
9 safer and technically feasible alternative is available, and the fire
10 safety committee, created in RCW 70.76.040 (as recodified by this
11 act), determines that the identified alternative meets applicable
12 fire safety standards. The effective date of the prohibition must be
13 established according to the following process:

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

18 (b) If the department and the department of health jointly find
19 that safer and technically feasible alternatives are available for
20 any of these uses, the department shall convene the fire safety
21 committee created in RCW 70.76.040 (as recodified by this act) to
22 determine whether the identified alternatives meet applicable fire
23 safety standards.

24 (c) By majority vote, the fire safety committee created in RCW
25 70.76.040 (as recodified by this act) shall make a finding whether an
26 alternative identified under (b) of this subsection meets applicable
27 fire safety standards. The fire safety committee shall report their
28 finding to the state fire marshal. After reviewing the finding of the
29 fire safety committee, the state fire marshal shall determine whether
30 an alternative identified under (b) of this subsection meets
31 applicable fire safety standards. The determination of the fire
32 marshal must be based upon the finding of the fire safety committee.
33 The state fire marshal shall report the determination to the
34 department.

35 (d) The department shall seek public input on their findings, the
36 findings of the fire safety committee, and the determination by the
37 state fire marshal. The department shall publish these findings in
38 the Washington State Register, and submit them in a report to the
39 appropriate committees of the legislature. The department shall
40 initially report these findings by December 31, 2008.

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

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

6 (b) If the December 31, 2008, report required in subsection
7 (2)(d) of this section does not find that a safer and technically
8 feasible alternative that meets applicable fire safety standards is
9 available, the prohibition does not take effect January 1, 2011.
10 Beginning in 2009, by December 31st of each year, the department
11 shall review and report on alternatives as described in subsection
12 (2) of this section. The prohibition in subsection (2) of this
13 section takes effect two years after a report submitted to the
14 legislature required under subsection (2)(d) of this section finds
15 that a safer and technically feasible alternative that meets
16 applicable fire safety standards is available.

17 **Sec. 1062.** RCW 70.76.040 and 2007 c 65 s 5 are each amended to
18 read as follows:

19 (1) The fire safety committee is created for the exclusive
20 purpose of finding whether an alternative identified under RCW
21 70.76.030(2)(b) (as recodified by this act) meets applicable fire
22 safety standards.

23 (2) A majority vote of the members of the fire safety committee
24 constitutes a finding that an alternative meets applicable fire
25 safety standards.

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

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

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

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

31 (ii) A representative of a statewide association representing the
32 interests of fire chiefs;

33 (iii) A representative of a statewide association representing
34 the interests of fire commissioners;

35 (iv) A representative of a recognized statewide council,
36 affiliated with an international association representing the
37 interests of firefighters; and

38 (v) A representative of a statewide association representing the
39 interests of volunteer firefighters.

1 **Sec. 1063.** RCW 70.76.050 and 2007 c 65 s 6 are each amended to
2 read as follows:

3 The department and the department of health shall review risk
4 assessments, scientific studies, and other relevant findings
5 regarding alternatives to the use of commercial deca-bde in products
6 not directly addressed in this chapter. If a flame retardant that is
7 safer and technically feasible becomes available, the department
8 shall convene the fire safety committee created in RCW 70.76.040 (as
9 recodified by this act). The fire safety committee and the state fire
10 marshal shall proceed as required in RCW 70.76.030(2)(c) (as
11 recodified by this act) to determine if the identified alternative
12 meets applicable fire safety standards. The department and the
13 department of health shall also review risk assessments, scientific
14 studies, and other findings regarding the potential effect of PBDEs
15 in the waste stream. By December 31st of the year in which the
16 finding is made, the department must publish the information required
17 by this ~~((subsection))~~ section in the Washington State Register and
18 present it in a report to the appropriate committees of the
19 legislature.

20 **Sec. 1064.** RCW 70.76.090 and 2007 c 65 s 10 are each amended to
21 read as follows:

22 (1) Retailers who unknowingly sell products prohibited under RCW
23 70.76.020 or 70.76.030 (as recodified by this act) are not liable
24 under this chapter.

25 (2) In-state retailers in possession of products on the date that
26 restrictions on the sale of the products become effective under RCW
27 70.76.020 or 70.76.030 (as recodified by this act) may exhaust their
28 existing stock through sales to the public.

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

31 (4) If a retailer unknowingly possesses products that are
32 prohibited for sale under RCW 70.76.020 or 70.76.030 (as recodified
33 by this act) and the manufacturer does not recall the products as
34 required under RCW 70.76.100(2) (as recodified by this act), the
35 retailer may exhaust its existing stock through sales to the public.
36 However, no additional prohibited stock may be sold or offered for
37 sale.

1 **Sec. 1065.** RCW 70.76.100 and 2019 c 422 s 404 are each amended
2 to read as follows:

3 (1) Enforcement of this chapter must rely on notification and
4 information exchange between the department and manufacturers. The
5 department must achieve compliance with this chapter using the
6 following enforcement sequence:

7 (a) Before the effective date of the product prohibition in RCW
8 70.76.020 or 70.76.030 (as recodified by this act), the department
9 must prepare and distribute information to in-state manufacturers and
10 out-of-state manufacturers, to the maximum extent practicable, to
11 assist them in identifying products prohibited for manufacture, sale,
12 or distribution under this chapter.

13 (b) The department may request a certificate of compliance from a
14 manufacturer. A certificate of compliance attests that a
15 manufacturer's product or products meets the requirements of this
16 chapter.

17 (c) The department may issue a warning letter to a manufacturer
18 that produces, sells, or distributes prohibited products in violation
19 of this chapter. The department must offer information or other
20 appropriate assistance to the manufacturer in complying with this
21 chapter. If, after one year, compliance is not achieved, penalties
22 may be assessed under subsection (3) of this section.

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

28 (3) A manufacturer of products containing PBDEs in violation of
29 this chapter is subject to a civil penalty not to exceed one thousand
30 dollars for each violation in the case of a first offense.
31 Manufacturers who are repeat violators are subject to a civil penalty
32 not to exceed five thousand dollars for each repeat offense.
33 Penalties collected under this section must be deposited in the model
34 toxics control operating account created in RCW 70.105D.190 (as
35 recodified by this act).

36 **Sec. 1066.** RCW 70.93.095 and 1991 c 11 s 2 are each amended to
37 read as follows:

38 (1) Each marina with thirty or more slips and each airport
39 providing regularly scheduled commercial passenger service shall

1 provide adequate recycling receptacles on, or adjacent to, its
2 facility. The receptacles shall be clearly marked for the disposal of
3 at least two of the following recyclable materials: Aluminum, glass,
4 newspaper, plastic, and tin.

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

10 **Sec. 1067.** RCW 70.93.180 and 2019 c 255 s 3 and 2019 c 166 s 5
11 are each reenacted and amended to read as follows:

12 (1) There is hereby created an account within the state treasury
13 to be known as the waste reduction, recycling, and litter control
14 account. Moneys in the account may be spent only after appropriation.
15 Expenditures from the waste reduction, recycling, and litter control
16 account shall be used as follows:

17 (a) Forty percent to the department of ecology, primarily for use
18 by the departments of ecology, natural resources, revenue,
19 transportation, and corrections, and the parks and recreation
20 commission, for litter collection programs under RCW 70.93.220 (as
21 recodified by this act). The amount to the department of ecology
22 shall also be used for a central coordination function for litter
23 control efforts statewide; to support employment of youth in litter
24 cleanup as intended in RCW 70.93.020 (as recodified by this act), and
25 for litter pick up using other authorized agencies; and for statewide
26 public awareness programs under RCW 70.93.200(7) (as recodified by
27 this act). The amount to the department shall also be used to defray
28 the costs of administering the funding, coordination, and oversight
29 of local government programs for waste reduction, litter control,
30 recycling, and composting so that local governments can apply one
31 hundred percent of their funding to achieving program goals. The
32 amount to the department of revenue shall be used to enforce
33 compliance with the litter tax imposed in chapter 82.19 RCW;

34 (b) (i) Twenty percent to the department for local government
35 funding programs for waste reduction, litter control, recycling
36 activities, and composting activities by cities and counties under
37 RCW 70.93.250 (as recodified by this act), to be administered by the
38 department of ecology; (ii) any unspent funds under (b) (i) of this
39 subsection may be used to create and pay for a matching fund

1 competitive grant program to be used by local governments for the
2 development and implementation of contamination reduction and
3 outreach plans for inclusion in comprehensive solid waste management
4 plans or by local governments and nonprofit organizations for local
5 or statewide education programs designed to help the public with
6 litter control, waste reduction, recycling, and composting of
7 primarily the products taxed under chapter 82.19 RCW. Recipients
8 under this subsection include programs to reduce wasted food and food
9 waste that are designed to achieve the goals established in RCW
10 70.95.815(1) (as recodified by this act) and that are consistent with
11 the plan developed in RCW 70.95.815(3) (as recodified by this act).
12 Grants must adhere to the following requirements: (A) No grant may
13 exceed sixty thousand dollars; (B) grant recipients shall match the
14 grant funding allocated by the department by an amount equal to
15 twenty-five percent of eligible expenses. A local government's share
16 of these costs may be met by cash or contributed services; (C) the
17 obligation of the department to make grant payments is contingent
18 upon the availability of the amount of money appropriated for this
19 subsection (1)(b); and (D) grants are managed under the guidelines
20 for existing grant programs; and

21 (c) Forty percent to the department of ecology to: (i) Implement
22 activities under RCW 70.93.200 (as recodified by this act) for waste
23 reduction, recycling, and composting efforts; (ii) provide technical
24 assistance to local governments and commercial businesses to increase
25 recycling markets and recycling and composting programs primarily for
26 the products taxed under chapter 82.19 RCW designed to educate
27 citizens about waste reduction, litter control, and recyclable and
28 compostable products and programs; (iii) increase access to waste
29 reduction, composting, and recycling programs, particularly for food
30 packaging and plastic bags and appropriate composting techniques; and
31 (iv) for programs to reduce wasted food and food waste that are
32 designed to achieve the goals established in RCW 70.95.815(1) (as
33 recodified by this act) and that are consistent with the plan
34 developed in RCW 70.95.815(3) (as recodified by this act).

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

1 (3) Not less than five percent and no more than ten percent of
2 the amount appropriated into the waste reduction, recycling, and
3 litter control account every biennium shall be reserved for capital
4 needs, including the purchase of vehicles for transporting crews and
5 for collecting litter and solid waste. Capital funds shall be
6 distributed among state agencies and local governments according to
7 the same criteria provided in RCW 70.93.220 (as recodified by this
8 act) for the remainder of the funds, so that the most effective waste
9 reduction, litter control, recycling, and composting programs receive
10 the most funding. The intent of this subsection is to provide funds
11 for the purchase of equipment that will enable the department to
12 account for the greatest return on investment in terms of reaching a
13 zero litter goal.

14 (4) Funds in the waste reduction, recycling, and litter control
15 account, collected under chapter 82.19 RCW, must be prioritized for
16 the products identified under RCW 82.19.020 solely for the purposes
17 of recycling, composting, and litter collection, reduction, and
18 control programs.

19 **Sec. 1068.** RCW 70.93.200 and 2015 c 15 s 4 are each amended to
20 read as follows:

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

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

27 (2) Serve as the coordinating and administrating agency for all
28 state agencies and local governments receiving funds for waste
29 reduction, litter control, recycling, and composting under this
30 chapter;

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

33 (4) Cooperate with all local governments to accomplish
34 coordination of local waste reduction, anti-litter, recycling, and
35 composting efforts;

36 (5) Encourage, organize, and coordinate all voluntary local waste
37 reduction, anti-litter, and recycling campaigns seeking to focus the
38 attention of the public on the programs of this state to reduce

1 waste, control and remove litter, and foster recycling and
2 composting;

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

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

10 (a) Increase public awareness of and participation in recycling
11 and composting; and

12 (b) Stimulate and encourage local private recycling and
13 composting centers, public participation in recycling and composting,
14 and research and development in the field of litter control, and
15 recycling, removal, and disposal of litter-related recycling
16 materials, and composting; and

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

21 **Sec. 1069.** RCW 70.93.220 and 2014 c 76 s 3 are each amended to
22 read as follows:

23 (1) The department is the coordinating and administrative agency
24 working with the departments of natural resources, revenue,
25 transportation, and corrections, and the parks and recreation
26 commission in developing a biennial budget request for funds for the
27 various agencies' litter collection programs.

28 (2) Funds may be used to meet the needs of efficient and
29 effective litter collection and illegal dumping programs identified
30 by the various agencies. The department shall develop criteria for
31 evaluating the effectiveness and efficiency of the waste reduction,
32 litter control, and recycling programs being administered by the
33 various agencies listed in RCW 70.93.180 (as recodified by this act),
34 and shall distribute funds according to the effectiveness and
35 efficiency of those programs. In addition, the department shall
36 approve funding requests for efficient and effective waste reduction,
37 litter control, and recycling programs, provide funds, and monitor
38 the results of all agency programs.

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

3 **Sec. 1070.** RCW 70.93.250 and 2014 c 76 s 4 are each amended to
4 read as follows:

5 (1) The department shall provide funding to local units of
6 government to establish, conduct, and evaluate community restitution
7 and other programs for waste reduction, litter and illegal dump
8 cleanup, and recycling. Programs eligible for funding under this
9 section shall include, but not be limited to, programs established
10 pursuant to RCW 72.09.260.

11 (2) Funds may be offered for costs associated with community
12 waste reduction, litter cleanup and prevention, and recycling
13 activities. The funding program must be flexible, allowing local
14 governments to use funds broadly to meet their needs to reduce waste,
15 control litter and illegal dumping, and promote recycling. Local
16 governments are required to contribute resources or in-kind services.
17 The department shall evaluate funding requests from local government
18 according to the same criteria as those developed in RCW 70.93.220
19 (as recodified by this act), provide funds according to the
20 effectiveness and efficiency of local government litter control
21 programs, and monitor the results of all local government programs
22 under this section.

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

26 **Sec. 1071.** RCW 70.94.015 and 2019 c 284 s 6 are each amended to
27 read as follows:

28 (1) The air pollution control account is established in the state
29 treasury. All receipts collected by or on behalf of the department
30 from RCW 70.94.151(2) (as recodified by this act), and receipts from
31 nonpermit program sources under RCW 70.94.152(1) and 70.94.154(7) (as
32 recodified by this act), and all receipts from RCW 70.94.6528 and
33 70.94.6534 (as recodified by this act) shall be deposited into the
34 account. Moneys in the account may be spent only after appropriation.
35 Expenditures from the account may be used only to develop and
36 implement the provisions of (~~chapters 70.94 and~~) this chapter,
37 chapter 70.120 RCW (as recodified by this act), and RCW 70.235.080
38 (as recodified by this act).

1 (2) The amounts collected and allocated in accordance with this
2 section shall be expended upon appropriation except as otherwise
3 provided in this section and in accordance with the following
4 limitations:

5 Portions of moneys received by the department of ecology from the
6 air pollution control account shall be distributed by the department
7 to local authorities based on:

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

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

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

15 (3) The air operating permit account is created in the custody of
16 the state treasurer. All receipts collected by or on behalf of the
17 department from permit program sources under RCW 70.94.152(1),
18 70.94.161, 70.94.162, and 70.94.154(7) (as recodified by this act)
19 shall be deposited into the account. Expenditures from the account
20 may be used only for the activities described in RCW 70.94.152(1),
21 70.94.161, 70.94.162, and 70.94.154(7) (as recodified by this act).
22 Moneys in the account may be spent only after appropriation.

23 **Sec. 1072.** RCW 70.94.030 and 2005 c 197 s 2 are each amended to
24 read as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

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

30 (2) "Air pollution" is presence in the outdoor atmosphere of one
31 or more air contaminants in sufficient quantities and of such
32 characteristics and duration as is, or is likely to be, injurious to
33 human health, plant or animal life, or property, or which
34 unreasonably interfere with enjoyment of life and property. For the
35 purpose of this chapter, air pollution shall not include air
36 contaminants emitted in compliance with chapter 17.21 RCW.

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

- 1 (4) "Ambient air" means the surrounding outside air.
- 2 (5) "Authority" means any air pollution control agency whose
3 jurisdictional boundaries are coextensive with the boundaries of one
4 or more counties.
- 5 (6) "Best available control technology" (BACT) means an emission
6 limitation based on the maximum degree of reduction for each air
7 pollutant subject to regulation under this chapter emitted from or
8 that results from any new or modified stationary source, that the
9 permitting authority, on a case-by-case basis, taking into account
10 energy, environmental, and economic impacts and other costs,
11 determines is achievable for such a source or modification through
12 application of production processes and available methods, systems,
13 and techniques, including fuel cleaning, clean fuels, or treatment or
14 innovative fuel combustion techniques for control of each such a
15 pollutant. In no event shall application of "best available control
16 technology" result in emissions of any pollutants that will exceed
17 the emissions allowed by any applicable standard under 40 C.F.R. Part
18 60 and Part 61, as they exist on July 25, 1993, or their later
19 enactments as adopted by reference by the director by rule. Emissions
20 from any source utilizing clean fuels, or any other means, to comply
21 with this subsection shall not be allowed to increase above levels
22 that would have been required under the definition of BACT as it
23 existed prior to enactment of the federal clean air act amendments of
24 1990.
- 25 (7) "Best available retrofit technology" (BART) means an emission
26 limitation based on the degree of reduction achievable through the
27 application of the best system of continuous emission reduction for
28 each pollutant that is emitted by an existing stationary facility.
29 The emission limitation must be established, on a case-by-case basis,
30 taking into consideration the technology available, the costs of
31 compliance, the energy and nonair quality environmental impacts of
32 compliance, any pollution control equipment in use or in existence at
33 the source, the remaining useful life of the source, and the degree
34 of improvement in visibility that might reasonably be anticipated to
35 result from the use of the technology.
- 36 (8) "Board" means the board of directors of an authority.
- 37 (9) "Control officer" means the air pollution control officer of
38 any authority.
- 39 (10) "Department" or "ecology" means the department of ecology.

1 (11) "Emission" means a release of air contaminants into the
2 ambient air.

3 (12) "Emission standard" and "emission limitation" mean a
4 requirement established under the federal clean air act or this
5 chapter that limits the quantity, rate, or concentration of emissions
6 of air contaminants on a continuous basis, including any requirement
7 relating to the operation or maintenance of a source to assure
8 continuous emission reduction, and any design, equipment, work
9 practice, or operational standard adopted under the federal clean air
10 act or this chapter.

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

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

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

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

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

25 (15) "Modification" means any physical change in, or change in
26 the method of operation of, a stationary source that increases the
27 amount of any air contaminant emitted by such source or that results
28 in the emission of any air contaminant not previously emitted. The
29 term modification shall be construed consistent with the definition
30 of modification in Section 7411, Title 42, United States Code, and
31 with rules implementing that section.

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

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

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

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

7 (20) "Reasonably available control technology" (RACT) means the
8 lowest emission limit that a particular source or source category is
9 capable of meeting by the application of control technology that is
10 reasonably available considering technological and economic
11 feasibility. RACT is determined on a case-by-case basis for an
12 individual source or source category taking into account the impact
13 of the source upon air quality, the availability of additional
14 controls, the emission reduction to be achieved by additional
15 controls, the impact of additional controls on air quality, and the
16 capital and operating costs of the additional controls. RACT
17 requirements for a source or source category shall be adopted only
18 after notice and opportunity for comment are afforded.

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

22 (22) "Source" means all of the emissions units including
23 quantifiable fugitive emissions, that are located on one or more
24 contiguous or adjacent properties, and are under the control of the
25 same person, or persons under common control, whose activities are
26 ancillary to the production of a single product or functionally
27 related group of products.

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

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

34 **Sec. 1073.** RCW 70.94.040 and 1980 c 175 s 2 are each amended to
35 read as follows:

36 Except where specified in a variance permit, as provided in RCW
37 70.94.181 (as recodified by this act), it shall be unlawful for any
38 person to cause air pollution or permit it to be caused in violation

1 of this chapter, or of any ordinance, resolution, rule or regulation
2 validly promulgated hereunder.

3 **Sec. 1074.** RCW 70.94.041 and 1991 c 199 s 506 are each amended
4 to read as follows:

5 Except as otherwise provided in this section, any building or
6 structure listed on the national register of historic sites,
7 structures, or buildings established pursuant to 80 Stat. 915, 16
8 U.S.C. Sec. 470a, or on the state register established pursuant to
9 RCW 27.34.220, shall be permitted to burn wood as it would have when
10 it was a functioning facility as an authorized exception to the
11 provisions of this chapter. Such burning of wood shall not be
12 exempted from the provisions of RCW 70.94.710 through 70.94.730 (as
13 recodified by this act).

14 **Sec. 1075.** RCW 70.94.053 and 1995 c 135 s 5 are each amended to
15 read as follows:

16 (1) In each county of the state there is hereby created an air
17 pollution control authority, which shall bear the name of the county
18 within which it is located. The boundaries of each authority shall be
19 coextensive with the boundaries of the county within which it is
20 located. An authority shall include all incorporated and
21 unincorporated areas of the county within which it is located.

22 (2) Except as provided in RCW 70.94.262 (as recodified by this
23 act), all authorities which are presently activated authorities shall
24 carry out the duties and exercise the powers provided in this
25 chapter. Those activated authorities which encompass contiguous
26 counties are declared to be and directed to function as a multicounty
27 authority.

28 (3) All other air pollution control authorities are hereby
29 designated as inactive authorities.

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

33 **Sec. 1076.** RCW 70.94.069 and 1969 ex.s. c 168 s 4 are each
34 amended to read as follows:

35 Whenever there occurs a merger of an inactive authority with an
36 activated authority or authorities, or of two activated authorities
37 to form a multicounty authority, the board of directors shall be

1 reorganized as provided in RCW 70.94.100, 70.94.110, and 70.94.120
2 (as recodified by this act).

3 In the case of the merger of two or more activated authorities
4 the rules and regulations of each authority shall continue in effect
5 and shall be enforced within the jurisdiction of each until such time
6 as the board of directors adopts rules and regulations applicable to
7 the newly formed multicounty authority.

8 In the case of the merger of an inactive authority with an
9 activated authority or authorities, upon approval of such merger by
10 the board or boards of county commissioners of the county or counties
11 comprising the existing activated authority or authorities, the rules
12 and regulations of the activated authority or authorities shall
13 remain in effect until superseded by the rules and regulations of the
14 multicounty authority as provided in RCW 70.94.230 (as recodified by
15 this act).

16 **Sec. 1077.** RCW 70.94.100 and 2009 c 254 s 1 are each amended to
17 read as follows:

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

20 (2)(a) In the case of an authority comprised of one county, with
21 a population of less than four hundred thousand people, the board
22 shall be comprised of two appointees of the city selection committee,
23 at least one of whom shall represent the city having the most
24 population in the county, and two representatives to be designated by
25 the board of county commissioners.

26 (b) In the case of an authority comprised of one county, with a
27 population of equal to or greater than four hundred thousand people,
28 the board shall be comprised of three appointees of cities, one each
29 from the two cities with the most population in the county and one
30 appointee of the city selection committee representing the other
31 cities, and one representative to be designated by the board of
32 county commissioners.

33 (c) In the case of an authority comprised of two, three, four, or
34 five counties, the board shall be comprised of one appointee from
35 each county, who shall represent the city having the most population
36 in such county, to be designated by the mayor and city council of
37 such city, and one representative from each county to be designated
38 by the board of county commissioners of each county making up the
39 authority.

1 (d) In the case of an authority comprised of six or more
2 counties, the board shall be comprised of one representative from
3 each county to be designated by the board of county commissioners of
4 each county making up the authority, and three appointees, one each
5 from the three largest cities within the local authority's
6 jurisdiction to be appointed by the mayor and city council of such
7 city.

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

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

16 (b) In the case of an authority comprised of one county, with a
17 population less than four hundred thousand people, or of more than
18 one county, either a member of the governing body of one of the
19 towns, cities or counties comprising the authority, or a private
20 citizen residing in the authority.

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

22 (5) If an appointee is unable to complete his or her term as a
23 board member, the vacancy for that office must be filled by the same
24 method as the original appointment, except for the appointment by the
25 city selection committee, which must use the method in RCW
26 70.94.120(1) (as recodified by this act) for replacements. The person
27 appointed as a replacement will serve the remainder of the term for
28 that office.

29 (6) Wherever a member of a board has a potential conflict of
30 interest in an action before the board, the member shall declare to
31 the board the nature of the potential conflict prior to participating
32 in the action review. The board shall, if the potential conflict of
33 interest, in the judgment of a majority of the board, may prevent the
34 member from a fair and objective review of the case, remove the
35 member from participation in the action.

36 **Sec. 1078.** RCW 70.94.130 and 1998 c 342 s 1 are each amended to
37 read as follows:

38 The board shall exercise all powers of the authority except as
39 otherwise provided. The board shall conduct its first meeting within

1 thirty days after all of its members have been appointed or
2 designated as provided in RCW 70.94.100 (as recodified by this act).
3 The board shall meet at least ten times per year. All meetings shall
4 be publicly announced prior to their occurrence. All meetings shall
5 be open to the public. A majority of the board shall constitute a
6 quorum for the transaction of business and shall be necessary for any
7 action taken by the board. The board shall elect from its members a
8 chair and such other officers as may be necessary. Any member of the
9 board may designate a regular alternate to serve on the board in his
10 or her place with the same authority as the member when he or she is
11 unable to attend. In no event may a regular alternate serve as the
12 permanent chair. Each member of the board, or his or her
13 representative, shall receive from the authority compensation
14 consistent with such authority's rates (but not to exceed one
15 thousand dollars per year) for time spent in the performance of
16 duties under this chapter, plus the actual and necessary expenses
17 incurred by the member in such performance. The board may appoint a
18 control officer, and any other personnel, and shall determine their
19 salaries, and pay same, together with any other proper indebtedness,
20 from authority funds.

21 **Sec. 1079.** RCW 70.94.142 and 2012 c 117 s 407 are each amended
22 to read as follows:

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

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

28 (a) Shall issue a subpoena upon the request of any party and, to
29 the extent required by rule or regulation, upon a statement or
30 showing of general relevance and reasonable scope of the evidence
31 sought;

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

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

35 (3) Witnesses appearing under the compulsion of a subpoena in a
36 hearing before the board or the department shall be paid the same
37 fees and mileage that are provided for witnesses in the courts of
38 this state. Such fees and mileage, and the cost of duplicating
39 records required to be produced by subpoena issued upon the motion of

1 the board or department, shall be paid by the board or department.
2 Such fees and mileage, and the cost of producing records required to
3 be produced by subpoena issued upon the request of a party, shall be
4 paid by that party.

5 (4) If an individual fails to obey the subpoena, or obeys the
6 subpoena but refuses to testify when required concerning any matter
7 under examination or investigation or the subject of the hearing, the
8 board or department shall file its written report thereof and proof
9 of service of its subpoena, in any court of competent jurisdiction in
10 the county where the examination, hearing, or investigation is being
11 conducted. Thereupon, the court shall forthwith cause the individual
12 to be brought before it and, upon being satisfied that the subpoena
13 is within the jurisdiction of the board or department and otherwise
14 in accordance with law, shall punish him or her as if the failure or
15 refusal related to a subpoena from or testimony in that court.

16 (5) The department may make such rules and regulations as to the
17 issuance of its own subpoenas as are not inconsistent with the
18 provisions of this chapter.

19 **Sec. 1080.** RCW 70.94.143 and 1987 c 109 s 36 are each amended to
20 read as follows:

21 Any authority exercising the powers and duties prescribed in this
22 chapter may make application for, receive, administer, and expend any
23 federal aid, under federal legislation from any agency of the federal
24 government, for the prevention and control of air pollution or the
25 development and administration of programs related to air pollution
26 control and prevention, as permitted by RCW 70.94.141(12) (as
27 recodified by this act): PROVIDED, That any such application shall be
28 submitted to and approved by the department. The department shall
29 adopt rules and regulations establishing standards for such approval
30 and shall approve any such application, if it is consistent with this
31 chapter, and any other applicable requirements of law.

32 **Sec. 1081.** RCW 70.94.151 and 2010 c 146 s 2 are each amended to
33 read as follows:

34 (1) The board of any activated authority or the department, may
35 classify air contaminant sources, by ordinance, resolution, rule or
36 regulation, which in its judgment may cause or contribute to air
37 pollution, according to levels and types of emissions and other
38 characteristics which cause or contribute to air pollution, and may

1 require registration or reporting or both for any such class or
2 classes. Classifications made pursuant to this section may be for
3 application to the area of jurisdiction of such authority, or the
4 state as a whole or to any designated area within the jurisdiction,
5 and shall be made with special reference to effects on health,
6 economic and social factors, and physical effects on property.

7 (2) Except as provided in subsection (3) of this section, any
8 person operating or responsible for the operation of air contaminant
9 sources of any class for which the ordinances, resolutions, rules or
10 regulations of the department or board of the authority, require
11 registration or reporting shall register therewith and make reports
12 containing information as may be required by such department or board
13 concerning location, size and height of contaminant outlets,
14 processes employed, nature of the contaminant emission and such other
15 information as is relevant to air pollution and available or
16 reasonably capable of being assembled. In the case of emissions of
17 greenhouse gases as defined in RCW 70.235.010 (as recodified by this
18 act) the department shall adopt rules requiring reporting of those
19 emissions. The department or board may require that such registration
20 or reporting be accompanied by a fee, and may determine the amount of
21 such fee for such class or classes: PROVIDED, That the amount of the
22 fee shall only be to compensate for the costs of administering such
23 registration or reporting program which shall be defined as initial
24 registration and annual or other periodic reports from the source
25 owner providing information directly related to air pollution
26 registration, on-site inspections necessary to verify compliance with
27 registration requirements, data storage and retrieval systems
28 necessary for support of the registration program, emission inventory
29 reports and emission reduction credits computed from information
30 provided by sources pursuant to registration program requirements,
31 staff review, including engineering or other reliable analysis for
32 accuracy and currentness, of information provided by sources pursuant
33 to registration program requirements, clerical and other office
34 support provided in direct furtherance of the registration program,
35 and administrative support provided in directly carrying out the
36 registration program: PROVIDED FURTHER, That any such registration
37 made with either the board or the department shall preclude a further
38 registration and reporting with any other board or the department,
39 except that emissions of greenhouse gases as defined in RCW

1 70.235.010 (as recodified by this act) must be reported as required
2 under subsection (5) of this section.

3 All registration program and reporting fees collected by the
4 department shall be deposited in the air pollution control account.
5 All registration program fees collected by the local air authorities
6 shall be deposited in their respective treasuries.

7 (3) If a registration or report has been filed for a grain
8 warehouse or grain elevator as required under this section,
9 registration, reporting, or a registration program fee shall not,
10 after January 1, 1997, again be required under this section for the
11 warehouse or elevator unless the capacity of the warehouse or
12 elevator as listed as part of the license issued for the facility has
13 been increased since the date the registration or reporting was last
14 made. If the capacity of the warehouse or elevator listed as part of
15 the license is increased, any registration or reporting required for
16 the warehouse or elevator under this section must be made by the date
17 the warehouse or elevator receives grain from the first harvest
18 season that occurs after the increase in its capacity is listed in
19 the license.

20 This subsection does not apply to a grain warehouse or grain
21 elevator if the warehouse or elevator handles more than ten million
22 bushels of grain annually.

23 (4) For the purposes of subsection (3) of this section:

24 (a) A "grain warehouse" or "grain elevator" is an establishment
25 classified in standard industrial classification (SIC) code 5153 for
26 wholesale trade for which a license is required and includes, but is
27 not limited to, such a licensed facility that also conducts cleaning
28 operations for grain;

29 (b) A "license" is a license issued by the department of
30 agriculture licensing a facility as a grain warehouse or grain
31 elevator under chapter 22.09 RCW or a license issued by the federal
32 government licensing a facility as a grain warehouse or grain
33 elevator for purposes similar to those of licensure for the facility
34 under chapter 22.09 RCW; and

35 (c) "Grain" means a grain or a pulse.

36 (5)(a) The department shall adopt rules requiring persons to
37 report emissions of greenhouse gases as defined in RCW 70.235.010 (as
38 recodified by this act) where those emissions from a single facility,
39 source, or site, or from fossil fuels sold in Washington by a single
40 supplier meet or exceed ten thousand metric tons of carbon dioxide

1 equivalent annually. The department may phase in the requirement to
2 report greenhouse gas emissions until the reporting threshold in this
3 subsection is met, which must occur by January 1, 2012. In addition,
4 the rules must require that:

5 (i) Emissions of greenhouse gases resulting from the combustion
6 of fossil fuels be reported separately from emissions of greenhouse
7 gases resulting from the combustion of biomass;

8 (ii) Reporting will start in 2010 for 2009 emissions. Each annual
9 report must include emissions data for the preceding calendar year
10 and must be submitted to the department by October 31st of the year
11 in which the report is due. However, starting in 2011, a person who
12 is required to report greenhouse gas emissions to the United States
13 environmental protection agency under 40 C.F.R. Part 98, as adopted
14 on September 22, 2009, must submit the report required under this
15 section to the department concurrent with the submission to the
16 United States environmental protection agency. Except as otherwise
17 provided in this section, the data for emissions in Washington and
18 any corrections thereto that are reported to the United States
19 environmental protection agency must be the emissions data reported
20 to the department; and

21 (iii) Emissions of carbon dioxide associated with the complete
22 combustion or oxidation of liquid motor vehicle fuel, special fuel,
23 or aircraft fuel that is sold in Washington where the annual
24 emissions associated with that combustion or oxidation equal or
25 exceed ten thousand metric tons be reported to the department. Each
26 person who is required to file periodic tax reports of motor vehicle
27 fuel sales under RCW 82.36.031 or special fuel sales under RCW
28 82.38.150, or each distributor of aircraft fuel required to file
29 periodic tax reports under RCW 82.42.040 must report to the
30 department the annual emissions of carbon dioxide from the complete
31 combustion or oxidation of the fuels listed in those reports as sold
32 in the state of Washington. The department shall not require
33 suppliers to use additional data to calculate greenhouse gas
34 emissions other than the data the suppliers report to the department
35 of licensing. The rules may allow this information to be aggregated
36 when reported to the department. The department and the department of
37 licensing shall enter into an interagency agreement to ensure
38 proprietary and confidential information is protected if the
39 departments share reported information. Any proprietary or
40 confidential information exempt from disclosure when reported to the

1 department of licensing is exempt from disclosure when shared by the
2 department of licensing with the department under this provision.

3 (b) (i) Except as otherwise provided in this subsection, the rules
4 adopted by the department under (a) of this subsection must be
5 consistent with the regulations adopted by the United States
6 environmental protection agency in 40 C.F.R. Part 98 on September 22,
7 2009.

8 (ii) The department may by rule include additional gases to the
9 definition of "greenhouse gas" in RCW 70.235.010 (as recodified by
10 this act) only if the gas has been designated as a greenhouse gas by
11 the United States congress or by the United States environmental
12 protection agency. Prior to including additional gases to the
13 definition of "greenhouse gas" in RCW 70.235.010 (as recodified by
14 this act), the department shall notify the appropriate committees of
15 the legislature. Decisions to amend the rule to include additional
16 gases must be made prior to December 1st of any year and the amended
17 rule may not take effect before the end of the regular legislative
18 session in the next year.

19 (iii) The department may by rule exempt persons who are required
20 to report greenhouse gas emissions to the United States environmental
21 protection agency and who emit less than ten thousand metric tons
22 carbon dioxide equivalent annually.

23 (iv) The department must establish a methodology for persons who
24 are not required to report under this section to voluntarily report
25 their greenhouse gas emissions.

26 (c) The department shall review and if necessary update its rules
27 whenever the United States environmental protection agency adopts
28 final amendments to 40 C.F.R. Part 98 to ensure consistency with
29 federal reporting requirements for emissions of greenhouse gases.
30 However, the department shall not amend its rules in a manner that
31 conflicts with (a) of this subsection.

32 (d) The department shall share any reporting information reported
33 to it with the local air authority in which the person reporting
34 under the rules adopted by the department operates.

35 (e) The fee provisions in subsection (2) of this section apply to
36 reporting of emissions of greenhouse gases. Persons required to
37 report under (a) of this subsection who fail to report or pay the fee
38 required in subsection (2) of this section are subject to enforcement
39 penalties under this chapter. The department shall enforce the
40 reporting rule requirements unless it approves a local air

1 authority's request to enforce the requirements for persons operating
2 within the authority's jurisdiction. However, neither the department
3 nor a local air authority approved under this section are authorized
4 to assess enforcement penalties on persons required to report under
5 (a) of this subsection until six months after the department adopts
6 its reporting rule in 2010.

7 (f) The energy facility site evaluation council shall,
8 simultaneously with the department, adopt rules that impose
9 greenhouse gas reporting requirements in site certifications on
10 owners or operators of a facility permitted by the energy facility
11 site evaluation council. The greenhouse gas reporting requirements
12 imposed by the energy facility site evaluation council must be the
13 same as the greenhouse gas reporting requirements imposed by the
14 department. The department shall share any information reported to it
15 from facilities permitted by the energy facility site evaluation
16 council with the council, including notice of a facility that has
17 failed to report as required. The energy facility site evaluation
18 council shall contract with the department to monitor the reporting
19 requirements adopted under this section.

20 (g) The inclusion or failure to include any person, source,
21 classes of persons or sources, or types of emissions of greenhouse
22 gases into the department's rules for reporting under this section
23 does not indicate whether such a person, source, or category is
24 appropriate for inclusion in state, regional, or national greenhouse
25 gas reduction programs or strategies. Furthermore, aircraft fuel
26 purchased in the state may not be considered equivalent to aircraft
27 fuel combusted in the state.

28 (h) (i) The definitions in RCW 70.235.010 (as recodified by this
29 act) apply throughout this subsection (5) unless the context clearly
30 requires otherwise.

31 (ii) For the purpose of this subsection (5), the term "supplier"
32 includes: (A) A motor vehicle fuel supplier or a motor vehicle fuel
33 importer, as those terms are defined in RCW 82.36.010; (B) a special
34 fuel supplier or a special fuel importer, as those terms are defined
35 in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those
36 terms are defined in RCW 82.42.010.

37 (iii) For the purpose of this subsection (5), the term "person"
38 includes: (A) An owner or operator, as those terms are defined by the
39 United States environmental protection agency in its mandatory

1 greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted
2 on September 22, 2009; and (B) a supplier.

3 **Sec. 1082.** RCW 70.94.152 and 1996 c 67 s 1 and 1996 c 29 s 1 are
4 each reenacted and amended to read as follows:

5 (1) The department of ecology or board of any authority may
6 require notice of the establishment of any proposed new sources
7 except single-family and duplex dwellings or de minimis new sources
8 as defined in rules adopted under subsection (11) of this section.
9 The department of ecology or board may require such notice to be
10 accompanied by a fee and determine the amount of such fee: PROVIDED,
11 That the amount of the fee may not exceed the cost of reviewing the
12 plans, specifications, and other information and administering such
13 notice: PROVIDED FURTHER, That any such notice given or notice of
14 construction application submitted to either the board or to the
15 department of ecology shall preclude a further submittal of a
16 duplicate application to any board or to the department of ecology.

17 (2) The department shall, after opportunity for public review and
18 comment, adopt rules that establish a workload-driven process for
19 determination and review of the fee covering the direct and indirect
20 costs of processing a notice of construction application and a
21 methodology for tracking revenues and expenditures. All new source
22 fees collected by the delegated local air authorities from sources
23 shall be deposited in the dedicated accounts of their respective
24 treasuries. All new source fees collected by the department from
25 sources shall be deposited in the air pollution control account.

26 (3) Within thirty days of receipt of a notice of construction
27 application, the department of ecology or board may require, as a
28 condition precedent to the establishment of the new source or sources
29 covered thereby, the submission of plans, specifications, and such
30 other information as it deems necessary to determine whether the
31 proposed new source will be in accord with applicable rules and
32 regulations in force under this chapter. If on the basis of plans,
33 specifications, or other information required under this section the
34 department of ecology or board determines that the proposed new
35 source will not be in accord with this chapter or the applicable
36 ordinances, resolutions, rules, and regulations adopted under this
37 chapter, it shall issue an order denying permission to establish the
38 new source. If on the basis of plans, specifications, or other
39 information required under this section, the department of ecology or

1 board determines that the proposed new source will be in accord with
2 this chapter, and the applicable rules and regulations adopted under
3 this chapter, it shall issue an order of approval for the
4 establishment of the new source or sources, which order may provide
5 such conditions as are reasonably necessary to assure the maintenance
6 of compliance with this chapter and the applicable rules and
7 regulations adopted under this chapter. Every order of approval under
8 this chapter must be reviewed prior to issuance by a professional
9 engineer or staff under the supervision of a professional engineer in
10 the employ of the department of ecology or board.

11 (4) The determination required under subsection (3) of this
12 section shall include a determination of whether the operation of the
13 new air contaminant source at the location proposed will cause any
14 ambient air quality standard to be exceeded.

15 (5) New source review of a modification shall be limited to the
16 emission unit or units proposed to be modified and the air
17 contaminants whose emissions would increase as a result of the
18 modification.

19 (6) Nothing in this section shall be construed to authorize the
20 department of ecology or board to require the use of emission control
21 equipment or other equipment, machinery, or devices of any particular
22 type, from any particular supplier, or produced by any particular
23 manufacturer.

24 (7) Any features, machines, and devices constituting parts of or
25 called for by plans, specifications, or other information submitted
26 pursuant to subsection (1) or (3) of this section shall be maintained
27 and operate in good working order.

28 (8) The absence of an ordinance, resolution, rule, or regulation,
29 or the failure to issue an order pursuant to this section shall not
30 relieve any person from his or her obligation to comply with
31 applicable emission control requirements or with any other provision
32 of law.

33 (9) Within thirty days of receipt of a notice of construction
34 application the department of ecology or board shall either notify
35 the applicant in writing that the application is complete or notify
36 the applicant in writing of all additional information necessary to
37 complete the application. Within sixty days of receipt of a complete
38 application the department or board shall either (a) issue a final
39 decision on the application, or (b) for those projects subject to
40 public notice, initiate notice and comment on a proposed decision,

1 followed as promptly as possible by a final decision. A person
2 seeking approval to construct or modify a source that requires an
3 operating permit may elect to integrate review of the operating
4 permit application or amendment required by RCW 70.94.161 (as
5 recodified by this act) and the notice of construction application
6 required by this section. A notice of construction application
7 designated for integrated review shall be processed in accordance
8 with operating permit program procedures and deadlines.

9 (10) A notice of construction approval required under subsection
10 (3) of this section shall include a determination that the new source
11 will achieve best available control technology. If more stringent
12 controls are required under federal law, the notice of construction
13 shall include a determination that the new source will achieve the
14 more stringent federal requirements. Nothing in this subsection is
15 intended to diminish other state authorities under this chapter.

16 (11) No person is required to submit a notice of construction or
17 receive approval for a new source that is deemed by the department of
18 ecology or board to have de minimis impact on air quality. The
19 department of ecology shall adopt and periodically update rules
20 identifying categories of de minimis new sources. The department of
21 ecology may identify de minimis new sources by category, size, or
22 emission thresholds.

23 (12) For purposes of this section, "de minimis new sources" means
24 new sources with trivial levels of emissions that do not pose a
25 threat to human health or the environment.

26 **Sec. 1083.** RCW 70.94.153 and 1991 c 199 s 303 are each amended
27 to read as follows:

28 Any person proposing to replace or substantially alter the
29 emission control technology installed on an existing stationary
30 source emission unit shall file a notice of construction application
31 with the jurisdictional permitting authority. For projects not
32 otherwise reviewable under RCW 70.94.152 (as recodified by this act),
33 the permitting authority may (1) require that the owner or operator
34 employ reasonably available control technology for the affected
35 emission unit and (2) may prescribe reasonable operation and
36 maintenance conditions for the control equipment. Within thirty days
37 of receipt of an application for notice of construction under this
38 section the permitting authority shall either notify the applicant in
39 writing that the application is complete or notify the applicant in

1 writing of all additional information necessary to complete the
2 application. Within thirty days of receipt of a complete application
3 the permitting authority shall either issue an order of approval or a
4 proposed RACT determination for the proposed project. Construction
5 shall not commence on a project subject to review under this section
6 until the permitting authority issues a final order of approval.
7 However, any notice of construction application filed under this
8 section shall be deemed to be approved without conditions if the
9 permitting authority takes no action within thirty days of receipt of
10 a complete application for a notice of construction.

11 **Sec. 1084.** RCW 70.94.154 and 1996 c 29 s 2 are each amended to
12 read as follows:

13 (1) RACT as defined in RCW 70.94.030 (as recodified by this act)
14 is required for existing sources except as otherwise provided in RCW
15 70.94.331(9) (as recodified by this act).

16 (2) RACT for each source category containing three or more
17 sources shall be determined by rule except as provided in subsection
18 (3) of this section.

19 (3) Source-specific RACT determinations may be performed under
20 any of the following circumstances:

21 (a) As authorized by RCW 70.94.153 (as recodified by this act);

22 (b) When required by the federal clean air act;

23 (c) For sources in source categories containing fewer than three
24 sources;

25 (d) When an air quality problem, for which the source is a
26 contributor, justifies a source-specific RACT determination prior to
27 development of a categorical RACT rule; or

28 (e) When a source-specific RACT determination is needed to
29 address either specific air quality problems for which the source is
30 a significant contributor or source-specific economic concerns.

31 (4) By January 1, 1994, ecology shall develop a list of sources
32 and source categories requiring RACT review and a schedule for
33 conducting that review. Ecology shall review the list and schedule
34 within six months of receiving the initial operating permit
35 applications and at least once every five years thereafter. In
36 developing the list to determine the schedule of RACT review, ecology
37 shall consider emission reductions achievable through the use of new
38 available technologies and the impacts of those incremental
39 reductions on air quality, the remaining useful life of previously

1 installed control equipment, the impact of the source or source
2 category on air quality, the number of years since the last BACT,
3 RACT, or LAER determination for that source and other relevant
4 factors. Prior to finalizing the list and schedule, ecology shall
5 consult with local air authorities, the regulated community,
6 environmental groups, and other interested individuals and
7 organizations. The department and local authorities shall revise RACT
8 requirements, as needed, based on the review conducted under this
9 subsection.

10 (5) In determining RACT, ecology and local authorities shall
11 utilize the factors set forth in RCW 70.94.030 (as recodified by this
12 act) and shall consider RACT determinations and guidance made by the
13 federal environmental protection agency, other states and local
14 authorities for similar sources, and other relevant factors. In
15 establishing or revising RACT requirements, ecology and local
16 authorities shall address, where practicable, all air contaminants
17 deemed to be of concern for that source or source category.

18 (6) Emission standards and other requirements contained in rules
19 or regulatory orders in effect at the time of operating permit
20 issuance or renewal shall be considered RACT for purposes of permit
21 issuance or renewal. RACT determinations under subsections (2) and
22 (3) of this section shall be incorporated into operating permits as
23 provided in RCW 70.94.161 (as recodified by this act) and rules
24 implementing that section.

25 (7) The department and local air authorities are authorized to
26 assess and collect a fee to cover the costs of developing,
27 establishing, or reviewing categorical or case-by-case RACT
28 requirements. The fee shall apply to determinations of RACT
29 requirements as defined under this section and RCW 70.94.331(9) (as
30 recodified by this act). The amount of the fee may not exceed the
31 direct and indirect costs of establishing the requirement for the
32 particular source or the pro rata portion of the direct and indirect
33 costs of establishing the requirement for the relevant source
34 category. The department shall, after opportunity for public review
35 and 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 its RACT determinations and a methodology for tracking
38 revenues and expenditures. All such RACT determination fees collected
39 by the delegated local air authorities from sources shall be
40 deposited in the dedicated accounts of their respective treasuries.

1 All such RACT fees collected by the department from sources shall be
2 deposited in the air pollution control account.

3 **Sec. 1085.** RCW 70.94.161 and 2008 c 14 s 6 are each amended to
4 read as follows:

5 The department of ecology, or board of an authority, shall
6 require renewable permits for the operation of air contaminant
7 sources subject to the following conditions and limitations:

8 (1) Permits shall be issued for a term of five years. A permit
9 may be modified or amended during its term at the request of the
10 permittee, or for any reason allowed by the federal clean air act.
11 The rules adopted pursuant to subsection (2) of this section shall
12 include rules for permit amendments and modifications. The terms and
13 conditions of a permit shall remain in effect after the permit itself
14 expires if the permittee submits a timely and complete application
15 for permit renewal.

16 (2)(a) Rules establishing the elements for a statewide operating
17 permit program and the process for permit application and renewal
18 consistent with federal requirements shall be established by the
19 department by January 1, 1993. The rules shall provide that every
20 proposed permit must be reviewed prior to issuance by a professional
21 engineer or staff under the direct supervision of a professional
22 engineer in the employ of the permitting authority. The permit
23 program established by these rules shall be administered by the
24 department and delegated local air authorities. Rules developed under
25 this subsection shall not preclude a delegated local air authority
26 from including in a permit its own more stringent emission standards
27 and operating restrictions.

28 (b) The board of any local air pollution control authority may
29 apply to the department of ecology for a delegation order authorizing
30 the local authority to administer the operating permit program for
31 sources under that authority's jurisdiction. The department shall, by
32 order, approve such delegation, if the department finds that the
33 local authority has the technical and financial resources, to
34 discharge the responsibilities of a permitting authority under the
35 federal clean air act. A delegation request shall include adequate
36 information about the local authority's resources to enable the
37 department to make the findings required by this subsection. However,
38 any delegation order issued under this subsection shall take effect
39 ninety days after the environmental protection agency authorizes the

1 local authority to issue operating permits under the federal clean
2 air act.

3 (c) Except for the authority granted the energy facility site
4 evaluation council to issue permits for the new construction,
5 reconstruction, or enlargement or operation of new energy facilities
6 under chapter 80.50 RCW, the department may exercise the authority,
7 as delegated by the environmental protection agency, to administer
8 Title IV of the federal clean air act as amended and to delegate such
9 administration to local authorities as applicable pursuant to (b) of
10 this subsection.

11 (3) In establishing technical standards, defined in RCW 70.94.030
12 (as recodified by this act), the permitting authority shall consider
13 and, if found to be appropriate, give credit for waste reduction
14 within the process.

15 (4) Operating permits shall apply to all sources (a) where
16 required by the federal clean air act, and (b) for any source that
17 may cause or contribute to air pollution in such quantity as to
18 create a threat to the public health or welfare. Subsection (b) of
19 this subsection is not intended to apply to small businesses except
20 when both of the following limitations are satisfied: (i) The source
21 is in an area exceeding or threatening to exceed federal or state air
22 quality standards; and (ii) the department provides a reasonable
23 justification that requiring a source to have a permit is necessary
24 to meet a federal or state air quality standard, or to prevent
25 exceeding a standard in an area threatening to exceed the standard.
26 For purposes of this subsection "areas threatening to exceed air
27 quality standards" shall mean areas projected by the department to
28 exceed such standards within five years. Prior to identifying
29 threatened areas the department shall hold a public hearing or
30 hearings within the proposed areas.

31 (5) Sources operated by government agencies are not exempt under
32 this section.

33 (6) Within one hundred eighty days after the United States
34 environmental protection agency approves the state operating permit
35 program, a person required to have a permit shall submit to the
36 permitting authority a compliance plan and permit application, signed
37 by a responsible official, certifying the accuracy of the information
38 submitted. Until permits are issued, existing sources shall be
39 allowed to operate under presently applicable standards and

1 conditions provided that such sources submit complete and timely
2 permit applications.

3 (7) All draft permits shall be subject to public notice and
4 comment. The rules adopted pursuant to subsection (2) of this section
5 shall specify procedures for public notice and comment. Such
6 procedures shall provide the permitting agency with an opportunity to
7 respond to comments received from interested parties prior to the
8 time that the proposed permit is submitted to the environmental
9 protection agency for review pursuant to section 505(a) of the
10 federal clean air act. In the event that the environmental protection
11 agency objects to a proposed permit pursuant to section 505(b) of the
12 federal clean air act, the permitting authority shall not issue the
13 permit, unless the permittee consents to the changes required by the
14 environmental protection agency.

15 (8) The procedures contained in chapter 43.21B RCW shall apply to
16 permit appeals. The pollution control hearings board may stay the
17 effectiveness of any permit issued under this section during the
18 pendency of an appeal filed by the permittee, if the permittee
19 demonstrates that compliance with the permit during the pendency of
20 the appeal would require significant expenditures that would not be
21 necessary in the event that the permittee prevailed on the merits of
22 the appeal.

23 (9) After the effective date of any permit program promulgated
24 under this section, it shall be unlawful for any person to: (a)
25 Operate a permitted source in violation of any requirement of a
26 permit issued under this section; or (b) fail to submit a permit
27 application at the time required by rules adopted under subsection
28 (2) of this section.

29 (10) Each air operating permit shall state the origin of and
30 specific legal authority for each requirement included therein. Every
31 requirement in an operating permit shall be based upon the most
32 stringent of the following requirements:

33 (a) The federal clean air act and rules implementing that act,
34 including provision of the approved state implementation plan;

35 (b) This chapter and rules adopted thereunder;

36 (c) In permits issued by a local air pollution control authority,
37 the requirements of any order or regulation adopted by that
38 authority;

39 (d) Chapter 70.98 RCW (as recodified by this act) and rules
40 adopted thereunder; and

1 (e) Chapter 80.50 RCW and rules adopted thereunder.

2 (11) Consistent with the provisions of the federal clean air act,
3 the permitting authority may issue general permits covering
4 categories of permitted sources, and temporary permits authorizing
5 emissions from similar operations at multiple temporary locations.

6 (12) Permit program sources within the territorial jurisdiction
7 of an authority delegated the operating permit program shall file
8 their permit applications with that authority, except that permit
9 applications for sources regulated on a statewide basis pursuant to
10 RCW 70.94.395 (as recodified by this act) shall be filed with the
11 department. Permit program sources outside the territorial
12 jurisdiction of a delegated authority shall file their applications
13 with the department. Permit program sources subject to chapter 80.50
14 RCW shall, irrespective of their location, file their applications
15 with the energy facility site evaluation council.

16 (13) When issuing operating permits to coal-fired electric
17 generating plants, the permitting authority shall establish
18 requirements consistent with Title IV of the federal clean air act.

19 (14)(a) The department and the local air authorities are
20 authorized to assess and to collect, and each source emitting one
21 hundred tons or more per year of a regulated pollutant shall pay an
22 interim assessment to fund the development of the operating permit
23 program during fiscal year 1994.

24 (b) The department shall conduct a workload analysis and prepare
25 an operating permit program development budget for fiscal year 1994.
26 The department shall allocate among all sources emitting one hundred
27 tons or more per year of a regulated pollutant during calendar year
28 1992 the costs identified in its program development budget according
29 to a three-tiered model, with each of the three tiers being equally
30 weighted, based upon:

31 (i) The number of sources;

32 (ii) The complexity of sources; and

33 (iii) The size of sources, as measured by the quantity of each
34 regulated pollutant emitted by the source.

35 (c) Each local authority and the department shall collect from
36 sources under their respective jurisdictions the interim fee
37 determined by the department and shall remit the fee to the
38 department.

39 (d) Each local authority may, in addition, allocate its fiscal
40 year 1994 operating permit program development costs among the

1 sources under its jurisdiction emitting one hundred tons or more per
2 year of a regulated pollutant during calendar year 1992 and may
3 collect an interim fee from these sources. A fee assessed pursuant to
4 this subsection (14)(d) shall be collected at the same time as the
5 fee assessed pursuant to (c) of this subsection.

6 (e) The fees assessed to a source under this subsection shall be
7 limited to the first seven thousand five hundred tons for each
8 regulated pollutant per year.

9 (15)(a) The department shall determine the persons liable for the
10 fee imposed by subsection (14) of this section, compute the fee, and
11 provide by November 1, 1993, the identity of the fee payer with the
12 computation of the fee to each local authority and to the department
13 of revenue for collection. The department of revenue shall collect
14 the fee computed by the department from the fee payers under the
15 jurisdiction of the department. The administrative, collection, and
16 penalty provisions of chapter 82.32 RCW shall apply to the collection
17 of the fee by the department of revenue. The department shall provide
18 technical assistance to the department of revenue for decisions made
19 by the department of revenue pursuant to RCW 82.32.160 and 82.32.170.
20 All interim fees collected by the department of revenue on behalf of
21 the department and all interim fees collected by local authorities on
22 behalf of the department shall be deposited in the air operating
23 permit account. The interim fees collected by the local air
24 authorities to cover their permit program development costs under
25 subsection (14)(d) of this section shall be deposited in the
26 dedicated accounts of their respective treasuries.

27 (b) All fees identified in this section shall be due and payable
28 on March 1, 1994, except that the local air pollution control
29 authorities may adopt by rule an earlier date on which fees are to be
30 due and payable. The section 5, chapter 252, Laws of 1993 amendments
31 to RCW 70.94.161 (as recodified by this act) do not have the effect
32 of terminating, or in any way modifying, any liability, civil or
33 criminal, incurred pursuant to the provisions of RCW 70.94.161 (15)
34 and (17) (as recodified by this act) as they existed prior to July
35 25, 1993.

36 (16) For sources or source categories not required to obtain
37 permits under subsection (4) of this section, the department or local
38 authority may establish by rule control technology requirements. If
39 control technology rule revisions are made by the department or local
40 authority under this subsection, the department or local authority

1 shall consider the remaining useful life of control equipment
2 previously installed on existing sources before requiring technology
3 changes. The department or any local air authority may issue a
4 general permit, as authorized under the federal clean air act, for
5 such sources.

6 (17) Emissions of greenhouse gases as defined in RCW 70.235.010
7 (as recodified by this act) must be reported as required by RCW
8 70.94.151 (as recodified by this act). The reporting provisions of
9 RCW 70.94.151 (as recodified by this act) shall not apply to any
10 other emissions from any permit program source after the effective
11 date of United States environmental protection agency approval of the
12 state operating permit program.

13 **Sec. 1086.** RCW 70.94.162 and 2014 c 76 s 5 are each amended to
14 read as follows:

15 (1) The department and delegated local air authorities are
16 authorized to determine, assess, and collect, and each permit program
17 source shall pay, annual fees sufficient to cover the direct and
18 indirect costs of implementing a state operating permit program
19 approved by the United States environmental protection agency under
20 the federal clean air act. However, a source that receives its
21 operating permit from the United States environmental protection
22 agency shall not be considered a permit program source so long as the
23 environmental protection agency continues to act as the permitting
24 authority for that source. Each permitting authority shall develop by
25 rule a fee schedule allocating among its permit program sources the
26 costs of the operating permit program, and may, by rule, establish a
27 payment schedule whereby periodic installments of the annual fee are
28 due and payable more frequently. All operating permit program fees
29 collected by the department shall be deposited in the air operating
30 permit account. All operating permit program fees collected by the
31 delegated local air authorities shall be deposited in their
32 respective air operating permit accounts or other accounts dedicated
33 exclusively to support of the operating permit program. The fees
34 assessed under this subsection shall first be due not less than
35 forty-five days after the United States environmental protection
36 agency delegates to the department the authority to administer the
37 operating permit program and then annually thereafter.

1 The department shall establish, by rule, procedures for
2 administrative appeals to the department regarding the fee assessed
3 pursuant to this subsection.

4 (2) The fee schedule developed by each permitting authority shall
5 fully cover and not exceed both its permit administration costs and
6 the permitting authority's share of statewide program development and
7 oversight costs.

8 (a) Permit administration costs are those incurred by each
9 permitting authority, including the department, in administering and
10 enforcing the operating permit program with respect to sources under
11 its jurisdiction. Costs associated with the following activities are
12 fee eligible as these activities relate to the operating permit
13 program and to the sources permitted by a permitting authority,
14 including, where applicable, sources subject to a general permit:

15 (i) Preapplication assistance and review of an application and
16 proposed compliance plan for a permit, permit revision, or renewal;

17 (ii) Source inspections, testing, and other data-gathering
18 activities necessary for the development of a permit, permit
19 revision, or renewal;

20 (iii) Acting on an application for a permit, permit revision, or
21 renewal, including the costs of developing an applicable requirement
22 as part of the processing of a permit, permit revision, or renewal,
23 preparing a draft permit and fact sheet, and preparing a final
24 permit, but excluding the costs of developing BACT, LAER, BART, or
25 RACT requirements for criteria and toxic air pollutants;

26 (iv) Notifying and soliciting, reviewing and responding to
27 comment from the public and contiguous states and tribes, conducting
28 public hearings regarding the issuance of a draft permit and other
29 costs of providing information to the public regarding operating
30 permits and the permit issuance process;

31 (v) Modeling necessary to establish permit limits or to determine
32 compliance with permit limits;

33 (vi) Reviewing compliance certifications and emissions reports
34 and conducting related compilation and reporting activities;

35 (vii) Conducting compliance inspections, complaint
36 investigations, and other activities necessary to ensure that a
37 source is complying with permit conditions;

38 (viii) Administrative enforcement activities and penalty
39 assessment, excluding the costs of proceedings before the pollution
40 control hearings board and all costs of judicial enforcement;

1 (ix) The share attributable to permitted sources of the
2 development and maintenance of emissions inventories;

3 (x) The share attributable to permitted sources of ambient air
4 quality monitoring and associated recording and reporting activities;

5 (xi) Training for permit administration and enforcement;

6 (xii) Fee determination, assessment, and collection, including
7 the costs of necessary administrative dispute resolution and penalty
8 collection;

9 (xiii) Required fiscal audits, periodic performance audits, and
10 reporting activities;

11 (xiv) Tracking of time, revenues and expenditures, and accounting
12 activities;

13 (xv) Administering the permit program including the costs of
14 clerical support, supervision, and management;

15 (xvi) Provision of assistance to small businesses under the
16 jurisdiction of the permitting authority as required under section
17 507 of the federal clean air act; and

18 (xvii) Other activities required by operating permit regulations
19 issued by the United States environmental protection agency under the
20 federal clean air act.

21 (b) Development and oversight costs are those incurred by the
22 department in developing and administering the state operating permit
23 program, and in overseeing the administration of the program by the
24 delegated local permitting authorities. Costs associated with the
25 following activities are fee eligible as these activities relate to
26 the operating permit program:

27 (i) Review and determinations necessary for delegation of
28 authority to administer and enforce a permit program to a local air
29 authority under RCW 70.94.161(2) and 70.94.860 (as recodified by this
30 act);

31 (ii) Conducting fiscal audits and periodic performance audits of
32 delegated local authorities, and other oversight functions required
33 by the operating permit program;

34 (iii) Administrative enforcement actions taken by the department
35 on behalf of a permitting authority, including those actions taken by
36 the department under RCW 70.94.785 (as recodified by this act), but
37 excluding the costs of proceedings before the pollution control
38 hearings board and all costs of judicial enforcement;

1 (iv) Determination and assessment with respect to each permitting
2 authority of the fees covering its share of the costs of development
3 and oversight;

4 (v) Training and assistance for permit program administration and
5 oversight, including training and assistance regarding technical,
6 administrative, and data management issues;

7 (vi) Development of generally applicable regulations or guidance
8 regarding the permit program or its implementation or enforcement;

9 (vii) State codification of federal rules or standards for
10 inclusion in operating permits;

11 (viii) Preparation of delegation package and other activities
12 associated with submittal of the state permit program to the United
13 States environmental protection agency for approval, including
14 ongoing coordination activities;

15 (ix) General administration and coordination of the state permit
16 program, related support activities, and other agency indirect costs,
17 including necessary data management and quality assurance;

18 (x) Required fiscal audits and periodic performance audits of the
19 department, and reporting activities;

20 (xi) Tracking of time, revenues and expenditures, and accounting
21 activities;

22 (xii) Public education and outreach related to the operating
23 permit program, including the maintenance of a permit register;

24 (xiii) The share attributable to permitted sources of compiling
25 and maintaining emissions inventories;

26 (xiv) The share attributable to permitted sources of ambient air
27 quality monitoring, related technical support, and associated
28 recording activities;

29 (xv) The share attributable to permitted sources of modeling
30 activities;

31 (xvi) Provision of assistance to small business as required under
32 section 507 of the federal clean air act as it exists on July 25,
33 1993, or its later enactment as adopted by reference by the director
34 by rule;

35 (xvii) Provision of services by the department of revenue and the
36 office of the state attorney general and other state agencies in
37 support of permit program administration;

38 (xviii) A one-time revision to the state implementation plan to
39 make those administrative changes necessary to ensure coordination of
40 the state implementation plan and the operating permit program; and

1 (xix) Other activities required by operating permit regulations
2 issued by the United States environmental protection agency under the
3 federal clean air act.

4 (3) The responsibility for operating permit fee determination,
5 assessment, and collection is to be shared by the department and
6 delegated local air authorities as follows:

7 (a) Each permitting authority, including the department, acting
8 in its capacity as a permitting authority, shall develop a fee
9 schedule and mechanism for collecting fees from the permit program
10 sources under its jurisdiction; the fees collected by each authority
11 shall be sufficient to cover its costs of permit administration and
12 its share of the department's costs of development and oversight.
13 Each delegated local authority shall remit to the department its
14 share of the department's development and oversight costs.

15 (b) Only those local air authorities to whom the department has
16 delegated the authority to administer the program pursuant to RCW
17 70.94.161(2) (b) and (c) and 70.94.860 (as recodified by this act)
18 shall have the authority to administer and collect operating permit
19 fees. The department shall retain the authority to administer and
20 collect such fees with respect to the sources within the jurisdiction
21 of a local air authority until the effective date of program
22 delegation to that air authority.

23 (c) The department shall allocate its development and oversight
24 costs among all permitting authorities, including the department, in
25 proportion to the number of permit program sources under the
26 jurisdiction of each authority, except that extraordinary costs or
27 other costs readily attributable to a specific permitting authority
28 may be assessed that authority. For purposes of this subsection, all
29 sources covered by a single general permit shall be treated as one
30 source.

31 (4) The department and each delegated local air authority shall
32 adopt by rule a general permit fee schedule for sources under their
33 respective jurisdictions after such time as the department adopts
34 provisions for general permit issuance. Within ninety days of the
35 time that the department adopts a general permit fee schedule, the
36 department shall report to the relevant standing committees of the
37 legislature regarding the general permit fee schedules adopted by the
38 department and by the delegated local air authorities. The permit
39 administration costs of each general permit shall be allocated
40 equitably among only those sources subject to that general permit.

1 The share of development and oversight costs attributable to each
2 general permit shall be determined pursuant to subsection (3)(c) of
3 this section.

4 (5) The fee schedule developed by the department shall allocate
5 among the sources for whom the department acts as a permitting
6 authority, other than sources subject to a general permit, those
7 portions of the department's permit administration costs and the
8 department's share of the development and oversight costs which the
9 department does not plan to recover under its general permit fee
10 schedule or schedules as follows:

11 (a) The department shall allocate its permit administration costs
12 and its share of the development and oversight costs not recovered
13 through general permit fees according to a three-tiered model based
14 upon:

15 (i) The number of permit program sources under its jurisdiction;

16 (ii) The complexity of permit program sources under its
17 jurisdiction; and

18 (iii) The size of permit program sources under its jurisdiction,
19 as measured by the quantity of each regulated pollutant emitted by
20 the source.

21 (b) Each of the three tiers shall be equally weighted.

22 (c) The department may, in addition, allocate activities-based
23 costs readily attributable to a specific source to that source under
24 RCW 70.94.152(1) and 70.94.154(7) (as recodified by this act).

25 The quantity of each regulated pollutant emitted by a source
26 shall be determined based on the annual emissions during the most
27 recent calendar year for which data is available.

28 (6) The department shall, after opportunity for public review and
29 comment, adopt rules that establish a process for development and
30 review of its operating permit program fee schedule, a methodology
31 for tracking program revenues and expenditures, and, for both the
32 department and the delegated local air authorities, a system of
33 fiscal audits, reports, and periodic performance audits.

34 (a) The fee schedule development and review process shall include
35 the following:

36 (i) The department shall conduct a biennial workload analysis.
37 The department shall provide the opportunity for public review of and
38 comment on the workload analysis. The department shall review and
39 update its workload analysis during each biennial budget cycle,
40 taking into account information gathered by tracking previous

1 revenues, time, and expenditures and other information obtained
2 through fiscal audits and performance audits.

3 (ii) The department shall prepare a biennial budget based upon
4 the resource requirements identified in the workload analysis for
5 that biennium. In preparing the budget, the department shall take
6 into account the projected operating permit account balance at the
7 start of the biennium. The department shall provide the opportunity
8 for public review of and comment on the proposed budget. The
9 department shall review and update its budget each biennium.

10 (iii) The department shall develop a fee schedule allocating the
11 department's permit administration costs and its share of the
12 development and oversight costs among the department's permit program
13 sources using the methodology described in subsection (5) of this
14 section. The department shall provide the opportunity for public
15 review of and comment on the allocation methodology and fee schedule.
16 The department shall provide procedures for administrative resolution
17 of disputes regarding the source data on which allocation
18 determinations are based; these procedures shall be designed such
19 that resolution occurs prior to the completion of the allocation
20 process. The department shall review and update its fee schedule
21 annually.

22 (b) The methodology for tracking revenues and expenditures shall
23 include the following:

24 (i) The department shall develop a system for tracking revenues
25 and expenditures that provides the maximum practicable information.
26 At a minimum, revenues from fees collected under the operating permit
27 program shall be tracked on a source-specific basis and time and
28 expenditures required to administer the program shall be tracked on
29 the basis of source categories and functional categories. Each
30 general permit will be treated as a separate source category for
31 tracking and accounting purposes.

32 (ii) The department shall use the information obtained from
33 tracking revenues, time, and expenditures to modify the workload
34 analysis required in subsection (6) (a) of this section.

35 (iii) The information obtained from tracking revenues, time, and
36 expenditures shall not provide a basis for challenge to the amount of
37 an individual source's fee.

38 (c) The system of fiscal audits, reports, and periodic
39 performance audits shall include the following:

1 (i) The department and the delegated local air authorities shall
2 periodically report information about the air operating permit
3 program on the department's web site.

4 (ii) The department shall arrange for fiscal audits and routine
5 performance audits and for periodic intensive performance audits of
6 each permitting authority and of the department.

7 (7) Each local air authority requesting delegation shall, after
8 opportunity for public review and comment, publish regulations which
9 establish a process for development and review of its operating
10 permit program fee schedule, and a methodology for tracking its
11 revenues and expenditures. These regulations shall be submitted to
12 the department for review and approval as part of the local
13 authority's delegation request.

14 (8) As used in this section and in RCW 70.94.161(14) (as
15 recodified by this act), "regulated pollutant" shall have the same
16 meaning as defined in section 502(b) of the federal clean air act as
17 it exists on July 25, 1993, or its later enactment as adopted by
18 reference by the director by rule.

19 (9) Fee structures as authorized under this section shall remain
20 in effect until such time as the legislature authorizes an
21 alternative structure following receipt of the report required by
22 this subsection.

23 **Sec. 1087.** RCW 70.94.163 and 1991 c 199 s 304 are each amended
24 to read as follows:

25 The department shall prepare recommendations to reduce air
26 emissions for source categories not generally required to have a
27 permit under RCW 70.94.161 (as recodified by this act). Such
28 recommendations shall not require any action by the owner or operator
29 of a source and shall be consistent with rules adopted under chapter
30 70.95C RCW (as recodified by this act). The recommendations shall
31 include but not be limited to: Process changes, product substitution,
32 equipment modifications, hazardous substance use reduction,
33 recycling, and energy efficiency.

34 **Sec. 1088.** RCW 70.94.165 and 1996 c 294 s 1 are each amended to
35 read as follows:

36 (1) A gasoline vapor recovery device that captures vapors during
37 vehicle fueling may only be required at a service station, or any

1 other gasoline dispensing facility supplying fuel to the general
2 public, in any of the following circumstances:

3 (a) The facility sells in excess of six hundred thousand gallons
4 of gasoline per year and is located in a county, any part of which is
5 designated as nonattainment for ozone under the federal clean air
6 act, 42 U.S.C. Sec. 7407; or

7 (b) The facility sells in excess of six hundred thousand gallons
8 of gasoline per year and is located in a county where a maintenance
9 plan has been adopted by a local air pollution control authority or
10 the department of ecology that includes gasoline vapor recovery
11 devices as a control strategy; or

12 (c) From March 30, 1996, until December 31, 1998, in any facility
13 that sells in excess of one million two hundred thousand gallons of
14 gasoline per year and is located in an ozone-contributing county. For
15 purposes of this section, an ozone-contributing county means a county
16 in which the emissions have contributed to the formation of ozone in
17 any county where violations of federal ozone standards have been
18 measured, and includes: Cowlitz, Island, Kitsap, Lewis, Skagit,
19 Thurston, Wahkiakum, and Whatcom counties; or

20 (d) After December 31, 1998, in any facility that sells in excess
21 of eight hundred forty thousand gallons of gasoline per year and is
22 located in any county, no part of which is designated as
23 nonattainment for ozone under the federal clean air act, 42 U.S.C.
24 Sec. 7407, provided that the department of ecology determines by
25 December 31, 1997, that the use of gasoline vapor control devices in
26 the county is important to achieving or maintaining attainment status
27 in any other county.

28 (2) This section does not preclude the department of ecology or
29 any local air pollution authority from requiring a gasoline vapor
30 recovery device that captures vapors during vehicle refueling as part
31 of the regulation of sources as provided in RCW 70.94.152, 70.94.331,
32 or 70.94.141 (as recodified by this act) or where required under 42
33 U.S.C. Sec. 7412.

34 **Sec. 1089.** RCW 70.94.181 and 1991 c 199 s 306 are each amended
35 to read as follows:

36 (1) Any person who owns or is in control of any plant, building,
37 structure, establishment, process or equipment may apply to the
38 department of ecology or appropriate local authority board for a
39 variance from rules or regulations governing the quality, nature,

1 duration or extent of discharges of air contaminants. The application
2 shall be accompanied by such information and data as the department
3 of ecology or board may require. The department of ecology or board
4 may grant such variance, provided that variances to state rules shall
5 require the department's approval prior to being issued by a local
6 authority board. The total time period for a variance and renewal of
7 such variance shall not exceed one year. Variances may be issued by
8 either the department or a local board but only after public hearing
9 or due notice, if the department or board finds that:

10 (a) The emissions occurring or proposed to occur do not endanger
11 public health or safety or the environment; and

12 (b) Compliance with the rules or regulations from which variance
13 is sought would produce serious hardship without equal or greater
14 benefits to the public.

15 (2) No variance shall be granted pursuant to this section until
16 the department of ecology or board has considered the relative
17 interests of the applicant, other owners of property likely to be
18 affected by the discharges, and the general public.

19 (3) Any variance or renewal thereof shall be granted within the
20 requirements of subsection (1) of this section and under conditions
21 consistent with the reasons therefor, and within the following
22 limitations:

23 (a) If the variance is granted on the ground that there is no
24 practicable means known or available for the adequate prevention,
25 abatement or control of the pollution involved, it shall be only
26 until the necessary means for prevention, abatement or control become
27 known and available, and subject to the taking of any substitute or
28 alternate measures that the department of ecology or board may
29 prescribe.

30 (b) If the variance is granted on the ground that compliance with
31 the particular requirement or requirements from which variance is
32 sought will require the taking of measures which, because of their
33 extent or cost, must be spread over a considerable period of time, it
34 shall be for a period not to exceed such reasonable time as, in the
35 view of the department of ecology or board is requisite for the
36 taking of the necessary measures. A variance granted on the ground
37 specified herein shall contain a timetable for the taking of action
38 in an expeditious manner and shall be conditioned on adherence to
39 such timetable.

1 (c) If the variance is granted on the ground that it is justified
2 to relieve or prevent hardship of a kind other than that provided for
3 in (a) and (b) of this subsection, it shall be for not more than one
4 year.

5 (4) Any variance granted pursuant to this section may be renewed
6 on terms and conditions and for periods which would be appropriate on
7 initial granting of a variance. If complaint is made to the
8 department of ecology or board on account of the variance, no renewal
9 thereof shall be granted unless following a public hearing on the
10 complaint on due notice the department or board finds that renewal is
11 justified. No renewal shall be granted except on application
12 therefor. Any such application shall be made at least sixty days
13 prior to the expiration of the variance. Immediately upon receipt of
14 an application for renewal, the department of ecology or board shall
15 give public notice of such application in accordance with rules of
16 the department of ecology or board.

17 (5) A variance or renewal shall not be a right of the applicant
18 or holder thereof but shall be granted at the discretion of the
19 department of ecology or board. However, any applicant adversely
20 affected by the denial or the terms and conditions of the granting of
21 an application for a variance or renewal of a variance by the
22 department of ecology or board may obtain judicial review thereof
23 under the provisions of chapter 34.05 RCW as now or hereafter
24 amended.

25 (6) Nothing in this section and no variance or renewal granted
26 pursuant hereto shall be construed to prevent or limit the
27 application of the emergency provisions and procedures of RCW
28 70.94.710 through 70.94.730 (as recodified by this act) to any person
29 or his or her property.

30 (7) An application for a variance, or for the renewal thereof,
31 submitted to the department of ecology or board pursuant to this
32 section shall be approved or disapproved by the department or board
33 within sixty-five days of receipt unless the applicant and the
34 department of ecology or board agree to a continuance.

35 (8) Variances approved under this section shall not be included
36 in orders or permits provided for in RCW 70.94.161 or 70.94.152 (as
37 recodified by this act) until such time as the variance has been
38 accepted by the United States environmental protection agency as part
39 of an approved state implementation plan.

1 **Sec. 1090.** RCW 70.94.211 and 1991 c 199 s 309 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 or 70.94.431 (as recodified by
5 this act) a local air authority shall cause written notice to be
6 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 directing that necessary
10 corrective action be taken within a reasonable time. In lieu of an
11 order, the board or the control officer may require that the alleged
12 violator or violators appear before the board for a hearing. Every
13 notice of violation shall offer to the alleged violator an
14 opportunity to meet with the local air authority prior to the
15 commencement of enforcement action.

16 **Sec. 1091.** RCW 70.94.231 and 1991 c 199 s 708 are each amended
17 to read as follows:

18 Upon the date that an authority begins to exercise its powers and
19 functions, all rules and regulations in force on such date shall
20 remain in effect until superseded by the rules and regulations of the
21 authority as provided in RCW 70.94.230 (as recodified by this act).

22 **Sec. 1092.** RCW 70.94.262 and 1991 c 125 s 2 are each amended to
23 read as follows:

24 (1) Any county that is part of a multicounty authority, pursuant
25 to RCW 70.94.053 (as recodified by this act), may withdraw from the
26 multicounty authority after January 1, 1992, if the county wishes to
27 provide for air quality protection and regulation by an alternate air
28 quality authority. A withdrawing county shall:

29 (a) Create its own single county authority;

30 (b) Join another existing multicounty authority with which its
31 boundaries are contiguous;

32 (c) Join with one or more contiguous inactive authorities to
33 operate as a new multicounty authority; or

34 (d) Become an inactive authority and subject to regulation by the
35 department of ecology.

36 (2) In order to withdraw from an existing multicounty authority,
37 a county shall make arrangements, by interlocal agreement, for

1 division of assets and liabilities and the appropriate release of any
2 and all interest in assets of the multicounty authority.

3 (3) In order to effectuate any of the alternate arrangements in
4 subsection (1) of this section, the procedures of this chapter to
5 create an air pollution control authority shall be met and the
6 actions must be taken at least six months prior to the effective date
7 of withdrawal. The rules of the original multicounty authority shall
8 continue in force for the withdrawing county until such time as all
9 conditions to create an air pollution control authority have been
10 met.

11 (4) At the effective date of a county's withdrawal, the remaining
12 counties shall reorganize and reconstitute the legislative authority
13 pursuant to this chapter. The air pollution control regulations of
14 the existing multicounty authority shall remain in force and effect
15 after the reorganization.

16 (5) If a county elects to withdraw from an existing multicounty
17 authority, the air pollution control regulations shall remain in
18 effect for the withdrawing county until suspended by the adoption of
19 rules, regulations, or ordinances adopted under one of the
20 alternatives of subsection (1) of this section. A county shall
21 initiate proceedings to adopt such rules, regulations, or ordinances
22 on or before the effective date of the county's withdrawal.

23 **Sec. 1093.** RCW 70.94.302 and 2012 c 238 s 1 are each amended to
24 read as follows:

25 (1) A generator operating at an electric generating project with
26 an installed generator capacity of at least seven hundred fifty
27 kilowatts but not exceeding one thousand kilowatts, that is in
28 operation on June 7, 2012, and began operating after 2008, and that
29 is located on agricultural lands of long-term commercial significance
30 pursuant to chapter 36.70A RCW, is granted an extended compliance
31 period for permit provisions related to the emissions limit for
32 sulfur established by the department or a local air authority until
33 December 31, 2016, if it is fueled by biogas that is produced by an
34 anaerobic digester that qualifies for the solid waste permitting
35 exemption specified in RCW 70.95.330 (as recodified by this act).

36 (2) A generator that meets the requirements in subsection (1) of
37 this section may not be located in a federally designated
38 nonattainment or maintenance area.

1 (3) Upon request, the department or a local air authority must
2 provide technical assistance to a generator meeting the requirements
3 in subsection (1) of this section to assist the generator in reducing
4 its emissions in order to meet the requirements in this chapter.

5 (4) The definitions in this subsection apply throughout this
6 section unless the context clearly requires otherwise.

7 (a) "Anaerobic digester" means a vessel that processes organic
8 material into biogas and digestate using microorganisms in a
9 decomposition process within a closed, oxygen-free container.

10 (b) "Generator" means an internal combustion engine that converts
11 biogas into electricity, and includes any backup combustion device to
12 burn biogas when an engine is idled for maintenance.

13 **Sec. 1094.** RCW 70.94.331 and 1991 c 199 s 710 are each amended
14 to read as follows:

15 (1) The department shall have all the powers as provided in RCW
16 70.94.141 (as recodified by this act).

17 (2) The department, in addition to any other powers vested in it
18 by law after consideration at a public hearing held in accordance
19 with chapters 42.30 and 34.05 RCW shall:

20 (a) Adopt rules establishing air quality objectives and air
21 quality standards;

22 (b) Adopt emission standards which shall constitute minimum
23 emission standards throughout the state. An authority may enact more
24 stringent emission standards, except for emission performance
25 standards for new woodstoves and opacity levels for residential solid
26 fuel burning devices which shall be statewide, but in no event may
27 less stringent standards be enacted by an authority without the prior
28 approval of the department after public hearing and due notice to
29 interested parties;

30 (c) Adopt by rule air quality standards and emission standards
31 for the control or prohibition of emissions to the outdoor atmosphere
32 of radionuclides, dust, fumes, mist, smoke, other particulate matter,
33 vapor, gas, odorous substances, or any combination thereof. Such
34 requirements may be based upon a system of classification by types of
35 emissions or types of sources of emissions, or combinations thereof,
36 which it determines most feasible for the purposes of this chapter.
37 However, an industry, or the air pollution control authority having
38 jurisdiction, can choose, subject to the submittal of appropriate
39 data that the industry has quantified, to have any limit on the

1 opacity of emissions from a source whose emission standard is stated
2 in terms of a weight of particulate per unit volume of air (e.g.,
3 grains per dry standard cubic foot) be based on the applicable
4 particulate emission standard for that source, such that any
5 violation of the opacity limit accurately indicates a violation of
6 the applicable particulate emission standard. Any alternative opacity
7 limit provided by this section that would result in increasing air
8 contaminants emissions in any nonattainment area shall only be
9 granted if equal or greater emission reductions are provided for by
10 the same source obtaining the revised opacity limit. A reasonable fee
11 may be assessed to the industry to which the alternate opacity
12 standard would apply. The fee shall cover only those costs to the air
13 pollution control authority which are directly related to the
14 determination on the acceptability of the alternate opacity standard,
15 including testing, oversight and review of data.

16 (3) The air quality standards and emission standards may be for
17 the state as a whole or may vary from area to area or source to
18 source, except that emission performance standards for new woodstoves
19 and opacity levels for residential solid fuel burning devices shall
20 be statewide, as may be appropriate to facilitate the accomplishment
21 of the objectives of this chapter and to take necessary or desirable
22 account of varying local conditions of population concentration, the
23 existence of actual or reasonably foreseeable air pollution,
24 topographic and meteorologic conditions and other pertinent
25 variables.

26 (4) The department is directed to cooperate with the appropriate
27 agencies of the United States or other states or any interstate
28 agencies or international agencies with respect to the control of air
29 pollution and air contamination, or for the formulation for the
30 submission to the legislature of interstate air pollution control
31 compacts or agreements.

32 (5) The department is directed to conduct or cause to be
33 conducted a continuous surveillance program to monitor the quality of
34 the ambient atmosphere as to concentrations and movements of air
35 contaminants and conduct or cause to be conducted a program to
36 determine the quantity of emissions to the atmosphere.

37 (6) The department shall enforce the air quality standards and
38 emission standards throughout the state except where a local
39 authority is enforcing the state regulations or its own regulations
40 which are more stringent than those of the state.

1 (7) The department shall encourage local units of government to
2 handle air pollution problems within their respective jurisdictions;
3 and, on a cooperative basis provide technical and consultative
4 assistance therefor.

5 (8) The department shall have the power to require the addition
6 to or deletion of a county or counties from an existing authority in
7 order to carry out the purposes of this chapter. No such addition or
8 deletion shall be made without the concurrence of any existing
9 authority involved. Such action shall only be taken after a public
10 hearing held pursuant to the provisions of chapter 34.05 RCW.

11 (9) The department shall establish rules requiring sources or
12 source categories to apply reasonable and available control methods.
13 Such rules shall apply to those sources or source categories that
14 individually or collectively contribute the majority of statewide air
15 emissions of each regulated pollutant. The department shall review,
16 and if necessary, update its rules every five years to ensure
17 consistency with current reasonable and available control methods.
18 The department shall have adopted rules required under this
19 subsection for all sources by July 1, 1996.

20 For the purposes of this section, "reasonable and available
21 control methods" shall include but not be limited to, changes in
22 technology, processes, or other control strategies.

23 **Sec. 1095.** RCW 70.94.332 and 1991 c 199 s 711 are each amended
24 to read as follows:

25 At least thirty days prior to the commencement of any formal
26 enforcement action under RCW 70.94.430 and 70.94.431 (as recodified
27 by this act), the department of ecology shall cause written notice to
28 be served upon the alleged violator or violators. The notice shall
29 specify the provision of this chapter or the rule or regulation
30 alleged to be violated, and the facts alleged to constitute a
31 violation thereof, and may include an order that necessary corrective
32 action be taken within a reasonable time. In lieu of an order, the
33 department may require that the alleged violator or violators appear
34 before it for the purpose of providing the department information
35 pertaining to the violation or the charges complained of. Every
36 notice of violation shall offer to the alleged violator an
37 opportunity to meet with the department prior to the commencement of
38 enforcement action.

1 **Sec. 1096.** RCW 70.94.335 and 1994 c 257 s 15 are each amended to
2 read as follows:

3 The procedural requirements of this chapter shall not apply to
4 any person conducting a remedial action at a facility pursuant to a
5 consent decree, order, or agreed order issued pursuant to chapter
6 70.105D RCW (as recodified by this act), or to the department of
7 ecology when it conducts a remedial action under chapter 70.105D RCW
8 (as recodified by this act). The department of ecology shall ensure
9 compliance with the substantive requirements of this chapter through
10 the consent decree, order, or agreed order issued pursuant to chapter
11 70.105D RCW (as recodified by this act), or during the department-
12 conducted remedial action, through the procedures developed by the
13 department pursuant to RCW 70.105D.090 (as recodified by this act).

14 **Sec. 1097.** RCW 70.94.385 and 1991 c 199 s 712 are each amended
15 to read as follows:

16 (1) Any authority may apply to the department for state financial
17 aid. The department shall annually establish the amount of state
18 funds available for the local authorities taking into consideration
19 available federal and state funds. The establishment of funding
20 amounts shall be consistent with federal requirements and local
21 maintenance of effort necessary to carry out the provisions of this
22 chapter. Any such aid shall be expended from the general fund or from
23 other appropriations as the legislature may provide for this purpose:
24 PROVIDED, That federal funds shall be utilized to the maximum unless
25 otherwise approved by the department: PROVIDED FURTHER, That the
26 amount of state funds provided to local authorities during the
27 previous year shall not be reduced without a public notice or public
28 hearing held by the department if requested by the affected local
29 authority, unless such changes are the direct result of a reduction
30 in the available federal funds for air pollution control programs.

31 (2) Before any such application is approved and financial aid is
32 given or approved by the department, the authority shall demonstrate
33 to the satisfaction of the department that it is fulfilling the
34 requirements of this chapter. If the department has not adopted
35 ambient air quality standards and objectives as permitted by RCW
36 70.94.331 (as recodified by this act), the authority shall
37 demonstrate to the satisfaction of the department that it is acting
38 in good faith and doing all that is possible and reasonable to

1 control and prevent air pollution within its jurisdictional
2 boundaries and to carry out the purposes of this chapter.

3 (3) The department shall adopt rules requiring the submission of
4 such information by each authority including the submission of its
5 proposed budget and a description of its program in support of the
6 application for state financial aid as necessary to enable the
7 department to determine the need for state aid.

8 **Sec. 1098.** RCW 70.94.390 and 2012 c 117 s 408 are each amended
9 to read as follows:

10 The department may, at any time and on its own motion, hold a
11 hearing to determine if the activation of an authority is necessary
12 for the prevention, abatement, and control of air pollution which
13 exists or is likely to exist in any area of the state. Notice of such
14 hearing shall be conducted in accordance with chapter 42.30 RCW and
15 chapter 34.05 RCW. If at such hearing the department finds that air
16 pollution exists or is likely to occur in a particular area, and that
17 the purposes of this chapter and the public interest will be best
18 served by the activation of an authority it shall designate the
19 boundaries of such area and set forth in a report to the appropriate
20 county or counties recommendations for the activation of an
21 authority: PROVIDED, That if at such hearing the department
22 determines that the activation of an authority is not practical or
23 feasible for the reason that a local or regional air pollution
24 control program cannot be successfully established or operated due to
25 unusual circumstances and conditions, but that the control and/or
26 prevention of air pollution is necessary for the purposes of this
27 chapter and the public interest, it may assume jurisdiction and so
28 declare by order. Such order shall designate the geographic area in
29 which, and the effective date upon which, the department will
30 exercise jurisdiction for the control and/or prevention of air
31 pollution. The department shall exercise its powers and duties in the
32 same manner as if it had assumed authority under RCW 70.94.410 (as
33 recodified by this act).

34 All expenses incurred by the department in the control and
35 prevention of air pollution in any county pursuant to the provisions
36 of RCW 70.94.390 and 70.94.410 (as recodified by this act) shall
37 constitute a claim against such county. The department shall certify
38 the expenses to the auditor of the county, who promptly shall issue
39 his or her warrant on the county treasurer payable out of the current

1 expense fund of the county. In the event that the amount in the
2 current expense fund of the county is not adequate to meet the
3 expenses incurred by the department, the department shall certify to
4 the state treasurer that it has a prior claim on any money in the
5 "liquor excise tax fund" that is to be apportioned to that county by
6 the state treasurer as provided in RCW 82.08.170. In the event that
7 the amount in the "liquor excise tax fund" that is to be apportioned
8 to that county by the state treasurer is not adequate to meet the
9 expenses incurred by the department, the department shall certify to
10 the state treasurer that they have a prior claim on any excess funds
11 from the liquor revolving fund that are to be distributed to that
12 county as provided in RCW 66.08.190 through 66.08.220. All moneys
13 that are collected as provided in this section shall be placed in the
14 general fund in the account of the office of air programs of the
15 department.

16 **Sec. 1099.** RCW 70.94.400 and 1987 c 109 s 44 are each amended to
17 read as follows:

18 If, at the end of ninety days after the department issues a
19 report as provided for in RCW 70.94.390 (as recodified by this act),
20 to appropriate county or counties recommending the activation of an
21 authority such county or counties have not performed those actions
22 recommended by the department, and the department is still of the
23 opinion that the activation of an authority is necessary for the
24 prevention, abatement and control of air pollution which exists or is
25 likely to exist, then the department may, at its discretion, issue an
26 order activating an authority. Such order, a certified copy of which
27 shall be filed with the secretary of state, shall specify the
28 participating county or counties and the effective date by which the
29 authority shall begin to function and exercise its powers. Any
30 authority activated by order of the department shall choose the
31 members of its board as provided in RCW 70.94.100 (as recodified by
32 this act) and begin to function in the same manner as if it had been
33 activated by resolutions of the county or counties included within
34 its boundaries. The department may, upon due notice to all interested
35 parties, conduct a hearing in accordance with chapter 42.30 RCW and
36 chapter 34.05 RCW within six months after the order was issued to
37 review such order and to ascertain if such order is being carried out
38 in good faith. At such time the department may amend any such order
39 issued if it is determined by the department that such order is being

1 carried out in bad faith or the department may take the appropriate
2 action as is provided in RCW 70.94.410 (as recodified by this act).

3 **Sec. 1100.** RCW 70.94.410 and 1991 c 199 s 715 are each amended
4 to read as follows:

5 (1) If, after thirty days from the time that the department
6 issues a report or order to an authority under RCW 70.94.400 and
7 70.94.405 (as recodified by this act), such authority has not taken
8 action which indicates that it is attempting in good faith to
9 implement the recommendations or actions of the department as set
10 forth in the report or order, the department may, by order, declare
11 as null and void any or all ordinances, resolutions, rules or
12 regulations of such authority relating to the control and/or
13 prevention of air pollution, and at such time the department shall
14 become the sole body with authority to make and enforce rules and
15 regulations for the control and/or prevention of air pollution within
16 the geographical area of such authority. If this occurs, the
17 department may assume all those powers which are given to it by law
18 to effectuate the purposes of this chapter. The department may, by
19 order, continue in effect and enforce provisions of the ordinances,
20 resolutions, or rules of such authority which are not less stringent
21 than those requirements which the department may have found
22 applicable to the area under RCW 70.94.331 (as recodified by this
23 act), until such time as the department adopts its own rules. Any
24 rules promulgated by the department shall be subject to the
25 provisions of chapter 34.05 RCW. Any enforcement actions shall be
26 subject to RCW 43.21B.300 or 43.21B.310.

27 (2) No provision of this chapter is intended to prohibit any
28 authority from reestablishing its air pollution control program which
29 meets with the approval of the department and which complies with the
30 purposes of this chapter and with applicable rules and orders of the
31 department.

32 (3) Nothing in this chapter shall prevent the department from
33 withdrawing the exercise of its jurisdiction over an authority upon
34 its own motion if the department has found at a hearing held in
35 accordance with chapters 42.30 and 34.05 RCW, that the air pollution
36 prevention and control program of such authority will be carried out
37 in good faith, that such program will do all that is possible and
38 reasonable to control and/or prevent air pollution within the
39 geographical area over which it has jurisdiction, and that the

1 program complies with the provisions of this chapter. Upon the
2 withdrawal of the department, the department shall prescribe certain
3 recommendations as to how air pollution prevention and/or control is
4 to be effectively accomplished and guidelines which will assist the
5 authority in carrying out the recommendations of the department.

6 **Sec. 1101.** RCW 70.94.422 and 1993 c 252 s 7 are each amended to
7 read as follows:

8 (1) The department of health shall have all the enforcement
9 powers as provided in RCW 70.94.332, 70.94.425, 70.94.430, 70.94.431
10 (1) through (7), and 70.94.435 (as recodified by this act) with
11 respect to emissions of radionuclides. This section does not preclude
12 the department of ecology from exercising its authority under this
13 chapter.

14 (2) Permits for energy facilities subject to chapter 80.50 RCW
15 shall be issued by the energy facility site evaluation council.
16 However, the permits become effective only if the governor approves
17 an application for certification and executes a certification
18 agreement under chapter 80.50 RCW. The council shall have all powers
19 necessary to administer an operating permits program pertaining to
20 such facilities, consistent with applicable air quality standards
21 established by the department or local air pollution control
22 authorities, or both, and to obtain the approval of the United States
23 environmental protection agency. The council's powers include, but
24 are not limited to, all of the enforcement powers provided in RCW
25 70.94.332, 70.94.425, 70.94.430, 70.94.431 (1) through (7), and
26 70.94.435 (as recodified by this act) with respect to permit program
27 sources required to obtain certification from the council under
28 chapter 80.50 RCW. To the extent not covered under RCW 80.50.071, the
29 council may collect fees as granted to delegated local air
30 authorities under RCW 70.94.152, 70.94.161 (14) and (15), 70.94.162,
31 and 70.94.154(7) (as recodified by this act) with respect to permit
32 program sources required to obtain certification from the council
33 under chapter 80.50 RCW. The council and the department shall each
34 establish procedures that provide maximum coordination and avoid
35 duplication between the two agencies in carrying out the requirements
36 of this chapter.

37 **Sec. 1102.** RCW 70.94.430 and 2019 c 284 s 4 are each amended to
38 read as follows:

1 (1) Any person who knowingly violates any of the provisions of
2 this chapter ((70.94)) or chapter 70.120 RCW (as recodified by this
3 act), RCW 70.235.080 (as recodified by this act), or any ordinance,
4 resolution, or regulation in force pursuant thereto is guilty of a
5 gross misdemeanor and upon conviction thereof shall be punished by a
6 fine of not more than ten thousand dollars, or by imprisonment in the
7 county jail for up to three hundred sixty-four days, or by both for
8 each separate violation.

9 (2) Any person who negligently releases into the ambient air any
10 substance listed by the department of ecology as a hazardous air
11 pollutant, other than in compliance with the terms of an applicable
12 permit or emission limit, and who at the time negligently places
13 another person in imminent danger of death or substantial bodily harm
14 is guilty of a gross misdemeanor and shall, upon conviction, be
15 punished by a fine of not more than ten thousand dollars, or by
16 imprisonment for up to three hundred sixty-four days, or both.

17 (3) Any person who knowingly releases into the ambient air any
18 substance listed by the department of ecology as a hazardous air
19 pollutant, other than in compliance with the terms of an applicable
20 permit or emission limit, and who knows at the time that he or she
21 thereby places another person in imminent danger of death or
22 substantial bodily harm, is guilty of a class C felony and shall,
23 upon conviction, be punished by a fine of not less than fifty
24 thousand dollars, or by imprisonment for not more than five years, or
25 both.

26 (4) Any person who knowingly fails to disclose a potential
27 conflict of interest under RCW 70.94.100 (as recodified by this act)
28 is guilty of a gross misdemeanor, and upon conviction thereof shall
29 be punished by a fine of not more than five thousand dollars.

30 **Sec. 1103.** RCW 70.94.431 and 2019 c 284 s 5 are each amended to
31 read as follows:

32 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and
33 43.05.150, and in addition to or as an alternate to any other penalty
34 provided by law, any person who violates any of the provisions of
35 this chapter, chapter 70.120 or 70.310 RCW (as recodified by this
36 act), RCW 70.235.080 (as recodified by this act), or any of the rules
37 in force under such chapters or section may incur a civil penalty in
38 an amount not to exceed ten thousand dollars per day for each
39 violation. Each such violation shall be a separate and distinct

1 offense, and in case of a continuing violation, each day's
2 continuance shall be a separate and distinct violation.

3 (b) Any person who fails to take action as specified by an order
4 issued pursuant to this chapter shall be liable for a civil penalty
5 of not more than ten thousand dollars for each day of continued
6 noncompliance.

7 (2)(a) Penalties incurred but not paid shall accrue interest,
8 beginning on the ninety-first day following the date that the penalty
9 becomes due and payable, at the highest rate allowed by RCW 19.52.020
10 on the date that the penalty becomes due and payable. If violations
11 or penalties are appealed, interest shall not begin to accrue until
12 the thirty-first day following final resolution of the appeal.

13 (b) The maximum penalty amounts established in this section may
14 be increased annually to account for inflation as determined by the
15 state office of the economic and revenue forecast council.

16 (3) Each act of commission or omission which procures, aids or
17 abets in the violation shall be considered a violation under the
18 provisions of this section and subject to the same penalty. The
19 penalties provided in this section shall be imposed pursuant to RCW
20 43.21B.300.

21 (4) All penalties recovered under this section by the department
22 shall be paid into the state treasury and credited to the air
23 pollution control account established in RCW 70.94.015 (as recodified
24 by this act) or, if recovered by the authority, shall be paid into
25 the treasury of the authority and credited to its funds. If a prior
26 penalty for the same violation has been paid to a local authority,
27 the penalty imposed by the department under subsection (1) of this
28 section shall be reduced by the amount of the payment.

29 (5) To secure the penalty incurred under this section, the state
30 or the authority shall have a lien on any vessel used or operated in
31 violation of this chapter which shall be enforced as provided in RCW
32 60.36.050.

33 (6) Public or private entities that are recipients or potential
34 recipients of department grants, whether for air quality related
35 activities or not, may have such grants rescinded or withheld by the
36 department for failure to comply with provisions of this chapter.

37 (7) In addition to other penalties provided by this chapter,
38 persons knowingly under-reporting emissions or other information used
39 to set fees, or persons required to pay emission or permit fees who

1 are more than ninety days late with such payments may be subject to a
2 penalty equal to three times the amount of the original fee owed.

3 (8) The department shall develop rules for excusing excess
4 emissions from enforcement action if such excess emissions are
5 unavoidable. The rules shall specify the criteria and procedures for
6 the department and local air authorities to determine whether a
7 period of excess emissions is excusable in accordance with the state
8 implementation plan.

9 **Sec. 1104.** RCW 70.94.435 and 1967 c 238 s 62 are each amended to
10 read as follows:

11 As an additional means of enforcing this chapter, the governing
12 body or board may accept an assurance of discontinuance of any act or
13 practice deemed in violation of this chapter or of any ordinance,
14 resolution, rule or regulation adopted pursuant hereto, from any
15 person engaging in, or who has engaged in, such act or practice. Any
16 such assurance shall specify a time limit during which such
17 discontinuance is to be accomplished. Failure to perform the terms of
18 any such assurance shall constitute prima facie proof of a violation
19 of this chapter or the ordinances, resolutions, rules or regulations,
20 or order issued pursuant thereto, which make the alleged act or
21 practice unlawful for the purpose of securing any injunction or other
22 relief from the superior court as provided in RCW 70.94.425 (as
23 recodified by this act).

24 **Sec. 1105.** RCW 70.94.450 and 1987 c 405 s 1 are each amended to
25 read as follows:

26 In the interest of the public health and welfare and in keeping
27 with the objectives of RCW 70.94.011 (as recodified by this act), the
28 legislature declares it to be the public policy of the state to
29 control, reduce, and prevent air pollution caused by woodstove
30 emissions. It is the state's policy to reduce woodstove emissions by
31 encouraging the department of ecology to continue efforts to educate
32 the public about the effects of woodstove emissions, other heating
33 alternatives, and the desirability of achieving better emission
34 performance and heating efficiency from woodstoves. The legislature
35 further declares that: (1) The purchase of certified woodstoves will
36 not solve the problem of pollution caused by woodstove emissions; and
37 (2) the reduction of air pollution caused by woodstove emissions will
38 only occur when woodstove users adopt proper methods of wood burning.

1 **Sec. 1106.** RCW 70.94.453 and 1987 c 405 s 2 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout RCW 70.94.453 through ~~((70.94.487))~~
5 70.94.483 (as recodified by this act):

6 (1) "Department" means the department of ecology.

7 (2) "Woodstove" means a solid fuel burning device other than a
8 fireplace not meeting the requirements of RCW 70.94.457 (as
9 recodified by this act), including any fireplace insert, woodstove,
10 wood burning heater, wood stick boiler, coal-fired furnace, coal
11 stove, or similar device burning any solid fuel used for aesthetic or
12 space-heating purposes in a private residence or commercial
13 establishment, which has a heat input less than one million British
14 thermal units per hour. The term "woodstove" does not include wood
15 cook stoves.

16 (3) "Fireplace" means: (a) Any permanently installed masonry
17 fireplace; or (b) any factory-built metal solid fuel burning device
18 designed to be used with an open combustion chamber and without
19 features to control the air to fuel ratio.

20 (4) "New woodstove" means: (a) A woodstove that is sold at
21 retail, bargained, exchanged, or given away for the first time by the
22 manufacturer, the manufacturer's dealer or agency, or a retailer; and
23 (b) has not been so used to have become what is commonly known as
24 "secondhand" within the ordinary meaning of that term.

25 (5) "Solid fuel burning device" means any device for burning
26 wood, coal, or any other nongaseous and nonliquid fuel, including a
27 woodstove and fireplace.

28 (6) "Authority" means any air pollution control agency whose
29 jurisdictional boundaries are coextensive with the boundaries of one
30 or more counties.

31 (7) "Opacity" means the degree to which an object seen through a
32 plume is obscured, stated as a percentage. The methods approved by
33 the department in accordance with RCW 70.94.331 (as recodified by
34 this act) shall be used to establish opacity for the purposes of this
35 chapter.

36 **Sec. 1107.** RCW 70.94.460 and 1995 c 205 s 4 are each amended to
37 read as follows:

38 After July 1, 1988, no person shall sell, offer to sell, or
39 knowingly advertise to sell a new woodstove in this state to a

1 resident of this state unless the woodstove has been approved by the
2 department under the program established under RCW 70.94.457 (as
3 recodified by this act).

4 **Sec. 1108.** RCW 70.94.463 and 1987 c 405 s 8 are each amended to
5 read as follows:

6 After July 1, 1988, any person who sells, offers to sell, or
7 knowingly advertises to sell a new woodstove in this state in
8 violation of RCW 70.94.460 (as recodified by this act) shall be
9 subject to the penalties and enforcement actions under this chapter.

10 **Sec. 1109.** RCW 70.94.467 and 1987 c 405 s 12 are each amended to
11 read as follows:

12 Nothing in RCW 70.94.460 or 70.94.463 (as recodified by this act)
13 shall apply to a radio station, television station, publisher,
14 printer, or distributor of a newspaper, magazine, billboard, or other
15 advertising medium that accepts advertising in good faith and without
16 knowledge of its violation of RCW 70.94.453 through ~~((70.94.487))~~
17 70.94.483 (as recodified by this act).

18 **Sec. 1110.** RCW 70.94.473 and 2016 c 187 s 1 are each amended to
19 read as follows:

20 (1) Any person in a residence or commercial establishment which
21 has an adequate source of heat without burning wood shall:

22 (a) Not burn wood in any solid fuel burning device whenever the
23 department has determined under RCW 70.94.715 (as recodified by this
24 act) that any air pollution episode exists in that area;

25 (b) Not burn wood in any solid fuel burning device except those
26 which are either Oregon department of environmental quality phase II
27 or United States environmental protection agency certified or
28 certified by the department under RCW 70.94.457(1) (as recodified by
29 this act) or a pellet stove either certified or issued an exemption
30 by the United States environmental protection agency in accordance
31 with Title 40, Part 60 of the Code of Federal Regulations, in the
32 geographical area and for the period of time that a first stage of
33 impaired air quality has been determined, by the department or any
34 authority, for that area.

35 (i) A first stage of impaired air quality is reached when
36 forecasted meteorological conditions are predicted to cause fine
37 particulate levels to exceed thirty-five micrograms per cubic meter,

1 measured on a twenty-four hour average, within forty-eight hours,
2 except for areas of fine particulate nonattainment or areas at risk
3 for fine particulate nonattainment;

4 (ii) A first stage burn ban for impaired air quality may be
5 called for a county containing fine particulate nonattainment areas
6 or areas at risk for fine particulate nonattainment, and when
7 feasible only for the necessary portions of the county, when
8 forecasted meteorological conditions are predicted to cause fine
9 particulate levels to reach or exceed thirty micrograms per cubic
10 meter, measured on a twenty-four hour average, within seventy-two
11 hours; and

12 (c)(i) Not burn wood in any solid fuel burning device in a
13 geographical area and for the period of time that a second stage of
14 impaired air quality has been determined by the department or any
15 authority, for that area. A second stage of impaired air quality is
16 reached when a first stage of impaired air quality has been in force
17 and has not been sufficient to reduce the increasing fine particulate
18 pollution trend, fine particulates are at an ambient level of twenty-
19 five micrograms per cubic meter measured on a twenty-four hour
20 average, and forecasted meteorological conditions are not expected to
21 allow levels of fine particulates to decline below twenty-five
22 micrograms per cubic meter for a period of twenty-four hours or more
23 from the time that the fine particulates are measured at the trigger
24 level.

25 (ii) A second stage burn ban may be called without calling a
26 first stage burn ban only when all of the following occur and shall
27 require the department or the local air pollution control authority
28 calling a second stage burn ban under this subsection to comply with
29 the requirements of subsection (3) of this section:

30 (A) Fine particulate levels have reached or exceeded twenty-five
31 micrograms per cubic meter, measured on a twenty-four hour average;

32 (B) Meteorological conditions have caused fine particulate levels
33 to rise rapidly;

34 (C) Meteorological conditions are predicted to cause fine
35 particulate levels to exceed the thirty-five micrograms per cubic
36 meter, measured on a twenty-four hour average, within twenty-four
37 hours; and

38 (D) Meteorological conditions are highly likely to prevent
39 sufficient dispersion of fine particulate.

1 (iii) In fine particulate nonattainment areas or areas at risk
2 for fine particulate nonattainment, a second stage burn ban may be
3 called for the county containing the nonattainment area or areas at
4 risk for nonattainment, and when feasible only for the necessary
5 portions of the county, without calling a first stage burn ban only
6 when (c)(ii)(A), (B), and (D) of this subsection have been met and
7 meteorological conditions are predicted to cause fine particulate
8 levels to reach or exceed thirty micrograms per cubic meter, measured
9 on a twenty-four hour average, within twenty-four hours.

10 (2) Actions of the department and local air pollution control
11 authorities under this section shall preempt actions of other state
12 agencies and local governments for the purposes of controlling air
13 pollution from solid fuel burning devices, except where authorized by
14 chapter 199, Laws of 1991.

15 (3)(a) The department or any local air pollution control
16 authority that has called a second stage burn ban under the authority
17 of subsection (1)(c)(ii) of this section shall, within ninety days,
18 prepare a written report describing:

19 (i) The meteorological conditions that resulted in their calling
20 the second stage burn ban;

21 (ii) Whether the agency could have taken actions to avoid calling
22 a second stage burn ban without calling a first stage burn ban; and

23 (iii) Any changes the department or authority is making to its
24 procedures of calling first stage and second stage burn bans to avoid
25 calling a second stage burn ban without first calling a first stage
26 burn ban.

27 (b) After consulting with affected parties, the department shall
28 prescribe the format of such a report and may also require additional
29 information be included in the report. All reports shall be sent to
30 the department and the department shall keep the reports on file for
31 not less than five years and available for public inspection and
32 copying in accordance with RCW 42.56.090.

33 (4) For the purposes of chapter 219, Laws of 2012, an area at
34 risk for nonattainment means an area where the three-year average of
35 the annual ninety-eighth percentile of twenty-four hour fine
36 particulate values is greater than twenty-nine micrograms per cubic
37 meter, based on the years 2008 through 2010 monitoring data.

38 (5)(a) Nothing in this section restricts a person from installing
39 or repairing a certified solid fuel burning device approved by the
40 department under the program established under RCW 70.94.457 (as

1 recodified by this act) in a residence or commercial establishment or
2 from replacing a solid fuel burning device with a certified solid
3 fuel burning device. Nothing in this section restricts a person from
4 burning wood in a solid fuel burning device, regardless of whether a
5 burn ban has been called, if there is an emergency power outage. In
6 addition, for the duration of an emergency power outage, nothing
7 restricts the use of a solid fuel burning device or the temporary
8 installation, repair, or replacement of a solid fuel burning device
9 to prevent the loss of life, health, or business.

10 (b) For the purposes of this subsection, an emergency power
11 outage includes:

12 (i) Any natural or human-caused event beyond the control of a
13 person that (~~leave[s]~~) leaves the person's residence or commercial
14 establishment temporarily without an adequate source of heat other
15 than the solid fuel burning device; or

16 (ii) A natural or human-caused event for which the governor
17 declares an emergency in an area under chapter 43.06 RCW, including a
18 public disorder, disaster, or energy emergency under RCW
19 43.06.010(12).

20 **Sec. 1111.** RCW 70.94.475 and 1990 c 157 s 2 are each amended to
21 read as follows:

22 A condominium owners' association or an association formed by
23 residents of a multiple-family dwelling are not liable for violations
24 of RCW 70.94.473 (as recodified by this act) by a resident of a
25 condominium or multiple-family dwelling. The associations shall
26 cooperate with local air pollution control authorities to acquaint
27 residents with the provisions of this section.

28 **Sec. 1112.** RCW 70.94.477 and 2012 c 219 s 2 are each amended to
29 read as follows:

30 (1) Unless allowed by rule under chapter 34.05 RCW, a person
31 shall not cause or allow any of the following materials to be burned
32 in any residential solid fuel burning device:

- 33 (a) Garbage;
- 34 (b) Treated wood;
- 35 (c) Plastics;
- 36 (d) Rubber products;
- 37 (e) Animals;
- 38 (f) Asphaltic products;

1 (g) Waste petroleum products;

2 (h) Paints; or

3 (i) Any substance, other than properly seasoned fuel wood, which
4 normally emits dense smoke or obnoxious odors.

5 (2) To achieve and maintain attainment in areas of nonattainment
6 for fine particulates in accordance with section 172 of the federal
7 clean air act, a local air pollution control authority or the
8 department may, after meeting requirements in subsection (3) of this
9 section, prohibit the use of solid fuel burning devices, except:

10 (a) Fireplaces as defined in RCW 70.94.453(3) (as recodified by
11 this act), except if needed to meet federal requirements as a
12 contingency measure in a state implementation plan for a fine
13 particulate nonattainment area;

14 (b) Woodstoves meeting the standards set forth in RCW
15 70.94.473(1)(b) (as recodified by this act); or

16 (c) Pellet stoves.

17 (3) Prior to prohibiting the use of solid fuel burning devices
18 under subsection (2) of this section, the department or the local air
19 pollution control authority must:

20 (a) Seek input from any city, county, or jurisdictional health
21 department affected by the proposal to prohibit the use of solid fuel
22 burning devices; and

23 (b) Make written findings that:

24 (i) The area is designated as an area of nonattainment for fine
25 particulate matter by the United States environmental protection
26 agency, or is in maintenance status under that designation;

27 (ii) Emissions from solid fuel burning devices in the area are a
28 major contributing factor for violating the national ambient air
29 quality standard for fine particulates; and

30 (iii) The area has an adequately funded program to assist low-
31 income households to secure an adequate source of heat, which may
32 include woodstoves meeting the requirements of RCW 70.94.453(2) (as
33 recodified by this act).

34 (4) If and only if the nonattainment area is within the
35 jurisdiction of the department and the legislative authority of a
36 city or county within the area of nonattainment formally expresses
37 concerns with the department's written findings, then the department
38 must publish on the department's web site the reasons for prohibiting
39 the use of solid fuel burning devices under subsection (2) of this

1 section that includes a response to the concerns expressed by the
2 city or county legislative authority.

3 (5) When a local air pollution control authority or the
4 department prohibits the use of solid fuel burning devices as
5 authorized by this section, the cities, counties, and jurisdictional
6 health departments serving the area shall cooperate with the
7 department or local air pollution control authority as the department
8 or the local air pollution control authority implements the
9 prohibition. The responsibility for actual enforcement of the
10 prohibition shall reside solely with the department or the local air
11 pollution control authority. A city, county, or jurisdictional health
12 department serving a fine particulate nonattainment area may agree to
13 assist with enforcement activities.

14 (6) A prohibition issued by a local air pollution control
15 authority or the department under this section shall not apply to:

16 (a) A person in a residence or commercial establishment that does
17 not have an adequate source of heat without burning wood; or

18 (b) A person with a shop or garage that is detached from the main
19 residence or commercial establishment that does not have an adequate
20 source of heat in the detached shop or garage without burning wood.

21 (7) On June 7, 2012, and prior to January 1, 2015, the local air
22 pollution control authority or the department shall, within available
23 resources, provide assistance to households using solid fuel burning
24 devices to reduce the emissions from those devices or change out to a
25 lower emission device. Prior to the effective date of a prohibition,
26 as defined in this section, on the use of uncertified stoves, the
27 department or local air pollution control authority shall provide
28 public education in the nonattainment area regarding how households
29 can reduce their emissions through cleaner burning practices, the
30 importance of respecting burn bans, and the opportunities for
31 assistance in obtaining a cleaner device. If the area is designated
32 as a nonattainment area as of January 1, 2015, or if required by the
33 United States environmental protection agency, the local air
34 pollution control authority or the department may prohibit the use of
35 uncertified devices.

36 (8) As used in this section:

37 (a) "Jurisdictional health department" means a city, county,
38 city-county, or district public health department.

39 (b) "Prohibit the use" or "prohibition" may include requiring
40 disclosure of an uncertified device, removal, or rendering

1 inoperable, as may be approved by rule by a local air pollution
2 control authority or the department. The effective date of such a
3 rule may not be prior to January 1, 2015. However, except as provided
4 in RCW 64.06.020 relating to the seller disclosure of wood burning
5 appliances, any such prohibition may not include imposing separate
6 time of sale obligations on the seller or buyer of real estate as
7 part of a real estate transaction.

8 **Sec. 1113.** RCW 70.94.480 and 1990 c 128 s 6 are each amended to
9 read as follows:

10 (1) The department of ecology shall establish a program to
11 educate woodstove dealers and the public about:

12 (a) The effects of woodstove emissions on health and air quality;

13 (b) Methods of achieving better efficiency and emission
14 performance from woodstoves;

15 (c) Woodstoves that have been approved by the department;

16 (d) The benefits of replacing inefficient woodstoves with stoves
17 approved under RCW 70.94.457 (as recodified by this act).

18 (2) Persons selling new woodstoves shall distribute and verbally
19 explain educational materials describing when a stove can and cannot
20 be legally used to customers purchasing new woodstoves.

21 **Sec. 1114.** RCW 70.94.483 and 2003 1st sp.s. c 25 s 932 are each
22 amended to read as follows:

23 (1) The woodstove education and enforcement account is hereby
24 created in the state treasury. Money placed in the account shall
25 include all money received under subsection (2) of this section and
26 any other money appropriated by the legislature. Money in the account
27 shall be spent for the purposes of the woodstove education program
28 established under RCW 70.94.480 (as recodified by this act) and for
29 enforcement of the woodstove program, and shall be subject to
30 legislative appropriation. However, during the 2003-05 fiscal
31 biennium, the legislature may transfer from the woodstove education
32 and enforcement account to the air pollution control account such
33 amounts as specified in the omnibus operating budget bill.

34 (2) The department of ecology, with the advice of the advisory
35 committee, shall set a flat fee of thirty dollars, on the retail
36 sale, as defined in RCW 82.04.050, of each solid fuel burning device
37 after January 1, 1992. The fee shall be imposed upon the consumer and
38 shall not be subject to the retail sales tax provisions of chapters

1 82.08 and 82.12 RCW. The fee may be adjusted annually above thirty
2 dollars to account for inflation as determined by the state office of
3 the economic and revenue forecast council. The fee shall be collected
4 by the department of revenue in conjunction with the retail sales tax
5 under chapter 82.08 RCW. If the seller fails to collect the fee
6 herein imposed or fails to remit the fee to the department of revenue
7 in the manner prescribed in chapter 82.08 RCW, the seller shall be
8 personally liable to the state for the amount of the fee. The
9 collection provisions of chapter 82.32 RCW shall apply. The
10 department of revenue shall deposit fees collected under this section
11 in the woodstove education and enforcement account.

12 **Sec. 1115.** RCW 70.94.524 and 2006 c 329 s 1 are each amended to
13 read as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

16 (1) "A major employer" means a private or public employer,
17 including state agencies, that employs one hundred or more full-time
18 employees at a single worksite who begin their regular workday
19 between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve
20 continuous months during the year.

21 (2) "Major worksite" means a building or group of buildings that
22 are on physically contiguous parcels of land or on parcels separated
23 solely by private or public roadways or rights-of-way, and at which
24 there are one hundred or more full-time employees, who begin their
25 regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at
26 least twelve continuous months.

27 (3) "Major employment installation" means a military base or
28 federal reservation, excluding tribal reservations, at which there
29 are one hundred or more full-time employees, who begin their regular
30 workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least
31 twelve continuous months during the year.

32 (4) "Person hours of delay" means the daily person hours of delay
33 per mile in the peak period of 6:00 a.m. to 9:00 a.m., as calculated
34 using the best available methodology by the department of
35 transportation.

36 (5) "Commute trip" means trips made from a worker's home to a
37 worksite during the peak period of 6:00 a.m. to 9:00 a.m. on
38 weekdays.

1 (6) "Proportion of single-occupant vehicle commute trips" means
2 the number of commute trips made by single-occupant automobiles
3 divided by the number of full-time employees.

4 (7) "Commute trip vehicle miles traveled per employee" means the
5 sum of the individual vehicle commute trip lengths in miles over a
6 set period divided by the number of full-time employees during that
7 period.

8 (8) "Base year" means the twelve-month period commencing when a
9 major employer is determined to be participating by the local
10 jurisdiction, on which commute trip reduction goals shall be based.

11 (9) "Growth and transportation efficiency center" means a
12 defined, compact, mixed-use urban area that contains jobs or housing
13 and supports multiple modes of transportation. For the purpose of
14 funding, a growth and transportation efficiency center must meet
15 minimum criteria established by the commute trip reduction board
16 under RCW 70.94.537 (as recodified by this act), and must be
17 certified by a regional transportation planning organization as
18 established in RCW 47.80.020.

19 (10)(a) "Affected urban growth area" means:

20 (i) An urban growth area, designated pursuant to RCW 36.70A.110,
21 whose boundaries contain a state highway segment exceeding the one
22 hundred person hours of delay threshold calculated by the department
23 of transportation, and any contiguous urban growth areas; and

24 (ii) An urban growth area, designated pursuant to RCW 36.70A.110,
25 containing a jurisdiction with a population over seventy thousand
26 that adopted a commute trip reduction ordinance before the year 2000,
27 and any contiguous urban growth areas.

28 (b) Affected urban growth areas will be listed by the department
29 of transportation in the rules for chapter 329, Laws of 2006 using
30 the criteria identified in (a) of this subsection.

31 (11) "Certification" means a determination by a regional
32 transportation planning organization that a locally designated growth
33 and transportation efficiency center program meets the minimum
34 criteria developed in a collaborative regional process and the rules
35 established by the department of transportation.

36 **Sec. 1116.** RCW 70.94.527 and 2006 c 329 s 2 are each amended to
37 read as follows:

38 (1) Each county containing an urban growth area, designated
39 pursuant to RCW 36.70A.110, and each city within an urban growth area

1 with a state highway segment exceeding the one hundred person hours
2 of delay threshold calculated by the department of transportation, as
3 well as those counties and cities located in any contiguous urban
4 growth areas, shall adopt a commute trip reduction plan and ordinance
5 for major employers in the affected urban growth area by a date
6 specified by the commute trip reduction board. Jurisdictions located
7 within an urban growth area with a population greater than seventy
8 thousand that adopted a commute trip reduction ordinance before the
9 year 2000, as well as any jurisdiction within contiguous urban growth
10 areas, shall also adopt a commute trip reduction plan and ordinance
11 for major employers in the affected urban growth area by a date
12 specified by the commute trip reduction board. Jurisdictions
13 containing a major employment installation in a county with an
14 affected growth area, designated pursuant to RCW 36.70A.110, shall
15 adopt a commute trip reduction plan and ordinance for major employers
16 in the major employment installation by a date specified by the
17 commute trip reduction board. The ordinance shall establish the
18 requirements for major employers and provide an appeals process by
19 which major employers, who as a result of special characteristics of
20 their business or its locations would be unable to meet the
21 requirements of the ordinance, may obtain waiver or modification of
22 those requirements. The plan shall be designed to achieve reductions
23 in the proportion of single-occupant vehicle commute trips and be
24 consistent with the rules established by the department of
25 transportation. The county, city, or town shall submit its adopted
26 plan to the regional transportation planning organization. The
27 county, city, or town plan shall be included in the regional commute
28 trip reduction plan for regional transportation planning purposes,
29 consistent with the rules established by the department of
30 transportation in RCW 70.94.537 (as recodified by this act).

31 (2) All other counties, cities, and towns may adopt and implement
32 a commute trip reduction plan consistent with department of
33 transportation rules established under RCW 70.94.537 (as recodified
34 by this act). Tribal governments are encouraged to adopt a commute
35 trip reduction plan for their lands. State investment in voluntary
36 commute trip reduction plans shall be limited to those areas that
37 meet criteria developed by the commute trip reduction board.

38 (3) The department of ecology may, after consultation with the
39 department of transportation, as part of the state implementation
40 plan for areas that do not attain the national ambient air quality

1 standards for carbon monoxide or ozone, require municipalities other
2 than those identified in subsection (1) of this section to adopt and
3 implement commute trip reduction plans if the department determines
4 that such plans are necessary for attainment of said standards.

5 (4) A commute trip reduction plan shall be consistent with the
6 rules established under RCW 70.94.537 (as recodified by this act) and
7 shall include but is not limited to (a) goals for reductions in the
8 proportion of single-occupant vehicle commute trips consistent with
9 the state goals established by the commute trip reduction board under
10 RCW 70.94.537 (as recodified by this act) and the regional commute
11 trip reduction plan goals established in the regional commute trip
12 reduction plan; (b) a description of the requirements for major
13 public and private sector employers to implement commute trip
14 reduction programs; (c) a commute trip reduction program for
15 employees of the county, city, or town; and (d) means, consistent
16 with rules established by the department of transportation, for
17 determining base year values and progress toward meeting commute trip
18 reduction plan goals. The plan shall be developed in consultation
19 with local transit agencies, the applicable regional transportation
20 planning organization, major employers, and other interested parties.

21 (5) The commute trip reduction plans adopted by counties, cities,
22 and towns under this chapter shall be consistent with and may be
23 incorporated in applicable state or regional transportation plans and
24 local comprehensive plans and shall be coordinated, and consistent
25 with, the commute trip reduction plans of counties, cities, or towns
26 with which the county, city, or town has, in part, common borders or
27 related regional issues. Such regional issues shall include assuring
28 consistency in the treatment of employers who have worksites subject
29 to the requirements of this chapter in more than one jurisdiction.
30 Counties, cities, and towns adopting commute trip reduction plans may
31 enter into agreements through the interlocal cooperation act or by
32 resolution or ordinance as appropriate with other jurisdictions,
33 local transit agencies, transportation management associations or
34 other private or nonprofit providers of transportation services, or
35 regional transportation planning organizations to coordinate the
36 development and implementation of such plans. Transit agencies shall
37 work with counties, cities, and towns as a part of their six-year
38 transit development plan established in RCW 35.58.2795 to take into
39 account the location of major employer worksites when planning and
40 prioritizing transit service changes or the expansion of public

1 transportation services, including rideshare services. Counties,
2 cities, or towns adopting a commute trip reduction plan shall review
3 it annually and revise it as necessary to be consistent with
4 applicable plans developed under RCW 36.70A.070. Regional
5 transportation planning organizations shall review the local commute
6 trip reduction plans during the development and update of the
7 regional commute trip reduction plan.

8 (6) Each affected regional transportation planning organization
9 shall adopt a commute trip reduction plan for its region consistent
10 with the rules and deadline established by the department of
11 transportation under RCW 70.94.537 (as recodified by this act). The
12 plan shall include, but is not limited to: (a) Regional program goals
13 for commute trip reduction in urban growth areas and all designated
14 growth and transportation efficiency centers; (b) a description of
15 strategies for achieving the goals; (c) a sustainable financial plan
16 describing projected revenues and expenditures to meet the goals; (d)
17 a description of the way in which progress toward meeting the goals
18 will be measured; and (e) minimum criteria for growth and
19 transportation efficiency centers. (i) Regional transportation
20 planning organizations shall review proposals from local
21 jurisdictions to designate growth and transportation efficiency
22 centers and shall determine whether the proposed growth and
23 transportation efficiency center is consistent with the criteria
24 defined in the regional commute trip reduction plan. (ii) Growth and
25 transportation efficiency centers certified as consistent with the
26 minimum requirements by the regional transportation planning
27 organization shall be identified in subsequent updates of the
28 regional commute trip reduction plan. These plans shall be developed
29 in collaboration with all affected local jurisdictions, transit
30 agencies, and other interested parties within the region. The plan
31 will be reviewed and approved by (~~the~~) the commute trip reduction
32 board as established under RCW 70.94.537 (as recodified by this act).
33 Regions without an approved regional commute trip reduction plan
34 shall not be eligible for state commute trip reduction program funds.

35 The regional commute trip reduction plan shall be consistent with
36 and incorporated into transportation demand management components in
37 the regional transportation plan as required by RCW 47.80.030.

38 (7) Each regional transportation planning organization
39 implementing a regional commute trip reduction program shall,
40 consistent with the rules and deadline established by the department

1 of transportation, submit its plan as well as any related local
2 commute trip reduction plans and certified growth and transportation
3 efficiency center programs, to the commute trip reduction board
4 established under RCW 70.94.537 (as recodified by this act). The
5 commute trip reduction board shall review the regional commute trip
6 reduction plan and the local commute trip reduction plans. The
7 regional transportation planning organization shall collaborate with
8 the commute trip reduction board to evaluate the consistency of local
9 commute trip reduction plans with the regional commute trip reduction
10 plan. Local and regional plans must be approved by the commute trip
11 reduction board in order to be eligible for state funding provided
12 for the purposes of this chapter.

13 (8) Each regional transportation planning organization
14 implementing a regional commute trip reduction program shall submit
15 an annual progress report to the commute trip reduction board
16 established under RCW 70.94.537 (as recodified by this act). The
17 report shall be due at the end of each state fiscal year for which
18 the program has been implemented. The report shall describe progress
19 in attaining the applicable commute trip reduction goals and shall
20 highlight any problems being encountered in achieving the goals. The
21 information shall be reported in a form established by the commute
22 trip reduction board.

23 (9) Any waivers or modifications of the requirements of a commute
24 trip reduction plan granted by a jurisdiction shall be submitted for
25 review to the commute trip reduction board established under RCW
26 70.94.537 (as recodified by this act). The commute trip reduction
27 board may not deny the granting of a waiver or modification of the
28 requirements of a commute trip reduction plan by a jurisdiction but
29 they may notify the jurisdiction of any comments or objections.

30 (10) Plans implemented under this section shall not apply to
31 commute trips for seasonal agricultural employees.

32 (11) Plans implemented under this section shall not apply to
33 construction worksites when the expected duration of the construction
34 project is less than two years.

35 (12) If an affected urban growth area has not previously
36 implemented a commute trip reduction program and the state has funded
37 solutions to state highway deficiencies to address the area's
38 exceeding the person hours of delay threshold, the affected urban
39 growth area shall be exempt from the duties of this section for a
40 period not exceeding two years.

1 **Sec. 1117.** RCW 70.94.528 and 2006 c 329 s 4 are each amended to
2 read as follows:

3 (1) A county, city, or town may, as part of its commute trip
4 reduction plan, designate existing activity centers listed in its
5 comprehensive plan or new activity centers as growth and
6 transportation efficiency centers and establish a transportation
7 demand management program in the designated area.

8 (a) The transportation demand management program for the growth
9 and transportation efficiency center shall be developed in
10 consultation with local transit agencies, the applicable regional
11 transportation planning organization, major employers, and other
12 interested parties.

13 (b) In order to be eligible for state funding provided for the
14 purposes of this section, designated growth and transportation
15 efficiency centers shall be certified by the applicable regional
16 transportation organization to: (i) Meet the minimum land use and
17 transportation criteria established in collaboration among local
18 jurisdictions, transit agencies, the regional transportation planning
19 organization, and other interested parties as part of the regional
20 commute trip reduction plan; and (ii) have established a
21 transportation demand management program that includes the elements
22 identified in (c) of this subsection and is consistent with the rules
23 established by the department of transportation in RCW 70.94.537(2)
24 (as recodified by this act). If a designated growth and
25 transportation efficiency center is denied certification, the local
26 jurisdiction may appeal the decision to the commute trip reduction
27 board.

28 (c) Transportation demand management programs for growth and
29 transportation efficiency centers shall include, but are not limited
30 to: (i) Goals for reductions in the proportion of single-occupant
31 vehicle trips that are more aggressive than the state program goal
32 established by the commute trip reduction board; (ii) a sustainable
33 financial plan demonstrating how the program can be implemented to
34 meet state and regional trip reduction goals, indicating resources
35 from public and private sources that are reasonably expected to be
36 made available to carry out the plan, and recommending any innovative
37 financing techniques consistent with chapter 47.29 RCW, including
38 public/private partnerships, to finance needed facilities, services,
39 and programs; (iii) a proposed organizational structure for
40 implementing the program; (iv) a proposal to measure performance

1 toward the goal and implementation progress; and (v) an evaluation to
2 which local land use and transportation policies apply, including
3 parking policies and ordinances, to determine the extent that they
4 complement and support the trip reduction investments of major
5 employers. Each of these program elements shall be consistent with
6 the rules established under RCW 70.94.537 (as recodified by this
7 act).

8 (d) A designated growth and transportation efficiency center
9 shall be consistent with the land use and transportation elements of
10 the local comprehensive plan.

11 (e) Transit agencies, local governments, and regional
12 transportation planning organizations shall identify certified growth
13 and transportation efficiency centers as priority areas for new
14 service and facility investments in their respective investment
15 plans.

16 (2) A county, city, or town that has established a growth and
17 transportation efficiency center program shall support vehicle trip
18 reduction activities in the designated area. The implementing
19 jurisdiction shall adopt policies, ordinances, and funding strategies
20 that will lead to attainment of program goals in those areas.

21 **Sec. 1118.** RCW 70.94.531 and 2013 c 26 s 1 are each amended to
22 read as follows:

23 (1) State agency worksites are subject to the same requirements
24 under this section and RCW 70.94.534 (as recodified by this act) as
25 private employers.

26 (2) Not more than ninety days after the adoption of a
27 jurisdiction's commute trip reduction plan, each major employer in
28 that jurisdiction shall perform a baseline measurement consistent
29 with the rules established by the department of transportation under
30 RCW 70.94.537 (as recodified by this act). Not more than ninety days
31 after receiving the results of the baseline measurement, each major
32 employer shall develop a commute trip reduction program and shall
33 submit a description of that program to the jurisdiction for review.
34 The program shall be implemented not more than ninety days after
35 approval by the jurisdiction.

36 (3) A commute trip reduction program of a major employer shall
37 consist of, at a minimum (a) designation of a transportation
38 coordinator and the display of the name, location, and telephone
39 number of the coordinator in a prominent manner at each affected

1 worksite; (b) regular distribution of information to employees
2 regarding alternatives to single-occupant vehicle commuting; (c) a
3 regular review of employee commuting and reporting of progress toward
4 meeting the single-occupant vehicle reduction goals to the county,
5 city, or town consistent with the method established in the commute
6 trip reduction plan and the rules established by the department of
7 transportation under RCW 70.94.537 (as recodified by this act); and
8 (d) implementation of a set of measures designed to achieve the
9 applicable commute trip reduction goals adopted by the jurisdiction.
10 Such measures may include but are not limited to:

11 (i) Provision of preferential parking or reduced parking charges,
12 or both, for high occupancy vehicles and motorcycles;

13 (ii) Instituting or increasing parking charges for single-
14 occupant vehicles;

15 (iii) Provision of commuter ride matching services to facilitate
16 employee ride sharing for commute trips;

17 (iv) Provision of subsidies for transit fares;

18 (v) Provision of vans for van pools;

19 (vi) Provision of subsidies for car pooling or van pooling;

20 (vii) Permitting the use of the employer's vehicles for car
21 pooling or van pooling;

22 (viii) Permitting flexible work schedules to facilitate
23 employees' use of transit, car pools, or van pools;

24 (ix) Cooperation with transportation providers to provide
25 additional regular or express service to the worksite;

26 (x) Construction of special loading and unloading facilities for
27 transit, car pool, and van pool users;

28 (xi) Provision of bicycle parking facilities, lockers, changing
29 areas, and showers for employees who bicycle or walk to work;

30 (xii) Provision of a program of parking incentives such as a
31 rebate for employees who do not use the parking facility;

32 (xiii) Establishment of a program to permit employees to work
33 part or full time at home or at an alternative worksite closer to
34 their homes;

35 (xiv) Establishment of a program of alternative work schedules
36 such as compressed workweek schedules which reduce commuting; and

37 (xv) Implementation of other measures designed to facilitate the
38 use of high occupancy vehicles such as on-site day care facilities
39 and emergency taxi services.

1 (4) Employers or owners of worksites may form or utilize existing
2 transportation management associations or other transportation-
3 related associations authorized by RCW 35.87A.010 to assist members
4 in developing and implementing commute trip reduction programs.

5 (5) Employers shall make a good faith effort towards achievement
6 of the goals identified in RCW 70.94.527(4) (d) (as recodified by this
7 act).

8 **Sec. 1119.** RCW 70.94.534 and 2006 c 329 s 6 are each amended to
9 read as follows:

10 (1) Each jurisdiction implementing a commute trip reduction plan
11 under this chapter or as part of a plan or ordinance developed under
12 RCW 36.70A.070 shall review each employer's initial commute trip
13 reduction program to determine if the program is likely to meet the
14 applicable commute trip reduction goals. The employer shall be
15 notified by the jurisdiction of its findings. If the jurisdiction
16 finds that the program is not likely to meet the applicable commute
17 trip reduction goals, the jurisdiction will work with the employer to
18 modify the program as necessary. The jurisdiction shall complete
19 review of each employer's initial commute trip reduction program
20 within ninety days of receipt.

21 (2) Employers implementing commute trip reduction programs are
22 expected to undertake good faith efforts to achieve the goals
23 outlined in RCW 70.94.527(4) (as recodified by this act). Employers
24 are considered to be making a good faith effort if the following
25 conditions have been met:

26 (a) The employer has met the minimum requirements identified in
27 RCW 70.94.531 (as recodified by this act);

28 (b) The employer has notified the jurisdiction of its intent to
29 substantially change or modify its program and has either received
30 the approval of the jurisdiction to do so or has acknowledged that
31 its program may not be approved without additional modifications;

32 (c) The employer has provided adequate information and
33 documentation of implementation when requested by the jurisdiction;
34 and

35 (d) The employer is working collaboratively with its jurisdiction
36 to continue its existing program or is developing and implementing
37 program modifications likely to result in improvements to the program
38 over an agreed upon length of time.

1 (3) Each jurisdiction shall review at least once every two years
2 each employer's progress and good faith efforts toward meeting the
3 applicable commute trip reduction goals. If an employer makes a good
4 faith effort, as defined in this section, but is not likely to meet
5 the applicable commute trip reduction goals, the jurisdiction shall
6 work collaboratively with the employer to make modifications to the
7 commute trip reduction program. Failure of an employer to reach the
8 applicable commute trip reduction goals is not a violation of this
9 chapter.

10 (4) If an employer fails to make a good faith effort and fails to
11 meet the applicable commute trip reduction goals, the jurisdiction
12 shall work collaboratively with the employer to propose modifications
13 to the program and shall direct the employer to revise its program
14 within thirty days to incorporate those modifications or
15 modifications which the jurisdiction determines to be equivalent.

16 (5) Each jurisdiction implementing a commute trip reduction plan
17 pursuant to this chapter may impose civil penalties, in the manner
18 provided in chapter 7.80 RCW, for failure by an employer to implement
19 a commute trip reduction program or to modify its commute trip
20 reduction program as required in subsection (4) of this section. No
21 major employer may be held liable for civil penalties for failure to
22 reach the applicable commute trip reduction goals. No major employer
23 shall be liable for civil penalties under this chapter if failure to
24 achieve a commute trip reduction program goal was the result of an
25 inability to reach agreement with a certified collective bargaining
26 agent under applicable laws where the issue was raised by the
27 employer and pursued in good faith.

28 (6) Jurisdictions shall notify major employers of the procedures
29 for applying for goal modification or exemption from the commute trip
30 reduction requirements based on the guidelines established by the
31 commute trip reduction board authorized under RCW 70.94.537 (as
32 recodified by this act).

33 **Sec. 1120.** RCW 70.94.541 and 2009 c 427 s 1 are each amended to
34 read as follows:

35 (1) The department of transportation shall provide staff support
36 to the commute trip reduction board in carrying out the requirements
37 of RCW 70.94.537 (as recodified by this act).

38 (2) The department of transportation shall provide technical
39 assistance to regional transportation planning organizations,

1 counties, cities, towns, state agencies, as defined in RCW 40.06.010,
2 and other employers in developing and implementing commute trip
3 reduction plans and programs. The technical assistance shall include:
4 (a) Guidance in single measurement methodology and practice to be
5 used in determining progress in attaining plan goals; (b) developing
6 model plans and programs appropriate to different situations; and (c)
7 providing consistent training and informational materials for the
8 implementation of commute trip reduction programs. Model plans and
9 programs, training, and informational materials shall be developed in
10 cooperation with representatives of regional transportation planning
11 organizations, local governments, transit agencies, and employers.

12 (3) In carrying out this section the department of transportation
13 may contract with statewide associations representing cities, towns,
14 and counties to assist cities, towns, and counties in implementing
15 commute trip reduction plans and programs.

16 **Sec. 1121.** RCW 70.94.544 and 2006 c 329 s 9 are each amended to
17 read as follows:

18 A portion of the funds made available for the purposes of this
19 chapter shall be used to fund the commute trip reduction board in
20 carrying out the responsibilities of RCW 70.94.537 (as recodified by
21 this act), and the department of transportation, including the
22 activities authorized under RCW 70.94.541(2) (as recodified by this
23 act), and to assist regional transportation planning organizations,
24 counties, cities, and towns implementing commute trip reduction
25 plans. The commute trip reduction board shall determine the
26 allocation of program funds made available for the purposes of this
27 chapter to regional transportation planning organizations, counties,
28 cities, and towns implementing commute trip reduction plans. If state
29 funds for the purposes of this chapter are provided to those
30 jurisdictions implementing voluntary commute trip reduction plans,
31 the funds shall be disbursed based on criteria established by the
32 commute trip reduction board under RCW 70.94.537 (as recodified by
33 this act).

34 **Sec. 1122.** RCW 70.94.551 and 2015 c 225 s 105 are each amended
35 to read as follows:

36 (1) The secretary of the department of transportation may
37 coordinate an interagency board or other interested parties for the
38 purpose of developing policies or guidelines that promote consistency

1 among state agency commute trip reduction programs required by RCW
2 70.94.527 and 70.94.531 (as recodified by this act) or developed
3 under the joint comprehensive commute trip reduction plan described
4 in this section. The board shall include representatives of the
5 departments of transportation, enterprise services, ecology, and
6 commerce and such other departments and interested groups as the
7 secretary of the department of transportation determines to be
8 necessary. Policies and guidelines shall be applicable to all state
9 agencies including but not limited to policies and guidelines
10 regarding parking and parking charges, employee incentives for
11 commuting by other than single-occupant automobiles, flexible and
12 alternative work schedules, alternative worksites, and the use of
13 state-owned vehicles for car and van pools and guaranteed rides home.
14 The policies and guidelines shall also consider the costs and
15 benefits to state agencies of achieving commute trip reductions and
16 consider mechanisms for funding state agency commute trip reduction
17 programs.

18 (2) State agencies sharing a common location in affected urban
19 growth areas where the total number of state employees is one hundred
20 or more shall, with assistance from the department of transportation,
21 develop and implement a joint commute trip reduction program. The
22 worksite must be treated as specified in RCW 70.94.531 and 70.94.534
23 (as recodified by this act).

24 (3) The department of transportation shall develop a joint
25 comprehensive commute trip reduction plan for all state agencies,
26 including institutions of higher education, located in the Olympia,
27 Lacey, and Tumwater urban growth areas.

28 (a) In developing the joint comprehensive commute trip reduction
29 plan, the department of transportation shall work with applicable
30 state agencies, including institutions of higher education, and shall
31 collaborate with the following entities: Local jurisdictions;
32 regional transportation planning organizations as described in
33 chapter 47.80 RCW; transit agencies, including regional transit
34 authorities as described in chapter 81.112 RCW and transit agencies
35 that serve areas within twenty-five miles of the Olympia, Lacey, or
36 Tumwater urban growth areas; and the capitol campus design advisory
37 committee established in RCW 43.34.080.

38 (b) The joint comprehensive commute trip reduction plan must
39 build on existing commute trip reduction programs and policies. At a
40 minimum, the joint comprehensive commute trip reduction plan must

1 include strategies for telework and flexible work schedules, parking
2 management, and consideration of the impacts of worksite location and
3 design on multimodal transportation options.

4 (c) The joint comprehensive commute trip reduction plan must
5 include performance measures and reporting methods and requirements.

6 (d) The joint comprehensive commute trip reduction plan may
7 include strategies to accommodate differences in worksite size and
8 location.

9 (e) The joint comprehensive commute trip reduction plan must be
10 consistent with jurisdictional and regional transportation, land use,
11 and commute trip reduction plans, the state six-year facilities plan,
12 and the master plan for the capitol of the state of Washington.

13 (f) Not more than ninety days after the adoption of the joint
14 comprehensive commute trip reduction plan, state agencies within the
15 three urban growth areas must implement a commute trip reduction
16 program consistent with the objectives and strategies of the joint
17 comprehensive commute trip reduction plan.

18 (4) The department of transportation shall review the initial
19 commute trip reduction program of each state agency subject to the
20 commute trip reduction plan for state agencies to determine if the
21 program is likely to meet the applicable commute trip reduction goals
22 and notify the agency of any deficiencies. If it is found that the
23 program is not likely to meet the applicable commute trip reduction
24 goals, the department of transportation will work with the agency to
25 modify the program as necessary.

26 (5) Each state agency implementing a commute trip reduction plan
27 shall report at least once per year to its agency director on the
28 performance of the agency's commute trip reduction program as part of
29 the agency's quality management, accountability, and performance
30 system as defined by RCW 43.17.385. The reports shall assess the
31 performance of the program, progress toward state goals established
32 under RCW 70.94.537 (as recodified by this act), and recommendations
33 for improving the program.

34 (6) The department of transportation shall review the agency
35 performance reports defined in subsection (5) of this section and
36 submit a biennial report for state agencies subject to this chapter
37 to the governor and incorporate the report in the commute trip
38 reduction board report to the legislature as directed in RCW
39 70.94.537(6) (as recodified by this act). The report shall include,
40 but is not limited to, an evaluation of the most recent measurement

1 results, progress toward state goals established under RCW 70.94.537
2 (as recodified by this act), and recommendations for improving the
3 performance of state agency commute trip reduction programs. The
4 information shall be reported in a form established by the commute
5 trip reduction board.

6 **Sec. 1123.** RCW 70.94.640 and 2017 c 217 s 1 are each amended to
7 read as follows:

8 (1) Odors or fugitive dust caused by agricultural activity
9 consistent with good agricultural practices on agricultural land are
10 exempt from the requirements of this chapter unless they have a
11 substantial adverse effect on public health. In determining whether
12 agricultural activity is consistent with good agricultural practices,
13 the department of ecology or board of any authority shall consult
14 with a recognized third-party expert in the activity prior to issuing
15 any notice of violation.

16 (2) Any notice of violation issued under this chapter pertaining
17 to odors or fugitive dust caused by agricultural activity shall
18 include a detailed statement with evidence as to why the activity is
19 inconsistent with good agricultural practices, or a detailed
20 statement with evidence that the odors or fugitive dust have
21 substantial adverse effect on public health.

22 (3) In any appeal to the pollution control hearings board or any
23 judicial appeal, the agency issuing a final order pertaining to odors
24 or fugitive dust caused by agricultural activity shall prove the
25 activity is inconsistent with good agricultural practices or that the
26 odors or fugitive dust have a substantial adverse impact on public
27 health.

28 (4) If a person engaged in agricultural activity on a contiguous
29 piece of agricultural land sells or has sold a portion of that land
30 for residential purposes, the exemption of this section shall not
31 apply.

32 (5) As used in this section:

33 (a) "Agricultural activity" means the growing, raising, or
34 production of horticultural or viticultural crops, berries, poultry,
35 livestock, shellfish, grain, mint, hay, and dairy products.
36 "Agricultural activity" also includes the growing, raising, or
37 production of cattle at cattle feedlots.

38 (b) "Good agricultural practices" means economically feasible
39 practices which are customary among or appropriate to farms and

1 ranches of a similar nature in the local area and for cattle feedlots
2 means implementing best management practices pursuant to a fugitive
3 dust control plan that conforms to the fugitive dust control
4 guidelines for beef cattle feedlots, best management practices, and
5 plan development and approval procedures that were approved by the
6 department of ecology in December 1995 or in updates to those
7 guidelines that are mutually agreed to by the department of ecology
8 and by the Washington cattle feeders association or a successor
9 organization on behalf of cattle feedlots.

10 (c) "Agricultural land" means at least five acres of land devoted
11 primarily to the commercial production of livestock, agricultural
12 commodities, or cultured aquatic products.

13 (d) "Fugitive dust" means a particulate emission made airborne by
14 human activity, forces of wind, or both, and which do not pass
15 through a stack, chimney, vent, or other functionally equivalent
16 opening.

17 (6) The exemption for fugitive dust provided in subsection (1) of
18 this section does not apply to facilities subject to RCW 70.94.151 as
19 specified in WAC 173-400-100 as of July 24, 2005, 70.94.152, or
20 70.94.161 (as recodified by this act). The exemption for fugitive
21 dust provided in subsection (1) of this section applies to cattle
22 feedlots with operational facilities which have an inventory of one
23 thousand or more cattle in operation between June 1st and October
24 1st, where vegetation forage growth is not sustained over the
25 majority of the lot during the normal growing season; except that the
26 cattle feedlots must comply with applicable requirements included in
27 the approved state implementation plan for air quality as of July 23,
28 2017; and except if an area in which a cattle feedlot is located is
29 at any time in the future designated nonattainment for a national
30 ambient air quality standard for particulate matter, additional
31 control measures may be required for cattle feedlots as part of a
32 state implementation plan's control strategy for that area and as
33 necessary to ensure the area returns to attainment.

34 **Sec. 1124.** RCW 70.94.6512 and 2009 c 118 s 102 are each amended
35 to read as follows:

36 Except as provided in RCW 70.94.6546 (as recodified by this act),
37 no person shall cause or allow any outdoor fire:

38 (1) Containing garbage, dead animals, asphalt, petroleum
39 products, paints, rubber products, plastics, or any substance other

1 than natural vegetation that normally emits dense smoke or obnoxious
2 odors. Agricultural heating devices that otherwise meet the
3 requirements of this chapter shall not be considered outdoor fires
4 under this section;

5 (2) During a forecast, alert, warning or emergency condition as
6 defined in RCW 70.94.715 (as recodified by this act) or impaired air
7 quality condition as defined in RCW 70.94.473 (as recodified by this
8 act).

9 **Sec. 1125.** RCW 70.94.6514 and 2019 c 305 s 3 are each amended to
10 read as follows:

11 (1) Consistent with the policy of the state to reduce outdoor
12 burning to the greatest extent practical, outdoor burning shall not
13 be allowed in:

14 (a) Any area of the state where federal or state ambient air
15 quality standards are exceeded for pollutants emitted by outdoor
16 burning; or

17 (b) Any urban growth area as defined by RCW 36.70A.030, or any
18 city of the state having a population greater than ten thousand
19 people if such cities are threatened to exceed state or federal air
20 quality standards, and alternative disposal practices consistent with
21 good solid waste management are reasonably available or practices
22 eliminating production of organic refuse are reasonably available.

23 (2) Notwithstanding any other provision of this section, outdoor
24 burning may be allowed for the exclusive purpose of managing storm or
25 flood-related debris. The decision to allow burning shall be made by
26 the entity with permitting jurisdiction as determined under RCW
27 70.94.6534 or 70.94.6518 (as recodified by this act). If outdoor
28 burning is allowed in areas subject to subsection (1)(a) or (b) of
29 this section, a permit shall be required, and a fee may be collected
30 to cover the expenses of administering and enforcing the permit. All
31 conditions and restrictions pursuant to RCW 70.94.6526(1) and
32 70.94.6512 (as recodified by this act) apply to outdoor burning
33 allowed under this section.

34 (3)(a) Outdoor burning that is normal, necessary, and customary
35 to ongoing agricultural activities, that is consistent with
36 agricultural burning authorized under RCW 70.94.6528 and 70.94.6532
37 (as recodified by this act), is allowed within the urban growth area
38 in accordance with RCW 70.94.6528(8)(a) (as recodified by this act).

1 (b) Outdoor burning of cultivated orchard trees shall be allowed
2 as an ongoing agricultural activity under this section in accordance
3 with RCW 70.94.6528(8) (b) (as recodified by this act).

4 (4) This section shall not apply to silvicultural burning used to
5 improve or maintain fire dependent ecosystems for rare plants or
6 animals within state, federal, and private natural area preserves,
7 natural resource conservation areas, parks, and other wildlife areas.

8 (5) Notwithstanding any other provisions of this section, outdoor
9 burning that reduces the risk of a wildfire, or is normal, necessary,
10 and customary to ongoing silvicultural activities consistent with
11 silvicultural burning authorized under RCW 70.94.6534(1) (as
12 recodified by this act), is allowed within the urban growth area in
13 accordance with RCW 70.94.6534 (as recodified by this act). Before
14 issuing a burn permit within the urban growth area for any burn that
15 exceeds one hundred tons of material, the department of natural
16 resources shall consult with department of ecology and condition the
17 issuance and use of such permits to comply with air quality standards
18 established by the department of ecology.

19 **Sec. 1126.** RCW 70.94.6516 and 1991 c 199 s 411 are each amended
20 to read as follows:

21 In addition to any other powers granted to them by law, the fire
22 protection agency, county, or conservation district issuing burning
23 permits shall regulate or prohibit outdoor burning as necessary to
24 prevent or abate the nuisances caused by such burning. No fire
25 protection agency, county, or conservation district may issue a
26 burning permit in an area where the department or local board has
27 declared any stage of impaired air quality per RCW 70.94.473 (as
28 recodified by this act) or any stage of an air pollution episode. All
29 burning permits issued shall be subject to all applicable fee,
30 permitting, penalty, and enforcement provisions of this chapter. The
31 permitted burning shall not cause damage to public health or the
32 environment.

33 Any entity issuing a permit under this section may charge a fee
34 at the level necessary to recover the costs of administering and
35 enforcing the permit program.

36 **Sec. 1127.** RCW 70.94.6518 and 2009 c 118 s 201 are each amended
37 to read as follows:

1 Each activated air pollution control authority, and the
2 department of ecology in those areas outside the jurisdictional
3 boundaries of an activated air pollution control authority, shall
4 establish, through regulations, ordinances, or policy, a program
5 implementing the limited burning policy authorized by RCW 70.94.6514,
6 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, and 70.94.6526 (as
7 recodified by this act).

8 **Sec. 1128.** RCW 70.94.6520 and 2009 c 118 s 202 are each amended
9 to read as follows:

10 Nothing contained in RCW 70.94.6514, 70.94.6518, 70.94.6520,
11 70.94.6522, 70.94.6524, and 70.94.6526 (as recodified by this act) is
12 intended to alter or change the provisions of RCW 70.94.6534 (as
13 recodified by this act), 70.94.710 through 70.94.730 (as recodified
14 by this act), and 76.04.205.

15 **Sec. 1129.** RCW 70.94.6522 and 2009 c 118 s 203 are each amended
16 to read as follows:

17 Nothing in RCW 70.94.6514, 70.94.6518, 70.94.6520, 70.94.6522,
18 70.94.6524, and 70.94.6526 (as recodified by this act) shall be
19 construed as prohibiting a local air pollution control authority or
20 the department of ecology in those areas outside the jurisdictional
21 boundaries of an activated pollution control authority from allowing
22 the burning of outdoor fires.

23 **Sec. 1130.** RCW 70.94.6524 and 2019 c 305 s 4 are each amended to
24 read as follows:

25 (1) It shall be the responsibility and duty of the department of
26 natural resources, department of ecology, department of agriculture,
27 county fire marshals in consultation with fire districts, and local
28 air pollution control authorities to establish, through regulations,
29 ordinances, or policy, a limited burning permit program.

30 (2) The permit program shall apply to residential and land
31 clearing burning in the following areas:

32 (a) In the nonurban areas of any county with an unincorporated
33 population of greater than fifty thousand; and

34 (b) In any city and urban growth area that is not otherwise
35 prohibited from burning pursuant to RCW 70.94.6514 (as recodified by
36 this act).

1 (3) The permit program shall apply only to land clearing burning
2 in the nonurban areas of any county with an unincorporated population
3 of less than fifty thousand.

4 (4) The permit program may be limited to a general permit by
5 rule, or by verbal, written, or electronic approval by the permitting
6 entity.

7 (5) Notwithstanding any other provision of this section, neither
8 a permit nor the payment of a fee shall be required for outdoor
9 burning for the purpose of disposal of tumbleweeds blown by wind.
10 Such burning shall not be conducted during an air pollution episode
11 or any stage of impaired air quality declared under RCW 70.94.715 (as
12 recodified by this act). This subsection (5) shall only apply within
13 counties with a population less than two hundred fifty thousand.

14 (6) Burning shall be prohibited in an area when an alternate
15 technology or method of disposing of the organic refuse is available,
16 reasonably economical, and less harmful to the environment. It is the
17 policy of this state to foster and encourage development of alternate
18 methods or technology for disposing of or reducing the amount of
19 organic refuse.

20 (7) Incidental agricultural burning must be allowed without
21 applying for any permit and without the payment of any fee if:

22 (a) The burning is incidental to commercial agricultural
23 activities;

24 (b) The operator notifies the local fire department within the
25 area where the burning is to be conducted;

26 (c) The burning does not occur during an air pollution episode or
27 any stage of impaired air quality declared under RCW 70.94.715 (as
28 recodified by this act); and

29 (d) Only the following items are burned:

30 (i) Orchard prunings;

31 (ii) Organic debris along fence lines or irrigation or drainage
32 ditches; or

33 (iii) Organic debris blown by wind.

34 (8) As used in this section, "nonurban areas" are unincorporated
35 areas within a county that are not designated as urban growth areas
36 under chapter 36.70A RCW.

37 (9) Nothing in this section shall require fire districts to
38 enforce air quality requirements related to outdoor burning, unless
39 the fire district enters into an agreement with the department of
40 ecology, department of natural resources, a local air pollution

1 control authority, or other appropriate entity to provide such
2 enforcement.

3 **Sec. 1131.** RCW 70.94.6528 and 2010 c 70 s 1 are each amended to
4 read as follows:

5 (1) Any person who proposes to set fires in the course of
6 agricultural activities shall obtain a permit from an air pollution
7 control authority, the department of ecology, or a local entity
8 delegated permitting authority under RCW 70.94.6530 (as recodified by
9 this act). General permit criteria of statewide applicability shall
10 be established by the department, by rule, after consultation with
11 the various air pollution control authorities.

12 (a) Permits shall be issued under this section based on seasonal
13 operations or by individual operations, or both.

14 (b) Incidental agricultural burning consistent with provisions
15 established in RCW 70.94.6524 (as recodified by this act) is allowed
16 without applying for any permit and without the payment of any fee.

17 (2) The department of ecology, local air authorities, or a local
18 entity with delegated permit authority shall:

19 (a) Condition all permits to ensure that the public interest in
20 air, water, and land pollution and safety to life and property is
21 fully considered;

22 (b) Condition all burning permits to minimize air pollution
23 insofar as practical;

24 (c) Act upon, within seven days from the date an application is
25 filed under this section, an application for a permit to set fires in
26 the course of agricultural burning for controlling diseases, insects,
27 weed abatement, or development of physiological conditions conducive
28 to increased crop yield;

29 (d) Provide convenient methods for issuance and oversight of
30 agricultural burning permits; and

31 (e) Work, through agreement, with counties and cities to provide
32 convenient methods for granting permission for agricultural burning,
33 including telephone, facsimile transmission, issuance from local city
34 or county offices, or other methods.

35 (3) A local air authority administering the permit program under
36 subsection (2) of this section shall not limit the number of days of
37 allowable agricultural burning, but may consider the time of year,
38 meteorological conditions, and other criteria specified in rules

1 adopted by the department to implement subsection (2) of this
2 section.

3 (4) In addition to following any other requirements established
4 by the department to protect air quality pursuant to other laws,
5 applicants for permits must show that the setting of fires as
6 requested is the most reasonable procedure to follow in safeguarding
7 life or property under all circumstances or is otherwise reasonably
8 necessary to successfully carry out the enterprise in which the
9 applicant is engaged, or both. Nothing in this section relieves the
10 applicant from obtaining permits, licenses, or other approvals
11 required by any other law.

12 (5) The department of ecology, the appropriate local air
13 authority, or a local entity with delegated permitting authority
14 pursuant to RCW 70.94.6530 (as recodified by this act) at the time
15 the permit is issued shall assess and collect permit fees for burning
16 under this section. All fees collected shall be deposited in the air
17 pollution control account created in RCW 70.94.015 (as recodified by
18 this act), except for that portion of the fee necessary to cover
19 local costs of administering a permit issued under this section. Fees
20 shall be set by rule by the permitting agency at the level determined
21 by the task force created by subsection (6) of this section, but fees
22 for field burning shall not exceed three dollars and seventy-five
23 cents per acre to be burned, or in the case of pile burning shall not
24 exceed one dollar per ton of material burned.

25 (6) An agricultural burning practices and research task force
26 shall be established under the direction of the department. The task
27 force shall be composed of a representative from the department who
28 shall serve as chair; one representative of eastern Washington local
29 air authorities; three representatives of the agricultural community
30 from different agricultural pursuits; one representative of the
31 department of agriculture; two representatives from universities or
32 colleges knowledgeable in agricultural issues; one representative of
33 the public health or medical community; and one representative of the
34 conservation districts. The task force shall:

35 (a) Identify best management practices for reducing air
36 contaminant emissions from agricultural activities and provide such
37 information to the department and local air authorities;

38 (b) Determine the level of fees to be assessed by the permitting
39 agency pursuant to subsection (5) of this section, based upon the
40 level necessary to cover the costs of administering and enforcing the

1 permit programs, to provide funds for research into alternative
2 methods to reduce emissions from such burning, and to the extent
3 possible be consistent with fees charged for such burning permits in
4 neighboring states. The fee level shall provide, to the extent
5 possible, for lesser fees for permittees who use best management
6 practices to minimize air contaminant emissions;

7 (c) Identify research needs related to minimizing emissions from
8 agricultural burning and alternatives to such burning; and

9 (d) Make recommendations to the department on priorities for
10 spending funds provided through this chapter for research into
11 alternative methods to reduce emissions from agricultural burning.

12 (7) Conservation districts and the Washington State University
13 agricultural extension program in conjunction with the department
14 shall develop public education material for the agricultural
15 community identifying the health and environmental effects of
16 agricultural outdoor burning and providing technical assistance in
17 alternatives to agricultural outdoor burning.

18 (8)(a) Outdoor burning that is normal, necessary, and customary
19 to ongoing agricultural activities, that is consistent with
20 agricultural burning authorized under this section and RCW 70.94.6532
21 (as recodified by this act), is allowed within the urban growth area
22 as described in RCW 70.94.6514 (as recodified by this act) if the
23 burning is not conducted during air quality episodes, or where a
24 determination of impaired air quality has been made as provided in
25 RCW 70.94.473 (as recodified by this act), and the agricultural
26 activities preceded the designation as an urban growth area.

27 (b) Outdoor burning of cultivated orchard trees, whether or not
28 agricultural crops will be replanted on the land, shall be allowed as
29 an ongoing agricultural activity under this section if a local
30 horticultural pest and disease board formed under chapter 15.09 RCW,
31 an extension office agent with Washington State University that has
32 horticultural experience, or an entomologist employed by the
33 department of agriculture, has determined in writing that burning is
34 an appropriate method to prevent or control the spread of
35 horticultural pests or diseases.

36 **Sec. 1132.** RCW 70.94.6530 and 2009 c 118 s 402 are each amended
37 to read as follows:

38 Whenever an air pollution control authority, or the department of
39 ecology for areas outside the jurisdictional boundaries of an

1 activated air pollution control authority, shall find that any fire
2 protection agency, county, or conservation district is capable of
3 effectively administering the issuance and enforcement of permits for
4 any or all of the kinds of burning identified in RCW 70.94.6528,
5 70.94.6546, and 70.94.6552 (as recodified by this act) and desirous
6 of doing so, the authority or the department of ecology, as
7 appropriate, may delegate powers necessary for the issuance or
8 enforcement, or both, of permits for any or all of the kinds of
9 burning to the fire protection agency, county, or conservation
10 district. Such delegation may be withdrawn by the authority or the
11 department of ecology upon finding that the fire protection agency,
12 county, or conservation district is not effectively administering the
13 permit program.

14 **Sec. 1133.** RCW 70.94.6532 and 2012 c 198 s 1 are each amended to
15 read as follows:

16 It is hereby declared to be the policy of this state that strong
17 efforts should be made to minimize adverse effects on air quality
18 from the open burning of field and turf grasses grown for seed. To
19 such end this section is intended to promote the development of
20 economical and practical alternate agricultural practices to such
21 burning, and to provide for interim regulation of such burning until
22 practical alternates are found.

23 (1) The department shall approve of a study or studies for the
24 exploration and identification of economical and practical alternate
25 agricultural practices to the open burning of field and turf grasses
26 grown for seed. Any study conducted pursuant to this section shall be
27 conducted by Washington State University. The university may not
28 charge more than eight percent for administrative overhead. Prior to
29 the issuance of any permit for such burning under RCW 70.94.6528 (as
30 recodified by this act), there shall be collected a fee not to exceed
31 one dollar per acre of crop to be burned. Any such fees received by
32 any authority shall be transferred to the department of ecology. The
33 department of ecology shall deposit all such acreage fees in the
34 general fund.

35 (2) The department shall allocate moneys annually for the support
36 of any approved study or studies as provided for in subsection (1) of
37 this section. The fee collected under subsection (1) of this section
38 shall constitute the research portion of fees required under RCW

1 70.94.6528 (as recodified by this act) for open burning of grass
2 grown for seed.

3 (3) Whenever on the basis of information available to it, the
4 department after public hearings have been conducted wherein
5 testimony will be received and considered from interested parties
6 wishing to testify shall conclude that any procedure, program,
7 technique, or device constitutes a practical alternate agricultural
8 practice to the open burning of field or turf grasses grown for seed,
9 the department shall, by order, certify approval of such alternate.
10 Thereafter, in any case which any such approved alternate is
11 reasonably available, the open burning of field and turf grasses
12 grown for seed shall be disallowed and no permit shall issue
13 therefor.

14 (4) Until approved alternates become available, the department or
15 the authority may limit the number of acres on a pro rata basis among
16 those affected for which permits to burn will be issued in order to
17 effectively control emissions from this source.

18 (5) Permits issued for burning of field and turf grasses may be
19 conditioned to minimize emissions insofar as practical, including
20 denial of permission to burn during periods of adverse meteorological
21 conditions.

22 (6) Every two years until grass seed burning is prohibited,
23 Washington State University may prepare a brief report assessing the
24 potential of the university's research to result in economical and
25 practical alternatives to grass seed burning.

26 **Sec. 1134.** RCW 70.94.6534 and 2019 c 305 s 5 are each amended to
27 read as follows:

28 (1) The department of natural resources is responsible for
29 issuing and regulating burning permits required by it relating to the
30 following activities for the protection of life or property and for
31 the public health, safety, and welfare:

32 (a) Abating or prevention of a forest fire hazard;

33 (b) Reducing the risk of a wildfire under RCW 70.94.6514(5) (as
34 recodified by this act);

35 (c) Instruction of public officials in methods of forest
36 firefighting;

37 (d) Any silvicultural operation to improve the forestlands of the
38 state, including but not limited to forest health and resiliency,
39 decreasing forest insect or disease susceptibility, maintaining or

1 restoring native vegetation, or otherwise enhancing resiliency to
2 fire; and

3 (e) Silvicultural burning used to improve or maintain fire
4 dependent ecosystems for rare plants or animals within state,
5 federal, and private natural area preserves, natural resource
6 conservation areas, parks, and other wildlife areas.

7 (2) The department of natural resources shall not retain such
8 authority, but it shall be the responsibility of the appropriate fire
9 protection agency for permitting and regulating outdoor burning on
10 lands where the department of natural resources does not have fire
11 protection responsibility, except for the issuance of permits for
12 reducing the risk of wildfire under RCW 70.94.6514(5) (as recodified
13 by this act). The department of natural resources may enter into
14 cooperative agreements with local fire protection agencies to issue
15 permits for reducing wildfire risk under RCW 70.94.6514(5) (as
16 recodified by this act).

17 (3) Permit fees shall be assessed for wildfire risk reduction and
18 for silvicultural burning under the jurisdiction of the department of
19 natural resources and collected by the department of natural
20 resources as provided for in this section. All fees shall be
21 deposited in the air pollution control account, created in RCW
22 70.94.015 (as recodified by this act). The legislature shall
23 appropriate to the department of natural resources funds from the air
24 pollution control account to enforce and administer the program under
25 this section and RCW 70.94.6536, 70.94.6538, and 70.94.6540 (as
26 recodified by this act). Fees shall be set by rule by the department
27 of natural resources at the level necessary to cover the costs of the
28 program after receiving recommendations on such fees from the public.

29 **Sec. 1135.** RCW 70.94.6538 and 2019 c 305 s 7 are each amended to
30 read as follows:

31 The department of natural resources, in granting burning permits
32 for fires for the purposes set forth in RCW 70.94.6534 (as recodified
33 by this act), shall condition the issuance and use of such permits to
34 comply to the extent feasible with air quality standards established
35 by the department of ecology. Such burning shall not cause the state
36 air quality standards to be exceeded in the ambient air up to two
37 thousand feet above ground level over critical areas designated by
38 the department of ecology, otherwise subject to air pollution from
39 other sources. Air quality standards shall be established and

1 published by the department of ecology which shall also establish a
2 procedure for advising the department of natural resources when and
3 where air contaminant levels exceed or threaten to exceed the ambient
4 air standards over such critical areas. The air quality shall be
5 quantitatively measured by the department of ecology or the
6 appropriate local air pollution control authority at established
7 monitoring stations over such designated areas. Further, such
8 permitted burning shall not cause damage to public health or the
9 environment. All permits issued under this section shall be subject
10 to all applicable fees, permitting, penalty, and enforcement
11 provisions of this chapter. The department of natural resources shall
12 set forth smoke dispersal objectives designed consistent with this
13 section to minimize any air pollution from such burning and the
14 procedures necessary to meet those objectives.

15 The department of natural resources shall encourage more intense
16 utilization in logging and alternative silviculture practices to
17 reduce the need for burning. The department of natural resources
18 shall, whenever practical, encourage landowners to develop and use
19 alternative acceptable disposal methods subject to the following
20 priorities: (1) Slash production minimization, (2) slash utilization,
21 (3) nonburning disposal, (4) silvicultural burning. Such alternative
22 methods shall be evaluated as to the relative impact on air, water,
23 and land pollution, public health, and their financial feasibility.

24 The department of natural resources shall not issue burning
25 permits and shall revoke previously issued permits at any time in any
26 area where the department of ecology or local board has declared a
27 stage of impaired air quality as defined in RCW 70.94.473 (as
28 recodified by this act).

29 **Sec. 1136.** RCW 70.94.6540 and 2009 c 118 s 503 are each amended
30 to read as follows:

31 In the regulation of outdoor burning not included in RCW
32 70.94.6534 (as recodified by this act) requiring permits from the
33 department of natural resources, said department and the state,
34 local, or regional air pollution control authorities will cooperate
35 in regulating such burning so as to minimize insofar as possible
36 duplicate inspections and separate permits while still accomplishing
37 the objectives and responsibilities of the respective agencies. The
38 department of natural resources shall include any local authority's
39 burning regulations with permits issued where applicable pursuant to

1 RCW 70.94.6512, 70.94.6514, 70.94.6518, 70.94.6520, 70.94.6522,
2 70.94.6524, and 70.94.6526 (as recodified by this act). The
3 department shall develop agreements with all local authorities to
4 coordinate regulations.

5 Permits shall be withheld by the department of natural resources
6 when so requested by the department of ecology if a forecast, alert,
7 warning, or emergency condition exists as defined in the episode
8 criteria of the department of ecology.

9 **Sec. 1137.** RCW 70.94.6542 and 2009 c 118 s 504 are each amended
10 to read as follows:

11 The department of natural resources and the department of ecology
12 may adopt rules necessary to implement their respective
13 responsibilities under the provisions of RCW 70.94.6528, 70.94.6530,
14 70.94.6532, 70.94.6534, 70.94.6536, 70.94.6538, 70.94.6540,
15 70.94.6542, and 70.94.6544 (as recodified by this act).

16 **Sec. 1138.** RCW 70.94.6546 and 2009 c 118 s 601 are each amended
17 to read as follows:

18 (1) Aircraft crash rescue fire training activities meeting the
19 following conditions do not require a permit under this section, or
20 under RCW 70.94.6512, 70.94.6514, 70.94.6516, 70.94.6518, 70.94.6520,
21 70.94.6522, 70.94.6524, and 70.94.6526 (as recodified by this act),
22 from an air pollution control authority, the department, or any local
23 entity with delegated permit authority:

24 (a) Firefighters participating in the training fires must be
25 limited to those who provide firefighting support to an airport that
26 is either certified by the federal aviation administration or
27 operated in support of military or governmental activities;

28 (b) The fire training may not be conducted during an air
29 pollution episode or any stage of impaired air quality declared under
30 RCW 70.94.715 (as recodified by this act) for the area where training
31 is to be conducted;

32 (c) The number of training fires allowed per year without a
33 permit shall be the minimum number necessary to meet federal aviation
34 administration or other federal safety requirements;

35 (d) The facility shall use current technology and be operated in
36 a manner that will minimize, to the extent possible, the air
37 contaminants generated during operation; and

1 (e) The organization conducting training shall notify both the:
2 (i) Local fire district or fire department; and (ii) air pollution
3 control authority, department of ecology, or local entity delegated
4 permitting authority under RCW 70.94.6530 (as recodified by this
5 act), having jurisdiction within the area where training is to be
6 conducted before the commencement of aircraft fire training. Written
7 approval from the department or a local air pollution control
8 authority shall be obtained prior to the initial operation of
9 aircraft crash rescue fire training. Such approval will be granted to
10 fire training activities meeting the conditions in this subsection.

11 (2) Aircraft crash rescue fire training activities conducted in
12 compliance with subsection (1) of this section are not subject to the
13 prohibition, in RCW 70.94.6512(1) (as recodified by this act), of
14 outdoor fires containing petroleum products and are not considered
15 outdoor burning under RCW 70.94.6512, 70.94.6514, 70.94.6516,
16 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, and 70.94.6526 (as
17 recodified by this act).

18 (3) Training to fight structural fires located outside urban
19 growth areas in counties that plan under the requirements of RCW
20 36.70A.040 and outside of any city with a population of ten thousand
21 or more in all other counties does not need a permit under this
22 section from an air pollution control authority or the department of
23 ecology, but must be conducted in accordance with RCW 52.12.150.

24 (4) Training to fight forest fires does not require a permit from
25 an air pollution control authority or the department of ecology.

26 (5) To provide for firefighting instruction in instances not
27 governed by subsections (1) through (3) of this section, or other
28 actions to protect public health and safety, the department or a
29 local air pollution control authority may issue permits that allow
30 limited burning of prohibited materials listed in RCW 70.94.6512(1)
31 (as recodified by this act).

32 **Sec. 1139.** RCW 70.94.6548 and 2009 c 118 s 701 are each amended
33 to read as follows:

34 Consistent with RCW 70.94.6514 (as recodified by this act),
35 outdoor burning may be allowed anywhere in the state for the
36 exclusive purpose of managing storm or flood-related debris.

37 **Sec. 1140.** RCW 70.94.6552 and 2009 c 118 s 704 are each amended
38 to read as follows:

1 Any person who proposes to set fires in the course of weed
2 abatement shall obtain a permit from an air pollution control
3 authority, the department of ecology, or a local entity delegated
4 permitting authority under RCW 70.94.6530 (as recodified by this
5 act). General permit criteria of statewide applicability shall be
6 established by the department, by rule, after consultation with the
7 various air pollution control authorities. Permits shall be issued
8 under this section based on seasonal operations or by individual
9 operations, or both. All permits shall be conditioned to insure that
10 the public interest in air, water, and land pollution and safety to
11 life and property is fully considered. In addition to any other
12 requirements established by the department to protect air quality
13 pursuant to other laws, applicants for permits must show that the
14 setting of fires as requested is the most reasonable procedure to
15 follow in safeguarding life or property under all circumstances or is
16 otherwise reasonably necessary to successfully carry out the
17 enterprise in which the applicant is engaged, or both. All burning
18 permits will be designed to minimize air pollution insofar as
19 practical. Nothing in this section relieves the applicant from
20 obtaining permits, licenses, or other approvals required by any other
21 law. An application for a permit to set fires in the course of weed
22 abatement shall be acted upon within seven days from the date such
23 application is filed.

24 **Sec. 1141.** RCW 70.94.6554 and 2009 c 118 s 705 are each amended
25 to read as follows:

26 Consistent with RCW 70.94.6524 (as recodified by this act),
27 neither a permit nor the payment of a fee shall be required for
28 outdoor burning for the purpose of disposal of tumbleweeds blown by
29 wind. Such burning shall not be conducted during an air pollution
30 episode or any stage of impaired air quality declared under RCW
31 70.94.715 (as recodified by this act). This section shall only apply
32 within counties with a population less than two hundred fifty
33 thousand.

34 **Sec. 1142.** RCW 70.94.6556 and 2018 c 147 s 1 are each amended to
35 read as follows:

36 (1) A city or town that is located partially inside a quarantine
37 area for apple maggot (*Rhagoletis pomonella*) established by the
38 Washington state department of agriculture may apply for a permit

1 pursuant to RCW 70.94.6528 (as recodified by this act) for the
2 burning of brush and yard waste generated within the city or town,
3 provided that the city or town satisfies the following requirements:

4 (a) Burning must be conducted by city or town employees, by
5 contractors under the supervision of city or town employees, or by
6 the city or town fire department or other local fire officials;

7 (b) Burning must be conducted under the supervision of the city
8 or town fire department or other local fire officials and in
9 consultation with the department of agriculture and the department of
10 ecology or an air pollution control authority, as applicable;

11 (c) Burning must not be conducted more than four times per
12 calendar year; and

13 (d) The city or town must issue a media advisory announcing any
14 burning conducted under this section prior to engaging in any such
15 burning.

16 (2) The department and the department of agriculture are directed
17 to submit to the appropriate policy committees of the legislature no
18 later than November 1, 2018, a report that addresses the available
19 options for the processing and disposal of municipal yard waste
20 generated in areas subject to the apple maggot quarantine, including:

21 (a) Techniques that neutralize any apple maggot larvae that may
22 be contained within such yard waste;

23 (b) Identification of facilities that are capable of receiving
24 such yard waste;

25 (c) Alternatives to outdoor burning, such as composting,
26 chipping, biochar production, and biomass electrical generation; and

27 (d) A comparison of the costs of such alternatives.

28 (3) This section expires July 1, 2020.

29 **Sec. 1143.** RCW 70.94.715 and 2012 c 117 s 409 are each amended
30 to read as follows:

31 The department of ecology is hereby authorized to develop an
32 episode avoidance plan providing for the phased reduction of
33 emissions wherever and whenever an air pollution episode is forecast.
34 Such an episode avoidance plan shall conform with any applicable
35 federal standards and shall be effective statewide. The episode
36 avoidance plan may be implemented on an area basis in accordance with
37 the occurrence of air pollution episodes in any given area.

38 The department of ecology may delegate authority to adopt source
39 emission reduction plans and authority to implement all stages of

1 occurrence up to and including the warning stage, and all
2 intermediate stages up to the warning stage, in any area of the
3 state, to the air pollution control authority with jurisdiction
4 therein.

5 The episode avoidance plan, which shall be established by
6 regulation in accordance with chapter 34.05 RCW, shall include, but
7 not be limited to, the following:

8 (1) The designation of episode criteria and stages, the
9 occurrence of which will require the carrying out of preplanned
10 episode avoidance procedures. The stages of occurrence shall be (a)
11 forecast, (b) alert, (c) warning, (d) emergency, and such
12 intermediate stages as the department shall designate. "Forecast"
13 means the presence of meteorological conditions that are conducive to
14 accumulation of air contaminants and is the first stage of an
15 episode. The department shall not call a forecast episode prior to
16 the department or an authority calling a first stage impaired air
17 quality condition as provided by RCW 70.94.473(1)(b) (as recodified
18 by this act) or calling a single-stage impaired air quality condition
19 as provided by RCW 70.94.473(~~(+2)~~) (as recodified by this act).
20 "Alert" means concentration of air contaminants at levels at which
21 short-term health effects may occur, and is the second stage of an
22 episode. "Warning" means concentrations are continuing to degrade,
23 contaminant concentrations have reached a level which, if maintained,
24 can result in damage to health, and additional control actions are
25 needed and is the third level of an episode. "Emergency" means the
26 air quality is posing an imminent and substantial endangerment to
27 public health and is the fourth level of an episode;

28 (2) The requirement that persons responsible for the operation of
29 air contaminant sources prepare and obtain approval from the director
30 of source emission reduction plans, consistent with good operating
31 practice and safe operating procedures, for reducing emissions during
32 designated episode stages;

33 (3) Provision for the director of the department of ecology or
34 his or her authorized representative, or the air pollution control
35 officer if implementation has been delegated, on the satisfaction of
36 applicable criteria, to declare and terminate the forecast, alert,
37 warning and all intermediate stages, up to the warning episode stage,
38 such declarations constituting orders for action in accordance with
39 applicable source emission reduction plans;

1 (4) Provision for the governor to declare and terminate the
2 emergency stage and all intermediate stages above the warning episode
3 stage, such declarations constituting orders in accordance with
4 applicable source emission reduction plans;

5 (5) Provisions for enforcement by state and local police,
6 personnel of the departments of ecology and social and health
7 services, and personnel of local air pollution control agencies; and

8 (6) Provisions for reduction or discontinuance of emissions
9 immediately, consistent with good operating practice and safe
10 operating procedures, under an air pollution emergency as provided in
11 RCW 70.94.720 (as recodified by this act).

12 Source emission reduction plans shall be considered orders of the
13 department and shall be subject to appeal to the pollution control
14 hearings board according to the procedure in chapter 43.21B RCW.

15 **Sec. 1144.** RCW 70.94.725 and 1971 ex.s. c 194 s 4 are each
16 amended to read as follows:

17 Whenever any order has been issued pursuant to RCW 70.94.710
18 through 70.94.730 (as recodified by this act), the attorney general,
19 upon request from the governor, the director of the department of
20 ecology, an authorized representative of either, or the attorney for
21 a local air pollution control authority upon request of the control
22 officer, shall petition the superior court of the county in which is
23 located the air contaminant source for which such order was issued
24 for a temporary restraining order requiring the immediate reduction
25 or discontinuance of emissions from such source.

26 Upon request of the party to whom a temporary restraining order
27 is directed, the court shall schedule a hearing thereon at its
28 earliest convenience, at which time the court may withdraw the
29 restraining order or grant such temporary injunction as is reasonably
30 necessary to prevent injury to the public health or safety.

31 **Sec. 1145.** RCW 70.94.730 and 1971 ex.s. c 194 s 5 are each
32 amended to read as follows:

33 Orders issued to declare any stage of an air pollution episode
34 avoidance plan under RCW 70.94.715 (as recodified by this act), and
35 to declare an air pollution emergency, under RCW 70.94.720 (as
36 recodified by this act), and orders to persons responsible for the
37 operation of an air contaminant source to reduce or discontinue
38 emissions, according to RCW 70.94.715 and 70.94.720 (as recodified by

1 this act) shall be effective immediately and shall not be stayed
2 pending completion of review.

3 **Sec. 1146.** RCW 70.94.785 and 1973 1st ex.s. c 193 s 11 are each
4 amended to read as follows:

5 Notwithstanding any provision of the law to the contrary, except
6 RCW ((~~70.94.660 through 70.94.690~~)) 70.94.6534 through 70.94.6540 (as
7 recodified by this act), the department of ecology, upon its approval
8 of any plan (or part thereof) required or permitted under the federal
9 clean air act, shall have the authority to enforce all regulatory
10 provisions within such plan (or part thereof): PROVIDED, That
11 departmental enforcement of any such provision which is within the
12 power of an activated authority to enforce shall be initiated only,
13 when with respect to any source, the authority is not enforcing the
14 provisions and then only after written notice is given the authority.

15 **Sec. 1147.** RCW 70.94.805 and 1985 c 456 s 2 are each amended to
16 read as follows:

17 As used in RCW 70.94.800 through ((~~70.94.825~~)) 70.94.820 (as
18 recodified by this act), the following terms have the following
19 meanings.

20 (1) "Acid deposition" means wet or dry deposition from the
21 atmosphere of chemical compounds with a pH of less than 5.6.

22 (2) "Critical level of acid deposition and lake, stream, and soil
23 acidification" means the level at which irreparable damage may occur
24 unless corrective action is taken.

25 **Sec. 1148.** RCW 70.94.850 and 1984 c 164 s 1 are each amended to
26 read as follows:

27 The department of ecology and the local boards may implement an
28 emission credits banking program. For the purposes of this section,
29 an emission credits banking program means a program whereby an air
30 contaminant source which reduces emissions of a given air contaminant
31 by an amount greater than that required by applicable law,
32 regulation, or order is granted credit for a given amount, which
33 credit shall be administered by a credit bank operated by the
34 appropriate agency. The amount of the credit shall be determined by
35 the department or local board with jurisdiction, but it shall be less
36 than the amount of the emissions reduction. The credit may be used,
37 traded, sold, or otherwise expended for purposes established by

1 regulation of state or local agencies consistent with the provisions
2 of the prevention of significant deterioration program under RCW
3 70.94.860 (as recodified by this act), the bubble program under RCW
4 70.94.155 (as recodified by this act), and the new source review
5 program under RCW 70.94.152 (as recodified by this act), if there
6 will be no net adverse impact on air quality.

7 **Sec. 1149.** RCW 70.94.892 and 2004 c 224 s 8 are each amended to
8 read as follows:

9 (1) For fossil-fueled electric generation facilities having more
10 than twenty-five thousand kilowatts station generating capability but
11 less than three hundred fifty thousand kilowatts station generation
12 capability, except for fossil-fueled floating thermal electric
13 generation facilities under the jurisdiction of the energy facility
14 site evaluation council pursuant to RCW 80.50.010, the department or
15 authority shall implement a carbon dioxide mitigation program
16 consistent with the requirements of chapter 80.70 RCW.

17 (2) For mitigation projects conducted directly by or under the
18 control of the applicant, the department or local air authority shall
19 approve or deny the mitigation plans, as part of its action to
20 approve or deny an application submitted under RCW 70.94.152 (as
21 recodified by this act) based upon whether or not the mitigation plan
22 is consistent with the requirements of chapter 80.70 RCW.

23 (3) The department or authority may determine, assess, and
24 collect fees sufficient to cover the costs to review and approve or
25 deny the carbon dioxide mitigation plan components of an order of
26 approval issued under RCW 70.94.152 (as recodified by this act). The
27 department or authority may also collect fees sufficient to cover its
28 additional costs to monitor conformance with the carbon dioxide
29 mitigation plan components of the registration and air operating
30 permit programs authorized in RCW 70.94.151 and 70.94.161 (as
31 recodified by this act). The department or authority shall track its
32 costs related to review, approval, and monitoring conformance with
33 carbon dioxide mitigation plans.

34 **Sec. 1150.** RCW 70.94.960 and 1996 c 186 s 517 are each amended
35 to read as follows:

36 The department may disburse matching grants from funds provided
37 by the legislature from the air pollution control account, created in
38 RCW 70.94.015 (as recodified by this act), to units of local

1 government to partially offset the additional cost of purchasing
2 "clean fuel" and/or operating "clean-fuel vehicles" provided that
3 such vehicles are used for public transit. Publicly owned school
4 buses are considered public transit for the purposes of this section.
5 The department may also disburse grants to vocational-technical
6 institutes for the purpose of establishing programs to certify clean-
7 fuel vehicle mechanics. The department may also distribute grants to
8 Washington State University for the purpose of furthering the
9 establishment of clean fuel refueling infrastructure.

10 **Sec. 1151.** RCW 70.94.990 and 1991 c 199 s 604 are each amended
11 to read as follows:

12 The department shall adopt rules to implement RCW 70.94.970 and
13 70.94.980 (as recodified by this act). Rules shall include but not be
14 limited to minimum performance specifications for refrigerant
15 extraction equipment, as well as procedures for enforcing RCW
16 70.94.970 and 70.94.980 (as recodified by this act).

17 Enforcement provisions adopted by the department shall not
18 include penalties or fines in areas where equipment to collect or
19 recycle regulated refrigerants is not readily available.

20 **Sec. 1152.** RCW 70.95.030 and 2010 1st sp.s. c 7 s 86 are each
21 amended to read as follows:

22 As used in this chapter, unless the context indicates otherwise:

23 (1) "City" means every incorporated city and town.

24 (2) "Commission" means the utilities and transportation
25 commission.

26 (3) "Composted material" means organic solid waste that has been
27 subjected to controlled aerobic degradation at a solid waste facility
28 in compliance with the requirements of this chapter. Natural decay of
29 organic solid waste under uncontrolled conditions does not result in
30 composted material.

31 (4) "Department" means the department of ecology.

32 (5) "Director" means the director of the department of ecology.

33 (6) "Disposal site" means the location where any final treatment,
34 utilization, processing, or deposit of solid waste occurs.

35 (7) "Energy recovery" means a process operating under federal and
36 state environmental laws and regulations for converting solid waste
37 into usable energy and for reducing the volume of solid waste.

1 (8) "Functional standards" means criteria for solid waste
2 handling expressed in terms of expected performance or solid waste
3 handling functions.

4 (9) "Incineration" means a process of reducing the volume of
5 solid waste operating under federal and state environmental laws and
6 regulations by use of an enclosed device using controlled flame
7 combustion.

8 (10) "Inert waste landfill" means a landfill that receives only
9 inert waste, as determined under RCW 70.95.065 (as recodified by this
10 act), and includes facilities that use inert wastes as a component of
11 fill.

12 (11) "Jurisdictional health department" means city, county, city-
13 county, or district public health department.

14 (12) "Landfill" means a disposal facility or part of a facility
15 at which solid waste is placed in or on land and which is not a land
16 treatment facility.

17 (13) "Local government" means a city, town, or county.

18 (14) "Modify" means to substantially change the design or
19 operational plans including, but not limited to, removal of a design
20 element previously set forth in a permit application or the addition
21 of a disposal or processing activity that is not approved in the
22 permit.

23 (15) "Multiple-family residence" means any structure housing two
24 or more dwelling units.

25 (16) "Person" means individual, firm, association, copartnership,
26 political subdivision, government agency, municipality, industry,
27 public or private corporation, or any other entity whatsoever.

28 (17) "Recyclable materials" means those solid wastes that are
29 separated for recycling or reuse, such as papers, metals, and glass,
30 that are identified as recyclable material pursuant to a local
31 comprehensive solid waste plan. Prior to the adoption of the local
32 comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2)
33 (as recodified by this act), local governments may identify
34 recyclable materials by ordinance from July 23, 1989.

35 (18) "Recycling" means transforming or remanufacturing waste
36 materials into usable or marketable materials for use other than
37 landfill disposal or incineration.

38 (19) "Residence" means the regular dwelling place of an
39 individual or individuals.

1 (20) "Sewage sludge" means a semisolid substance consisting of
2 settled sewage solids combined with varying amounts of water and
3 dissolved materials, generated from a wastewater treatment system,
4 that does not meet the requirements of chapter 70.95J RCW (as
5 recodified by this act).

6 (21) "Soil amendment" means any substance that is intended to
7 improve the physical characteristics of the soil, except composted
8 material, commercial fertilizers, agricultural liming agents,
9 unmanipulated animal manures, unmanipulated vegetable manures, food
10 wastes, food processing wastes, and materials exempted by rule of the
11 department, such as biosolids as defined in chapter 70.95J RCW (as
12 recodified by this act) and wastewater as regulated in chapter 90.48
13 RCW.

14 (22) "Solid waste" or "wastes" means all putrescible and
15 nonputrescible solid and semisolid wastes including, but not limited
16 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,
17 demolition and construction wastes, abandoned vehicles or parts
18 thereof, and recyclable materials.

19 (23) "Solid waste handling" means the management, storage,
20 collection, transportation, treatment, utilization, processing, and
21 final disposal of solid wastes, including the recovery and recycling
22 of materials from solid wastes, the recovery of energy resources from
23 solid wastes or the conversion of the energy in solid wastes to more
24 useful forms or combinations thereof.

25 (24) "Source separation" means the separation of different kinds
26 of solid waste at the place where the waste originates.

27 (25) "Vehicle" includes every device physically capable of being
28 moved upon a public or private highway, road, street, or watercourse
29 and in, upon, or by which any person or property is or may be
30 transported or drawn upon a public or private highway, road, street,
31 or watercourse, except devices moved by human or animal power or used
32 exclusively upon stationary rails or tracks.

33 (26) "Waste-derived soil amendment" means any soil amendment as
34 defined in this chapter that is derived from solid waste as defined
35 in this section, but does not include biosolids or biosolids products
36 regulated under chapter 70.95J RCW (as recodified by this act) or
37 wastewaters regulated under chapter 90.48 RCW.

38 (27) "Waste reduction" means reducing the amount or toxicity of
39 waste generated or reusing materials.

1 (28) "Yard debris" means plant material commonly created in the
2 course of maintaining yards and gardens, and through horticulture,
3 gardening, landscaping, or similar activities. Yard debris includes
4 but is not limited to grass clippings, leaves, branches, brush,
5 weeds, flowers, roots, windfall fruit, vegetable garden debris,
6 holiday trees, and tree prunings four inches or less in diameter.

7 **Sec. 1153.** RCW 70.95.065 and 2004 c 101 s 2 are each amended to
8 read as follows:

9 (1) The department shall, as part of the minimum functional
10 standards for solid waste handling required under RCW 70.95.060 (as
11 recodified by this act), develop specific criteria for the types of
12 solid wastes that are allowed to be received by inert waste landfills
13 that seek to continue operation after February 10, 2003.

14 (2) The criteria for inert waste developed under this section
15 must, at a minimum, contain a list of substances that an inert waste
16 landfill located in a county with fewer than forty-five thousand
17 residents is permitted to receive if it was operational before
18 February 10, 2003, and is located at a site with a five-year annual
19 rainfall of twenty-five inches or less. The substances permitted for
20 the inert waste landfills satisfying the criteria listed in this
21 subsection must include the following types of solid waste if the
22 waste has not been tainted, through exposure from chemical, physical,
23 biological, or radiological substances, such that it presents a
24 threat to human health or the environment greater than that inherent
25 to the material:

26 (a) Cured concrete, including any embedded steel reinforcing and
27 wood;

28 (b) Asphaltic materials, including road construction asphalt;

29 (c) Brick and masonry;

30 (d) Ceramic materials produced from fired clay or porcelain;

31 (e) Glass;

32 (f) Stainless steel and aluminum; and

33 (g) Other materials as defined in chapter 173-350 WAC.

34 (3) The department shall work with the owner or operators of
35 landfills that do not meet the minimum functional standards for inert
36 waste landfills to explore and implement appropriate means of
37 transition into a limited purpose landfill that is able to accept
38 additional materials as specified in WAC 173-350-400.

1 **Sec. 1154.** RCW 70.95.090 and 2019 c 255 s 4 and 2019 c 166 s 6
2 are each reenacted and amended to read as follows:

3 Each county and city comprehensive solid waste management plan
4 shall include the following:

5 (1) A detailed inventory and description of all existing solid
6 waste handling facilities including an inventory of any deficiencies
7 in meeting current solid waste handling needs.

8 (2) The estimated long-range needs for solid waste handling
9 facilities projected twenty years into the future.

10 (3) A program for the orderly development of solid waste handling
11 facilities in a manner consistent with the plans for the entire
12 county which shall:

13 (a) Meet the minimum functional standards for solid waste
14 handling adopted by the department and all laws and regulations
15 relating to air and water pollution, fire prevention, flood control,
16 and protection of public health;

17 (b) Take into account the comprehensive land use plan of each
18 jurisdiction;

19 (c) Contain a six year construction and capital acquisition
20 program for solid waste handling facilities; and

21 (d) Contain a plan for financing both capital costs and
22 operational expenditures of the proposed solid waste management
23 system.

24 (4) A program for surveillance and control.

25 (5) A current inventory and description of solid waste collection
26 needs and operations within each respective jurisdiction which shall
27 include:

28 (a) Any franchise for solid waste collection granted by the
29 utilities and transportation commission in the respective
30 jurisdictions including the name of the holder of the franchise and
31 the address of his or her place of business and the area covered by
32 the franchise;

33 (b) Any city solid waste operation within the county and the
34 boundaries of such operation;

35 (c) The population density of each area serviced by a city
36 operation or by a franchised operation within the respective
37 jurisdictions;

38 (d) The projected solid waste collection needs for the respective
39 jurisdictions for the next six years.

1 (6) A comprehensive waste reduction and recycling element that,
2 in accordance with the priorities established in RCW 70.95.010 (as
3 recodified by this act), provides programs that (a) reduce the amount
4 of waste generated, (b) provide incentives and mechanisms for source
5 separation, and (c) establish recycling opportunities for the source
6 separated waste.

7 (7) The waste reduction and recycling element shall include the
8 following:

9 (a) Waste reduction strategies, which may include strategies to
10 reduce wasted food and food waste that are designed to achieve the
11 goals established in RCW 70.95.815(1) (as recodified by this act) and
12 that are consistent with the plan developed in RCW 70.95.815(3) (as
13 recodified by this act);

14 (b) Source separation strategies, including:

15 (i) Programs for the collection of source separated materials
16 from residences in urban and rural areas. In urban areas, these
17 programs shall include collection of source separated recyclable
18 materials from single and multiple-family residences, unless the
19 department approves an alternative program, according to the criteria
20 in the planning guidelines. Such criteria shall include: Anticipated
21 recovery rates and levels of public participation, availability of
22 environmentally sound disposal capacity, access to markets for
23 recyclable materials, unreasonable cost impacts on the ratepayer over
24 the six-year planning period, utilization of environmentally sound
25 waste reduction and recycling technologies, and other factors as
26 appropriate. In rural areas, these programs shall include but not be
27 limited to drop-off boxes, buy-back centers, or a combination of
28 both, at each solid waste transfer, processing, or disposal site, or
29 at locations convenient to the residents of the county. The drop-off
30 boxes and buy-back centers may be owned or operated by public,
31 nonprofit, or private persons;

32 (ii) Programs to monitor the collection of source separated waste
33 at nonresidential sites where there is sufficient density to sustain
34 a program;

35 (iii) Programs to collect yard waste and food waste, if the
36 county or city submitting the plan finds that there are adequate
37 markets or capacity for composted yard waste and food waste within or
38 near the service area to consume the majority of the material
39 collected; and

1 (iv) Programs to educate and promote the concepts of waste
2 reduction and recycling;

3 (c) Recycling strategies, including a description of markets for
4 recyclables, a review of waste generation trends, a description of
5 waste composition, a discussion and description of existing programs
6 and any additional programs needed to assist public and private
7 sector recycling, and an implementation schedule for the designation
8 of specific materials to be collected for recycling, and for the
9 provision of recycling collection services;

10 (d) Other information the county or city submitting the plan
11 determines is necessary.

12 (8) An assessment of the plan's impact on the costs of solid
13 waste collection. The assessment shall be prepared in conformance
14 with guidelines established by the utilities and transportation
15 commission. The commission shall cooperate with the Washington state
16 association of counties and the association of Washington cities in
17 establishing such guidelines.

18 (9) A review of potential areas that meet the criteria as
19 outlined in RCW 70.95.165 (as recodified by this act).

20 (10) A contamination reduction and outreach plan. The
21 contamination reduction and outreach plan must address reducing
22 contamination in recycling. Except for counties with a population of
23 twenty-five thousand or fewer, by July 1, 2021, a contamination
24 reduction and outreach plan must be included in each solid waste
25 management plan by a plan amendment or included when revising or
26 updating a solid waste management plan developed under this chapter.
27 Jurisdictions may adopt the state's contamination reduction and
28 outreach plan as developed under RCW 70.95.100 (as recodified by this
29 act) in lieu of creating their own plan. A recycling contamination
30 reduction and outreach plan must include the following:

31 (a) A list of actions for reducing contamination in recycling
32 programs for single-family and multiple-family residences, commercial
33 locations, and drop boxes depending on the jurisdictions system
34 components;

35 (b) A list of key contaminants identified by the jurisdiction or
36 identified by the department;

37 (c) A discussion of problem contaminants and the contaminants'
38 impact on the collection system;

39 (d) An analysis of the costs and other impacts associated with
40 contaminants to the recycling system; and

1 (e) An implementation schedule and details of how outreach is to
2 be conducted. Contamination reduction education methods may include
3 sharing community-wide messaging through newsletters, articles,
4 mailers, social media, web sites, or community events, informing
5 recycling drop box customers about contamination, and improving
6 signage.

7 **Sec. 1155.** RCW 70.95.092 and 1989 c 431 s 4 are each amended to
8 read as follows:

9 Levels of service shall be defined in the waste reduction and
10 recycling element of each local comprehensive solid waste management
11 plan and shall include the services set forth in RCW 70.95.090 (as
12 recodified by this act). In determining which service level is
13 provided to residential and nonresidential waste generators in each
14 community, counties and cities shall develop clear criteria for
15 designating areas as urban or rural. In designating urban areas,
16 local governments shall consider the planning guidelines adopted by
17 the department, total population, population density, and any
18 applicable land use or utility service plans.

19 **Sec. 1156.** RCW 70.95.095 and 2016 c 119 s 3 are each amended to
20 read as follows:

21 Upon receipt by the department of a preliminary draft plan as
22 provided in RCW 70.95.094 (as recodified by this act), the department
23 shall immediately provide a copy of the preliminary draft plan to the
24 department of agriculture. Within forty-five days after receiving the
25 preliminary draft plan, the department of agriculture shall review
26 the preliminary draft plan for compliance with chapter 17.24 RCW and
27 the rules adopted under that chapter. The department of agriculture
28 shall advise the local government submitting the preliminary draft
29 plan and the department of the result of the review.

30 **Sec. 1157.** RCW 70.95.100 and 2019 c 166 s 7 are each amended to
31 read as follows:

32 (1) The department or the commission, as appropriate, shall
33 provide to counties and cities technical assistance including, but
34 not limited to, planning guidelines, in the preparation, review, and
35 revision of solid waste management plans required by this chapter.
36 Guidelines prepared under this section shall be consistent with the
37 provisions of this chapter. Guidelines for the preparation of the

1 waste reduction and recycling element of the comprehensive solid
2 waste management plan shall be completed by the department by March
3 15, 1990. These guidelines shall provide recommendations to local
4 government on materials to be considered for designation as
5 recyclable materials. The state solid waste management plan prepared
6 pursuant to RCW 70.95.260 (as recodified by this act) shall be
7 consistent with these guidelines.

8 (2) The department shall be responsible for development and
9 implementation of a comprehensive statewide public information
10 program designed to encourage waste reduction, source separation, and
11 recycling by the public. The department shall operate a toll free
12 hotline to provide the public information on waste reduction and
13 recycling.

14 (3) The department shall provide technical assistance to local
15 governments in the development and dissemination of informational
16 materials and related activities to assure recognition of unique
17 local waste reduction and recycling programs.

18 (4) (a) The department must create and implement a statewide
19 recycling contamination reduction and outreach plan based on best
20 management practices for recycling, developed with stakeholder input
21 by July 1, 2020. Jurisdictions may use the statewide plan in lieu of
22 developing their own plan.

23 (b) The department must provide technical assistance and create
24 guidance to help local jurisdictions determine the extent of
25 contamination in their regional recycling and to develop
26 contamination reduction and outreach plans. Contamination means any
27 material not included on the local jurisdiction's acceptance list.

28 (c) Contamination reduction education methods may include sharing
29 community-wide messaging through newsletters, articles, mailers,
30 social media, web sites, or community events, informing recycling
31 drop box customers about contamination, and improving signage.

32 (d) The department must cite the sources of information that it
33 relied upon, including any peer-reviewed science, in the development
34 of the best management practices for recycling under (a) of this
35 subsection and the guidance developed under (b) of this subsection.

36 (5) Local governments shall make all materials and information
37 developed with the assistance grants provided under RCW 70.95.130 (as
38 recodified by this act) available to the department for potential use
39 in other areas of the state.

1 **Sec. 1158.** RCW 70.95.110 and 1991 c 298 s 4 are each amended to
2 read as follows:

3 (1) The comprehensive county solid waste management plans and any
4 comprehensive city solid waste management plans prepared in
5 accordance with RCW 70.95.080 (as recodified by this act) shall be
6 maintained in a current condition and reviewed and revised
7 periodically by counties and cities as may be required by the
8 department. Upon each review such plans shall be extended to show
9 long-range needs for solid waste handling facilities for twenty years
10 in the future, and a revised construction and capital acquisition
11 program for six years in the future. Each revised solid waste
12 management plan shall be submitted to the department.

13 Each plan shall be reviewed and revised within five years of July
14 1, 1984, and thereafter shall be reviewed, and revised if necessary
15 according to the schedule provided in subsection (2) of this section.

16 (2) Cities and counties preparing solid waste management plans
17 shall submit the waste reduction and recycling element required in
18 RCW 70.95.090 (as recodified by this act) and any revisions to other
19 elements of its comprehensive solid waste management plan to the
20 department no later than:

21 (a) July 1, 1991, for class one areas: PROVIDED, That portions
22 relating to multiple-family residences shall be submitted no later
23 than July 1, 1992;

24 (b) July 1, 1992, for class two areas; and

25 (c) July 1, 1994, for class three areas.

26 Thereafter, each plan shall be reviewed and revised, if
27 necessary, at least every five years. Nothing in chapter 431, Laws of
28 1989 shall prohibit local governments from submitting a plan prior to
29 the dates listed in this subsection.

30 (3) The classes of areas are defined as follows:

31 (a) Class one areas are the counties of Spokane, Snohomish, King,
32 Pierce, and Kitsap and all the cities therein.

33 (b) Class two areas are all other counties located west of the
34 crest of the Cascade mountains and all the cities therein.

35 (c) Class three areas are the counties east of the crest of the
36 Cascade mountains and all the cities therein, except for Spokane
37 county.

38 (4) Cities and counties shall begin implementing the programs to
39 collect source separated materials no later than one year following
40 the adoption and approval of the waste reduction and recycling

1 element and these programs shall be fully implemented within two
2 years of approval.

3 **Sec. 1159.** RCW 70.95.130 and 2019 c 166 s 8 are each amended to
4 read as follows:

5 Any county may apply to the department on a form prescribed
6 thereby for financial aid for the preparation and implementation of
7 the comprehensive county plan for solid waste management required by
8 RCW 70.95.080 (as recodified by this act), including contamination
9 reduction and outreach plans. Any city electing to prepare an
10 independent city plan, a joint city plan, or a joint county-city plan
11 for solid waste management for inclusion in the county comprehensive
12 plan may apply for financial aid for such purpose through the county.
13 Every city application for financial aid for planning shall be filed
14 with the county auditor and shall be included as a part of the
15 county's application for financial aid. Any city preparing an
16 independent plan shall provide for disposal sites wholly within its
17 jurisdiction.

18 The department shall allocate to the counties and cities applying
19 for financial aid for planning and implementation, including
20 contamination reduction and outreach plan development and
21 implementation, such funds as may be available pursuant to
22 legislative appropriations or from any federal grants for such
23 purpose.

24 The department shall determine priorities and allocate available
25 funds among the counties and cities applying for aid according to
26 criteria established by regulations of the department considering
27 population, urban development, environmental effects of waste
28 disposal, existing waste handling practices, and the local
29 justification of their proposed expenditures.

30 **Sec. 1160.** RCW 70.95.150 and 1969 ex.s. c 134 s 15 are each
31 amended to read as follows:

32 Upon the allocation of planning funds as provided in RCW
33 70.95.130 (as recodified by this act), the department shall enter
34 into a contract with each county receiving a planning grant. The
35 contract shall include such provisions as the director may deem
36 necessary to assure the proper expenditure of such funds including
37 allocations made to cities. The sum allocated to a county shall be
38 paid to the treasurer of such county.

1 **Sec. 1161.** RCW 70.95.160 and 1989 c 431 s 10 are each amended to
2 read as follows:

3 Each county, or any city, or jurisdictional board of health shall
4 adopt regulations or ordinances governing solid waste handling
5 implementing the comprehensive solid waste management plan covering
6 storage, collection, transportation, treatment, utilization,
7 processing and final disposal including but not limited to the
8 issuance of permits and the establishment of minimum levels and types
9 of service for any aspect of solid waste handling. County regulations
10 or ordinances adopted regarding levels and types of service shall not
11 apply within the limits of any city where the city has by local
12 ordinance determined that the county shall not exercise such powers
13 within the corporate limits of the city. Such regulations or
14 ordinances shall assure that solid waste storage and disposal
15 facilities are located, maintained, and operated in a manner so as
16 properly to protect the public health, prevent air and water
17 pollution, are consistent with the priorities established in RCW
18 70.95.010 (as recodified by this act), and avoid the creation of
19 nuisances. Such regulations or ordinances may be more stringent than
20 the minimum functional standards adopted by the department.
21 Regulations or ordinances adopted by counties, cities, or
22 jurisdictional boards of health shall be filed with the department.

23 Nothing in this section shall be construed to authorize the
24 operation of a solid waste collection system by counties.

25 **Sec. 1162.** RCW 70.95.167 and 1991 c 319 s 402 are each amended
26 to read as follows:

27 (1) Each local solid waste advisory committee shall conduct one
28 or more meetings for the purpose of determining how local private
29 recycling and solid waste collection businesses may participate in
30 the development and implementation of programs to collect source
31 separated materials from residences, and to process and market
32 materials collected for recycling. The meetings shall include local
33 private recycling businesses, private solid waste collection
34 companies operating within the jurisdiction, and the local solid
35 waste planning agencies. The meetings shall be held during the
36 development of the waste reduction and recycling element or no later
37 than one year prior to the date that a jurisdiction is required
38 ~~((~~to~~))~~ to submit the element under RCW 70.95.110(2) (as recodified
39 by this act).

1 (2) The meeting requirement under subsection (1) of this section
2 shall apply whenever a city or county develops or amends the waste
3 reduction and recycling element required under this chapter.
4 Jurisdictions having approved waste reduction and recycling elements
5 or having initiated a process for the selection of a service provider
6 as of May 21, 1991, do not have to comply with the requirements of
7 subsection (1) of this section until the next revisions to the waste
8 reduction and recycling element are made or required.

9 (3) After the waste reduction and recycling element is approved
10 by the local legislative authority but before it is submitted to the
11 department for approval, the local solid waste advisory committee
12 shall hold at least one additional meeting to review the element.

13 (4) For the purpose of this section, "private recycling business"
14 means any private for-profit or private not-for-profit business that
15 engages in the processing and marketing of recyclable materials.

16 **Sec. 1163.** RCW 70.95.170 and 2009 c 178 s 4 are each amended to
17 read as follows:

18 Except as provided otherwise in RCW 70.95.300, 70.95.305,
19 70.95.306, 70.95.310, or 70.95.330 (as recodified by this act), after
20 approval of the comprehensive solid waste plan by the department no
21 solid waste handling facility or facilities shall be maintained,
22 established, or modified until the county, city, or other person
23 operating such site has obtained a permit pursuant to RCW 70.95.180
24 or 70.95.190 (as recodified by this act).

25 **Sec. 1164.** RCW 70.95.185 and 1984 c 123 s 8 are each amended to
26 read as follows:

27 Every permit issued by a jurisdictional health department under
28 RCW 70.95.180 (as recodified by this act) shall be reviewed by the
29 department to ensure that the proposed site or facility conforms
30 with:

31 (1) All applicable laws and regulations including the minimal
32 functional standards for solid waste handling; and

33 (2) The approved comprehensive solid waste management plan.

34 The department shall review the permit within thirty days after
35 the issuance of the permit by the jurisdictional health department.
36 The department may appeal the issuance of the permit by the
37 jurisdictional health department to the pollution control hearings

1 board, as described in chapter 43.21B RCW, for noncompliance with
2 subsection (1) or (2) of this section.

3 No permit issued pursuant to RCW 70.95.180 (as recodified by this
4 act) after June 7, 1984, shall be considered valid unless it has been
5 reviewed by the department.

6 **Sec. 1165.** RCW 70.95.190 and 1998 c 156 s 4 are each amended to
7 read as follows:

8 (1) Every permit for an existing solid waste handling facility
9 issued pursuant to RCW 70.95.180 (as recodified by this act) shall be
10 renewed at least every five years on a date established by the
11 jurisdictional health department having jurisdiction of the site and
12 as specified in the permit. If a permit is to be renewed for longer
13 than one year, the local jurisdictional health department may hold a
14 public hearing before making such a decision. Prior to renewing a
15 permit, the health department shall conduct a review as it deems
16 necessary to assure that the solid waste handling facility or
17 facilities located on the site continues to meet minimum functional
18 standards of the department, applicable local regulations, and are
19 not in conflict with the approved solid waste management plan. A
20 jurisdictional health department shall approve or disapprove a permit
21 renewal within forty-five days of conducting its review. The
22 department shall review and may appeal the renewal as set forth for
23 the approval of permits in RCW 70.95.185 (as recodified by this act).

24 (2) The jurisdictional board of health may establish reasonable
25 fees for permits reviewed under this section. All permit fees
26 collected by the health department shall be deposited in the treasury
27 and to the account from which the health department's operating
28 expenses are paid.

29 **Sec. 1166.** RCW 70.95.205 and 2016 c 119 s 7 are each amended to
30 read as follows:

31 (1) Waste-derived soil amendments that meet the standards and
32 criteria in this section may apply for exemption from solid waste
33 permitting as required under RCW 70.95.170 (as recodified by this
34 act). The application shall be submitted to the department in a
35 format determined by the department or an equivalent format. The
36 application shall include:

37 (a) Analytical data showing that the waste-derived soil
38 amendments meet standards established under RCW 15.54.800; and

1 (b) Other information deemed appropriate by the department to
2 protect human health and the environment.

3 (2) After receipt of an application, the department shall review
4 it to determine whether the application is complete, and forward a
5 copy of the complete application to all interested jurisdictional
6 health departments and the department of agriculture for review and
7 comment. Within forty-five days, the jurisdictional health
8 departments and the department of agriculture shall forward their
9 comments and any other information they deem relevant to the
10 department, which shall then give final approval or disapproval of
11 the application. The department of agriculture's comments must be
12 limited to addressing whether approving the application risks
13 spreading disease, plant pathogens, or pests to areas that are not
14 under a quarantine, as defined in RCW 17.24.007. Every complete
15 application shall be approved or disapproved by the department within
16 ninety days after receipt.

17 (3) The department, after providing opportunity for comments from
18 the jurisdictional health departments and the department of
19 agriculture, may at any time revoke an exemption granted under this
20 section if the quality or use of the waste-derived soil amendment
21 changes or the management, storage, or end use of the waste-derived
22 soil amendment constitutes a threat to human health or the
23 environment.

24 (4) Any aggrieved party may appeal the determination by the
25 department in subsection (2) or (3) of this section to the pollution
26 control hearings board.

27 **Sec. 1167.** RCW 70.95.207 and 2018 c 196 s 24 are each amended to
28 read as follows:

29 An authorized collector regulated under chapter 69.48 RCW is not
30 required to obtain a permit under RCW 70.95.170 (as recodified by
31 this act) unless the authorized collector is required to obtain a
32 permit under RCW 70.95.170 (as recodified by this act) as a
33 consequence of activities that are not directly associated with the
34 collection facility's activities under chapter 69.48 RCW.

35 **Sec. 1168.** RCW 70.95.218 and 1993 c 286 s 2 are each amended to
36 read as follows:

37 (1) At least sixty days prior to receiving solid waste generated
38 from outside of the state, the operator of a solid waste disposal

1 site facility shall report to the department the types and quantities
2 of waste to be received from an out-of-state source. The department
3 shall develop guidelines for reporting this information. The
4 guidelines shall provide for less than sixty days notice for
5 shipments of waste made on a short-term or emergency basis. The
6 requirements of this subsection shall take effect upon completion of
7 the guidelines.

8 (2) Upon notice under subsection (1) of this section, the
9 department shall identify all activities and costs necessary to
10 ensure that solid waste generated out-of-state meets standards
11 relating to solid waste reduction, recycling, and management
12 substantially equivalent to those required of solid waste generated
13 within the state. The department may assess a fee on the out-of-state
14 waste sufficient to recover the actual costs incurred in ensuring
15 that the out-of-state waste meets equivalent state standards. The
16 department may delegate, to a local health department, authority to
17 implement the activities identified by the department under this
18 subsection. All money received from fees imposed under this
19 subsection shall be deposited into the (~~solid waste management~~)
20 account (~~created by RCW 70.95.800~~) used to fund the activities
21 required by this section, and shall be used solely for the activities
22 required by this section.

23 (3) The department may prohibit in-state disposal of solid waste
24 generated from outside of the state, unless the generators of the
25 waste meet: (a) Waste reduction and recycling requirements
26 substantially equivalent to those applicable in Washington state; and
27 (b) solid waste handling standards substantially equivalent to those
28 applicable in Washington state.

29 (4) The department may adopt rules to implement this section.

30 **Sec. 1169.** RCW 70.95.240 and 2011 c 279 s 1 are each amended to
31 read as follows:

32 (1) Except as otherwise provided in this section or at a solid
33 waste disposal site for which there is a valid permit, after the
34 adoption of regulations or ordinances by any county, city, or
35 jurisdictional board of health providing for the issuance of permits
36 as provided in RCW 70.95.160 (as recodified by this act), it is
37 unlawful for any person to dump or deposit or permit the dumping or
38 depositing of any solid waste onto or under the surface of the ground
39 or into the waters of this state.

1 (2) This section does not:

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

6 (b) Apply to a person using a waste-derived soil amendment that
7 has been approved by the department under RCW 70.95.205 (as
8 recodified by this act); or

9 (c) Apply to the application of commercial fertilizer that has
10 been registered with the department of agriculture as provided in RCW
11 15.54.325, and that is applied in accordance with the standards
12 established in RCW 15.54.800(3).

13 (3)(a) It is a class 3 civil infraction as defined in RCW
14 7.80.120 for a person to litter in an amount less than or equal to
15 one cubic foot.

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

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

23 (iii) The court shall distribute one-half of the restitution
24 payment to the landowner where the littering occurred and one-half of
25 the restitution payment to the jurisdictional health department
26 investigating the incident. If the landowner provided written
27 permission authorizing the littering on his or her property or
28 assisted a person with littering on the landowner's property, the
29 landowner is not entitled to any restitution ordered by the court and
30 the full litter cleanup restitution payment must be provided to the
31 jurisdictional health department investigating the incident.

32 (iv) A jurisdictional health department receiving all or a
33 portion of a litter cleanup restitution payment must use the payment
34 as follows:

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

38 (B) One-half of the payment must be used to assist property
39 owners located within the jurisdiction of the health department with
40 the removal and proper disposal of litter in instances when the

1 person responsible for the illegal dumping of the solid waste cannot
2 be determined.

3 (v) The court may, in addition to the litter cleanup restitution
4 payment, order the person to remove and properly dispose of the
5 litter from the property, with prior permission of the legal owner
6 or, in the case of public property, of the agency managing the
7 property. The court may suspend or modify the litter cleanup
8 restitution payment for a first-time offender under this section if
9 the person removes and properly disposes of the litter.

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

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

17 (iii) The court shall distribute one-half of the restitution
18 payment to the landowner where the littering occurred and one-half of
19 the restitution payment to the jurisdictional health department
20 investigating the incident. If the landowner provided written
21 permission authorizing the littering on his or her property or
22 assisted a person with littering on the landowner's property, the
23 landowner is not entitled to any restitution ordered by the court and
24 the full litter cleanup restitution payment must be provided to the
25 jurisdictional health department investigating the incident.

26 (iv) A jurisdictional health department receiving all or a
27 portion of a litter cleanup restitution payment must use the payment
28 as follows:

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

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

37 (v) The court may, in addition to the litter cleanup restitution
38 payment, order the person to remove and properly dispose of the
39 litter from the property, with prior permission of the legal owner
40 or, in the case of public property, of the agency managing the

1 property. The court may suspend or modify the litter cleanup
2 restitution payment for a first-time offender under this section if
3 the person removes and properly disposes of the litter.

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

8 (5) When enforcing this section, the enforcing authority must
9 take reasonable action to determine and identify the person
10 responsible for illegally dumping solid waste before requiring the
11 owner or lessee of the property where illegal dumping of solid waste
12 has occurred to remove and properly dispose of the litter on the
13 site.

14 **Sec. 1170.** RCW 70.95.250 and 1969 ex.s. c 134 s 25 are each
15 amended to read as follows:

16 Whenever solid wastes dumped in violation of RCW 70.95.240 (as
17 recodified by this act) contain three or more items bearing the name
18 of one individual, there shall be a rebuttable presumption that the
19 individual whose name appears on such items committed the unlawful
20 act of dumping.

21 **Sec. 1171.** RCW 70.95.270 and 1994 c 257 s 16 are each amended to
22 read as follows:

23 The procedural requirements of this chapter shall not apply to
24 any person conducting a remedial action at a facility pursuant to a
25 consent decree, order, or agreed order issued pursuant to chapter
26 70.105D RCW (as recodified by this act), or to the department of
27 ecology when it conducts a remedial action under chapter 70.105D RCW
28 (as recodified by this act). The department of ecology shall ensure
29 compliance with the substantive requirements of this chapter through
30 the consent decree, order, or agreed order issued pursuant to chapter
31 70.105D RCW (as recodified by this act), or during the department-
32 conducted remedial action, through the procedures developed by the
33 department pursuant to RCW 70.105D.090 (as recodified by this act).

34 **Sec. 1172.** RCW 70.95.280 and 1989 c 431 s 13 are each amended to
35 read as follows:

36 The department of ecology shall determine the best management
37 practices for categories of solid waste in accordance with the

1 priority solid waste management methods established in RCW 70.95.010
2 (as recodified by this act). In order to make this determination, the
3 department shall conduct a comprehensive solid waste stream analysis
4 and evaluation. Following establishment of baseline data resulting
5 from an initial in-depth analysis of the waste stream, the department
6 shall develop a less intensive method of monitoring the disposed
7 waste stream including, but not limited to, changes in the amount of
8 waste generated and waste type. The department shall monitor curbside
9 collection programs and other waste segregation and disposal
10 technologies to determine, to the extent possible, the effectiveness
11 of these programs in terms of cost and participation, their
12 applicability to other locations, and their implications regarding
13 rules adopted under this chapter. Persons who collect solid waste
14 shall annually report to the department the types and quantities of
15 solid waste that are collected and where it is delivered. The
16 department shall adopt guidelines for reporting and for keeping
17 proprietary information confidential.

18 **Sec. 1173.** RCW 70.95.285 and 1988 c 184 s 2 are each amended to
19 read as follows:

20 The comprehensive, statewide solid waste stream analysis under
21 RCW 70.95.280 (as recodified by this act) shall be based on
22 representative solid waste generation areas and solid waste
23 generation sources within the state. The following information and
24 evaluations shall be included:

- 25 (1) Solid waste generation rates for each category;
- 26 (2) The rate of recycling being achieved within the state for
27 each category of solid waste;
- 28 (3) The current and potential rates of solid waste reduction
29 within the state;
- 30 (4) A technological assessment of current solid waste reduction
31 and recycling methods and systems, including cost/benefit analyses;
- 32 (5) An assessment of the feasibility of segregating solid waste
33 at: (a) The original source, (b) transfer stations, and (c) the point
34 of final disposal;
- 35 (6) A review of methods that will increase the rate of solid
36 waste reduction; and
- 37 (7) An assessment of new and existing technologies that are
38 available for solid waste management including an analysis of the
39 associated environmental risks and costs.

1 The data required by the analysis under this section shall be
2 kept current and shall be available to local governments and the
3 waste management industry.

4 **Sec. 1174.** RCW 70.95.290 and 1988 c 184 s 3 are each amended to
5 read as follows:

6 (1) The evaluation of the solid waste stream required in RCW
7 70.95.280 (as recodified by this act) shall include the following
8 elements:

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

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

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

20 (2) The department shall give priority to evaluating categories
21 of solid waste that, in relation to other categories of solid waste,
22 comprise a large volume of the solid waste stream or present a high
23 potential of harm to human health. At a minimum the following
24 categories of waste shall be evaluated:

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

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

29 **Sec. 1175.** RCW 70.95.295 and 1988 c 184 s 4 are each amended to
30 read as follows:

31 The department shall incorporate the information from the
32 analysis and evaluation conducted under RCW 70.95.280 through
33 70.95.290 (as recodified by this act) to the state solid waste
34 management plan under RCW 70.95.260 (as recodified by this act). The
35 plan shall be revised periodically as the evaluation and analysis is
36 updated.

1 **Sec. 1176.** RCW 70.95.315 and 2016 c 119 s 8 are each amended to
2 read as follows:

3 (1) The department may assess a civil penalty in an amount not to
4 exceed one thousand dollars per day per violation to any person
5 exempt from solid waste permitting in accordance with RCW 70.95.205,
6 70.95.300, 70.95.305, 70.95.306, or 70.95.330 (as recodified by this
7 act) who fails to comply with the terms and conditions of the
8 exemption. Each such violation shall be a separate and distinct
9 offense, and in the case of a continuing violation, each day's
10 continuance shall be a separate and distinct violation. The penalty
11 provided in this section shall be imposed pursuant to RCW 43.21B.300.

12 (2) If a person violates a provision of any of the sections
13 referenced in subsection (1) of this section, the department may
14 issue an appropriate order to ensure compliance with the conditions
15 of the exemption. The order may be appealed pursuant to RCW
16 43.21B.310.

17 **Sec. 1177.** RCW 70.95.330 and 2009 c 178 s 1 are each amended to
18 read as follows:

19 (1) An anaerobic digester that complies with the conditions
20 specified in this section is exempt from the permitting requirements
21 of this chapter. To qualify for the exemption, an anaerobic digester
22 must meet the following conditions:

23 (a) The owner or operator must provide the department or the
24 jurisdictional health department with at least thirty days' notice of
25 intent to operate under the conditions specified in this section and
26 comply with any guidelines issued under subsection (2) of this
27 section;

28 (b) The anaerobic digester must process at least fifty percent
29 livestock manure by volume;

30 (c) The anaerobic digester may process no more than thirty
31 percent imported organic waste-derived material by volume, and must
32 comply with subsection (3) of this section;

33 (d) The anaerobic digester must comply with design and operating
34 standards in the natural resources conservation service's
35 conservation practice standard code 366 in effect as of July 26,
36 2009;

37 (e) Digestate must:

1 (i) Be managed in accordance with a dairy nutrient management
2 plan under chapter 90.64 RCW that includes elements addressing
3 management and use of digestate;

4 (ii) Meet compost quality standards concerning pathogens,
5 stability, nutrient testing, and metals before it is distributed for
6 off-site use, or be sent to an off-site permitted compost facility
7 for further treatment to meet compost quality standards; or

8 (iii) Be processed or managed in an alternate manner approved by
9 the department;

10 (f) The owner or operator must allow inspection by the department
11 or jurisdictional health department at reasonable times to verify
12 compliance with the conditions specified in this section; and

13 (g) The owner or operator must submit an annual report to the
14 department or the jurisdictional health department concerning use of
15 nonmanure material in the anaerobic digester and any required
16 compliance testing.

17 (2) By August 1, 2009, the department and the department of
18 agriculture, in consultation with the department of health, shall
19 make available to anaerobic digester owners and operators clearly
20 written guidelines for the anaerobic codigestion of livestock manure
21 and organic waste-derived material. The guidelines must explain the
22 steps necessary for an owner or operator to meet the conditions
23 specified in this section for an exemption from the permitting
24 requirements of this chapter.

25 (3) Any imported organic waste-derived material must:

26 (a) Be preconsumer in nature;

27 (b) Be fed into the anaerobic digester within thirty-six hours of
28 receipt at the anaerobic digester;

29 (c) If it is likely to contain animal by-products, be previously
30 source-separated at a facility licensed to process food by the United
31 States department of agriculture, the United States food and drug
32 administration, the Washington state department of agriculture, or
33 other applicable regulatory agency;

34 (d) If it contains bovine processing waste, be derived from
35 animals approved by the United States department of agriculture food
36 safety and inspection service and not contain any specified risk
37 material;

38 (e) If it contains sheep carcasses or sheep processing waste, not
39 be fed into the anaerobic digester;

1 (f) Be stored and handled in a manner that protects surface water
2 and groundwater and complies with best management practices;

3 (g) Be received or stored in structures that:

4 (i) Comply with the natural resources conservation service's
5 conservation practice standard code 313 in effect as of July 26,
6 2009;

7 (ii) Are certified to be effective by a representative of the
8 natural resources conservation service; or

9 (iii) Meet applicable construction industry standards adopted by
10 the American concrete institute or the American institute of steel
11 construction and in effect as of July 26, 2009; and

12 (h) Be managed to prevent migration of nuisance odors beyond
13 property boundaries and minimize attraction of flies, rodents, and
14 other vectors.

15 (4) Digestate that is managed in accordance with a dairy nutrient
16 management plan under chapter 90.64 RCW that includes elements
17 addressing management and use of digestate shall no longer be
18 considered a solid waste. Use of digestate from an anaerobic digester
19 that complies with the conditions specified in this section is exempt
20 from the permitting requirements of this chapter.

21 (5) An anaerobic digester that does not comply with the
22 conditions specified in this section may be subject to the permitting
23 requirements of this chapter. In addition, violations of the
24 conditions specified in this section are subject to provisions in RCW
25 70.95.315 (as recodified by this act).

26 (6) The definitions in this subsection apply throughout this
27 section unless the context clearly requires otherwise:

28 (a) "Anaerobic digester" means a vessel that processes organic
29 material into biogas and digestate using microorganisms in a
30 decomposition process within a closed, oxygen-free container.

31 (b) "Best management practices" means managerial practices that
32 prevent or reduce water pollution.

33 (c) "Digestate" means both solid and liquid substances that
34 remain following anaerobic digestion of organic material in an
35 anaerobic digester.

36 (d) "Imported" means originating off of the farm or other site
37 where the anaerobic digester is being operated.

38 (e) "Organic waste-derived material" has the same meaning as
39 defined in RCW 15.54.270 and any other organic wastes approved by the
40 department, except for organic waste-derived material collected

1 through municipal commercial and residential solid waste collection
2 programs.

3 **Sec. 1178.** RCW 70.95.400 and 2005 c 394 s 4 are each amended to
4 read as follows:

5 (1) For the purposes of this section and RCW 70.95.410 (as
6 recodified by this act), "transporter" means any person or entity
7 that transports recyclable materials from commercial or industrial
8 generators over the public highways of the state of Washington for
9 compensation, and who are required to possess a permit to operate
10 from the Washington utilities and transportation commission under
11 chapter 81.80 RCW. "Transporter" includes commercial recycling
12 operations of certificated solid waste collection companies as
13 provided in chapter 81.77 RCW. "Transporter" does not include:

14 (a) Carriers of commercial recyclable materials, when such
15 materials are owned or being bought or sold by the entity or person,
16 and being carried in their own vehicle, when such activity is
17 incidental to the conduct of an entity or person's primary business;

18 (b) Entities or persons hauling their own recyclables or hauling
19 recyclables they generated or purchased and transported in their own
20 vehicles;

21 (c) Nonprofit or charitable organizations collecting and
22 transporting recyclable materials from a buyback center, drop box, or
23 from a commercial or industrial generator of recyclable materials;

24 (d) City municipal solid waste departments or city solid waste
25 contractors; or

26 (e) Common carriers under chapter 81.80 RCW whose primary
27 business is not the transportation of recyclable materials.

28 (2) All transporters shall register with the department prior to
29 the transportation of recyclable materials. The department shall
30 supply forms for registration.

31 (3) A transporter who transports recyclable materials within the
32 state without a transporter registration required by this section is
33 subject to a civil penalty in an amount up to one thousand dollars
34 per violation.

35 **Sec. 1179.** RCW 70.95.420 and 2005 c 394 s 6 are each amended to
36 read as follows:

37 Any person damaged by a violation of RCW 70.95.400 through
38 70.95.440 (as recodified by this act) may bring a civil action for

1 such a violation by seeking either injunctive relief or damages, or
2 both, in the superior court of the county in which the violation took
3 place or in Thurston county. The prevailing party in such an action
4 is entitled to reasonable costs and attorneys' fees, including those
5 on appeal.

6 **Sec. 1180.** RCW 70.95.430 and 2005 c 394 s 7 are each amended to
7 read as follows:

8 (1) All facilities that recycle solid waste, except for those
9 facilities with a current solid waste handling permit issued under
10 RCW 70.95.170 (as recodified by this act), must notify the department
11 in writing within thirty days prior to operation, or ninety days from
12 July 24, 2005, for existing recycling operations, of the intent to
13 conduct recycling in accordance with this section. Notification must
14 be in writing, and include:

15 (a) Contact information for the person conducting the recycling
16 activity;

17 (b) A general description of the recycling activity;

18 (c) A description of the types of solid waste being recycled; and

19 (d) A general explanation of the recycling processes and methods.

20 (2) Each facility that recycles solid waste, except those
21 facilities with a current solid waste handling permit issued under
22 RCW 70.95.170 (as recodified by this act), shall prepare and submit
23 an annual report to the department by April 1st on forms supplied by
24 the department. The annual report must detail recycling activities
25 during the previous calendar year and include the following
26 information:

27 (a) The name and address of the recycling operation;

28 (b) The calendar year covered by the report;

29 (c) The annual quantities and types of waste received, recycled,
30 and disposed, in tons, for purposes of determining progress towards
31 achieving the goals of waste reduction, waste recycling, and
32 treatment in accordance with RCW 70.95.010(4) (as recodified by this
33 act); and

34 (d) Any additional information required by written notification
35 of the department that is needed to determine progress towards
36 achieving the goals of waste reduction, waste recycling, and
37 treatment in accordance with RCW 70.95.010(4) (as recodified by this
38 act).

1 (3) Any facility, except for product take-back centers, that
2 recycles solid waste materials within the state without first
3 obtaining a solid waste handling permit under RCW 70.95.170 (as
4 recodified by this act) or completing a notification under this
5 section is subject to a civil penalty of up to one thousand dollars
6 per violation.

7 **Sec. 1181.** RCW 70.95.510 and 2009 c 261 s 2 are each amended to
8 read as follows:

9 (1) There is levied a one dollar per tire fee on the retail sale
10 of new replacement vehicle tires. The fee imposed in this section
11 must be paid by the buyer to the seller, and each seller shall
12 collect from the buyer the full amount of the fee. The fee collected
13 from the buyer by the seller less the ten percent amount retained by
14 the seller as provided in RCW 70.95.535(1) (as recodified by this
15 act) must be paid to the department of revenue in accordance with RCW
16 82.32.045.

17 (2) The department of revenue shall incorporate into the agency's
18 regular audit cycle a reconciliation of the number of tires sold and
19 the amount of revenue collected by the businesses selling new
20 replacement vehicle tires at retail. The department of revenue shall
21 collect on the business excise tax return from the businesses selling
22 new replacement vehicle tires at retail:

- 23 (a) The number of tires sold; and
24 (b) The fee levied in this section.

25 (3) All other applicable provisions of chapter 82.32 RCW have
26 full force and application with respect to the fee imposed under this
27 section. The department of revenue shall administer this section.

28 (4) For the purposes of this section, "new replacement vehicle
29 tires" means tires that are newly manufactured for vehicle purposes
30 and does not include retreaded vehicle tires.

31 **Sec. 1182.** RCW 70.95.530 and 2014 c 76 s 6 are each amended to
32 read as follows:

33 (1) Moneys in the waste tire removal account may be appropriated
34 to the department of ecology:

35 (a) To provide for funding to state and local governments for the
36 removal of discarded vehicle tires from unauthorized tire dump sites;
37 and

1 (b) To accomplish the other purposes of RCW 70.95.020 (as
2 recodified by this act) as they relate to waste tire cleanup under
3 this chapter.

4 (2) In spending funds in the account under this section, the
5 department shall identify communities with the most severe problems
6 with waste tires and provide funds first to those communities to
7 remove accumulations of waste tires.

8 (3) The department shall provide on its web site a summary of
9 state and local government efforts funded using the waste tire
10 removal account, a list of authorized waste tire storage sites and
11 transporters, and tire recycling and reuse rates in the state for
12 each calendar year.

13 **Sec. 1183.** RCW 70.95.532 and 2017 3rd sp.s. c 25 s 10 are each
14 amended to read as follows:

15 (1) All receipts from tire fees imposed under RCW 70.95.510 (as
16 recodified by this act), except as provided in subsection (2) of this
17 section, must be deposited in the waste tire removal account created
18 under RCW 70.95.521 (as recodified by this act). Moneys in the
19 account may be spent only after appropriation. Expenditures from the
20 account may be used for the cleanup of unauthorized waste tire piles
21 and measures that prevent future accumulation of unauthorized waste
22 tire piles.

23 (2) On September 1st of odd-numbered years, the state treasurer
24 must transfer any cash balance in excess of one million dollars from
25 the waste tire removal account created under RCW 70.95.521 (as
26 recodified by this act) to the motor vehicle ~~((account-[fund]))~~ fund
27 for the purpose of road wear related maintenance on state and local
28 public highways.

29 **Sec. 1184.** RCW 70.95.535 and 1989 c 431 s 93 are each amended to
30 read as follows:

31 (1) Every person engaged in making retail sales of new
32 replacement vehicle tires in this state shall retain ten percent of
33 the collected one dollar fee. The moneys retained may be used for
34 costs associated with the proper management of the waste vehicle
35 tires by the retailer.

36 (2) The department of ecology will administer the funds for the
37 purposes specified in RCW 70.95.020 ~~((+5))~~ (6) (as recodified by this
38 act) including, but not limited to:

1 (a) Making grants to local governments for pilot demonstration
2 projects for on-site shredding and recycling of tires from
3 unauthorized dump sites;

4 (b) Grants to local government for enforcement programs;

5 (c) Implementation of a public information and education program
6 to include posters, signs, and informational materials to be
7 distributed to retail tire sales and tire service outlets;

8 (d) Product marketing studies for recycled tires and alternatives
9 to land disposal.

10 **Sec. 1185.** RCW 70.95.550 and 1988 c 250 s 3 are each amended to
11 read as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout RCW 70.95.555 through 70.95.565 (as
14 recodified by this act).

15 (1) "Storage" or "storing" means the placing of more than eight
16 hundred waste tires in a manner that does not constitute final
17 disposal of the waste tires.

18 (2) "Transportation" or "transporting" means picking up or
19 transporting waste tires for the purpose of storage or final
20 disposal.

21 (3) "Waste tires" means tires that are no longer suitable for
22 their original intended purpose because of wear, damage, or defect.

23 **Sec. 1186.** RCW 70.95.555 and 2009 c 261 s 6 are each amended to
24 read as follows:

25 Any person engaged in the business of transporting or storing
26 waste tires shall be licensed by the department. To obtain a license,
27 each applicant must:

28 (1) Provide assurances that the applicant is in compliance with
29 this chapter and the rules regarding waste tire storage and
30 transportation;

31 (2) Accept liability for and authorize the department to recover
32 any costs incurred in any cleanup of waste tires transported or newly
33 stored by the applicant in violation of this section, or RCW
34 70.95.560, 70.95.515, or 70.95.570 (as recodified by this act), or
35 rules adopted thereunder, after July 1, 2005;

36 (3) After January 1, 2006, for waste tires transported or stored
37 before July 1, 2005, or for waste tires transported or stored after
38 July 1, 2005, post a bond in an amount to be determined by the

1 department sufficient to cover the liability for the cost of cleanup
2 of the transported or stored waste tires, in favor of the state of
3 Washington. In lieu of the bond, the applicant may submit financial
4 assurances acceptable to the department;

5 (4) Be registered in the state of Washington as a business and be
6 in compliance with all state laws, rules, and local ordinances;

7 (5) Have a federal tax identification number and be in compliance
8 with all applicable federal codes and regulations; and

9 (6) Report annually to the department the amount of tires
10 transported and their disposition. Failure to report shall result in
11 revocation of the license.

12 **Sec. 1187.** RCW 70.95.560 and 2005 c 354 s 7 are each amended to
13 read as follows:

14 (1) Any person who transports or stores waste tires without a
15 license in violation of RCW 70.95.555 (as recodified by this act)
16 shall be guilty of a gross misdemeanor and upon conviction shall be
17 punished under RCW 9A.20.021(2).

18 (2) Any person who transports or stores waste tires without a
19 license in violation of RCW 70.95.555 (as recodified by this act) is
20 liable for the costs of cleanup of any and all waste tires
21 transported or stored. This subsection does not apply to the storage
22 of waste tires when the storage of the tires occurred before July 1,
23 2005, and the storage was licensed in accordance with RCW 70.95.555
24 (as recodified by this act) at the time the tires were stored.

25 **Sec. 1188.** RCW 70.95.610 and 1989 c 431 s 37 are each amended to
26 read as follows:

27 (1) No person may knowingly dispose of a vehicle battery except
28 by delivery to: A person or entity selling lead acid batteries, a
29 person or entity authorized by the department to accept the battery,
30 or to a secondary lead smelter.

31 (2) No owner or operator of a solid waste disposal site shall
32 knowingly accept for disposal used vehicle batteries except when
33 authorized to do so by the department or by the federal government.

34 (3) Any person who violates this section shall be subject to a
35 fine of up to one thousand dollars. Each battery will constitute a
36 separate violation. Nothing in this section and RCW 70.95.620 through
37 70.95.660 (as recodified by this act) shall supersede the provisions
38 under chapter 70.105 RCW (as recodified by this act).

1 (4) For purposes of this section and RCW 70.95.620 through
2 70.95.660 (as recodified by this act), "vehicle battery" means
3 batteries capable for use in any vehicle, having a core consisting of
4 elemental lead, and a capacity of six or more volts.

5 **Sec. 1189.** RCW 70.95.630 and 1989 c 431 s 39 are each amended to
6 read as follows:

7 A person selling vehicle batteries at retail in the state shall:

8 (1) Accept, at the time of purchase of a replacement battery, in
9 the place where the new batteries are physically transferred to the
10 purchasers, and in a quantity at least equal to the number of new
11 batteries purchased, used vehicle batteries from the purchasers, if
12 offered by the purchasers. When a purchaser fails to provide an
13 equivalent used battery or batteries, the purchaser may reclaim the
14 core charge paid under RCW 70.95.640 (as recodified by this act) by
15 returning, to the point of purchase within thirty days, a used
16 battery or batteries and a receipt showing proof of purchase from the
17 establishment where the replacement battery or batteries were
18 purchased; and

19 (2) Post written notice which must be at least eight and one-half
20 inches by eleven inches in size and must contain the universal
21 recycling symbol and the following language:

22 (a) "It is illegal to put a motor vehicle battery or other
23 vehicle battery in your garbage."

24 (b) "State law requires us to accept used motor vehicle batteries
25 or other vehicle batteries for recycling, in exchange for new
26 batteries purchased."

27 (c) "When you buy a battery, state law also requires us to
28 include a core charge of five dollars or more if you do not return
29 your old battery for exchange."

30 **Sec. 1190.** RCW 70.95.650 and 1989 c 431 s 41 are each amended to
31 read as follows:

32 (1) A person selling vehicle batteries at wholesale to a retail
33 establishment in this state shall accept, at the time and place of
34 transfer, used vehicle batteries in a quantity at least equal to the
35 number of new batteries purchased, if offered by the purchaser.

36 (2) When a battery wholesaler, or agent of the wholesaler, fails
37 to accept used vehicle batteries as provided in this section, a

1 retailer may file a complaint with the department and the department
2 shall investigate any such complaint.

3 (3) (a) The department shall issue an order suspending any of the
4 provisions of RCW 70.95.630 through 70.95.660 (as recodified by this
5 act) whenever it finds that the market price of lead has fallen to
6 the extent that new battery wholesalers' estimated statewide average
7 cost of transporting used batteries to a smelter or other person or
8 entity in the business of purchasing used batteries is clearly
9 greater than the market price paid for used lead batteries by such
10 smelter or person or entity.

11 (b) The order of suspension shall only apply to batteries that
12 are sold at retail during the period in which the suspension order is
13 effective.

14 (c) The department shall limit its suspension order to a definite
15 period not exceeding six months, but shall revoke the order prior to
16 its expiration date should it find that the reasons for its issuance
17 are no longer valid.

18 **Sec. 1191.** RCW 70.95.660 and 1989 c 431 s 42 are each amended to
19 read as follows:

20 The department shall produce, print, and distribute the notices
21 required by RCW 70.95.630 (as recodified by this act) to all places
22 where vehicle batteries are offered for sale at retail and in
23 performing its duties under this section the department may inspect
24 any place, building, or premise governed by RCW 70.95.640 (as
25 recodified by this act). Authorized employees of the agency may issue
26 warnings and citations to persons who fail to comply with the
27 requirements of RCW 70.95.610 through 70.95.670 (as recodified by
28 this act). Failure to conform to the notice requirements of RCW
29 70.95.630 (as recodified by this act) shall subject the violator to a
30 fine imposed by the department not to exceed one thousand dollars.
31 However, no such fine shall be imposed unless the department has
32 issued a warning of infraction for the first offense. Each day that a
33 violator does not comply with the requirements of chapter 431, Laws
34 of 1989 following the issuance of an initial warning of infraction
35 shall constitute a separate offense.

36 **Sec. 1192.** RCW 70.95.670 and 1989 c 431 s 43 are each amended to
37 read as follows:

1 The department shall adopt rules providing for the implementation
2 and enforcement of RCW 70.95.610 through 70.95.660 (as recodified by
3 this act).

4 **Sec. 1193.** RCW 70.95.715 and 1994 c 165 s 5 are each amended to
5 read as follows:

6 (1) A solid waste planning jurisdiction may designate sharps
7 waste container drop-off sites.

8 (2) A pharmacy return program shall not be considered a solid
9 waste handling facility and shall not be required to obtain a solid
10 waste permit. A pharmacy return program is required to register, at
11 no cost, with the department. To facilitate designation of sharps
12 waste drop-off sites, the department shall share the name and
13 location of registered pharmacy return programs with jurisdictional
14 health departments and local solid waste management officials.

15 (3) A public or private provider of solid waste collection
16 service may provide a program to collect source separated residential
17 sharps waste containers as provided in chapter 70.95K RCW (as
18 recodified by this act).

19 (4) For the purpose of this section, "sharps waste," "sharps
20 waste container," and "pharmacy return program" shall have the same
21 meanings as provided in RCW 70.95K.010 (as recodified by this act).

22 **Sec. 1194.** RCW 70.95.807 and 2015 c 142 s 3 are each amended to
23 read as follows:

24 (1) The department of transportation, together with its
25 implementation partners, as that term is defined in RCW 70.95.805 (as
26 recodified by this act), must report annually to the legislature on
27 the implementation of RCW 70.95.805 (as recodified by this act). The
28 annual report must be submitted to the legislature, consistent with
29 RCW 43.01.036, by January 2nd of each year from 2017 through 2020.

30 (2) This section expires July 1, 2021.

31 **Sec. 1195.** RCW 70.95.815 and 2019 c 255 s 2 are each amended to
32 read as follows:

33 (1) A goal is established for the state to reduce by fifty
34 percent the amount of food waste generated annually by 2030, relative
35 to 2015 levels. A subset of this goal must include a prevention goal
36 to reduce the amount of edible food that is wasted.

1 (2) The department may estimate 2015 levels of wasted food in
2 Washington using any combination of solid waste reporting data
3 obtained under this chapter and surveys and studies measuring wasted
4 food and food waste in other jurisdictions. For the purposes of
5 measuring progress towards the goal in subsection (1) of this
6 section, the department must adopt standardized metrics and processes
7 for measuring or estimating volumes of wasted food and food waste
8 generated in the state.

9 (3) By October 1, 2020, the department, in consultation with the
10 department of agriculture and the department of health, must develop
11 and adopt a state wasted food reduction and food waste diversion plan
12 designed to achieve the goal established in subsection (1) of this
13 section.

14 (a) The wasted food reduction and food waste diversion plan must
15 include strategies, in descending order of priority, to:

16 (i) Prevent and reduce the wasting of edible food by residents
17 and businesses;

18 (ii) Help match and support the capacity for edible food that
19 would otherwise be wasted with food banks and other distributors that
20 will ensure the food reaches those who need it; and

21 (iii) Support productive uses of inedible food materials,
22 including using it for animal feed, energy production through
23 anaerobic digestion, or other commercial uses, and for off-site or
24 on-site management systems including composting, vermicomposting, or
25 other biological systems.

26 (b) The wasted food reduction and food waste diversion plan must
27 be designed to:

28 (i) Recommend a regulatory environment that optimizes activities
29 and processes to rescue safe, nutritious, edible food;

30 (ii) Recommend a funding environment in which stable, predictable
31 resources are provided to wasted food prevention and rescue and food
32 waste recovery activities in such a way as to allow the development
33 of additional capacity and the use of new technologies;

34 (iii) Avoid placing burdensome regulations on the hunger relief
35 system, and ensure that organizations involved in wasted food
36 prevention and rescue, and food waste recovery, retain discretion to
37 accept or reject donations of food when appropriate;

38 (iv) Provide state technical support to wasted food prevention
39 and rescue and food waste recovery organizations;

1 (v) Support the development and distribution of equitable
2 materials to support food waste and wasted food educational and
3 programmatic efforts in K-12 schools, in collaboration with the
4 office of the superintendent of public instruction, and aligned with
5 the Washington state science and social studies learning standards;
6 and

7 (vi) Facilitate and encourage restaurants and other retail food
8 establishments to safely donate food to food banks and food
9 assistance programs through education and outreach to retail food
10 establishment operators regarding safe food donation opportunities,
11 practices, and benefits.

12 (c) The wasted food reduction and food waste diversion plan must
13 include suggested best practices that local governments may
14 incorporate into solid waste management plans developed under RCW
15 70.95.080 (as recodified by this act).

16 (d) The department must solicit feedback from the public and
17 interested stakeholders throughout the process of developing and
18 adopting the wasted food reduction and food waste diversion plan. To
19 assist with its food waste reduction plan development
20 responsibilities, the department may designate a stakeholder advisory
21 panel. If the department designates a stakeholder advisory panel, it
22 must consist of local government health departments, local government
23 solid waste departments, food banks, hunger-focused nonprofit
24 organizations, waste-focused nonprofit organizations, K-12 public
25 education, and food businesses or food business associations.

26 (e) The department must identify the sources of scientific,
27 economic, or other technical information it relied upon in developing
28 the plan required under this section, including peer-reviewed
29 science.

30 (f) In conjunction with the development of the wasted food
31 reduction and food waste diversion plan, the department and the
32 departments of agriculture and health must consider recommending
33 changes to state law, including changes to food quality, labeling,
34 and inspection requirements under chapter 69.80 RCW and any changes
35 in laws relating to the donation of food waste or wasted food for
36 animals, in order to achieve the goal established in subsection (1)
37 of this section. Any such recommendations must be explained via a
38 report to the legislature submitted consistent with RCW 43.01.036 by
39 December 1, 2020. Prior to any implementation of the plan, for the
40 activities, programs, or policies in the plan that would impose new

1 obligations on state agencies, local governments, businesses, or
2 citizens, the December 1, 2020, report must outline the plan for
3 making regulatory changes identified in the report. This outline must
4 include the department or the appropriate state agency's plan to make
5 recommendations for statutory or administrative rule changes
6 identified. In combination with any identified statutory or
7 administrative rule changes, the department or the appropriate state
8 agency must include expected cost estimates for both government
9 entities and private persons or businesses to comply with any
10 recommended changes.

11 (4) In support of the development of the plan in subsection (3)
12 of this section, the department of commerce must contract for an
13 independent evaluation of the state's food waste and wasted food
14 management system.

15 (5) The definitions in this subsection apply throughout this
16 section unless the context clearly requires otherwise.

17 (a) (i) "Food waste" means waste from fruits, vegetables, meats,
18 dairy products, fish, shellfish, nuts, seeds, grains, and similar
19 materials that results from the storage, preparation, cooking,
20 handling, selling, or serving of food for human consumption.

21 (ii) "Food waste" includes, but is not limited to, excess,
22 spoiled, or unusable food and includes inedible parts commonly
23 associated with food preparation such as pits, shells, bones, and
24 peels. "Food waste" does not include dead animals not intended for
25 human consumption or animal excrement.

26 (b) "Prevention" refers to avoiding the wasting of food in the
27 first place and represents the greatest potential for cost savings
28 and environmental benefits for businesses, governments, and
29 consumers.

30 (c) "Recovery" refers to processing inedible food waste to
31 extract value from it, through composting, anaerobic digestion, or
32 for use as animal feedstock.

33 (d) "Rescue" refers to the redistribution of surplus edible food
34 to other users.

35 (e) "Wasted food" means the edible portion of food waste.

36 **Sec. 1196.** RCW 70.95A.070 and 1983 c 167 s 176 are each amended
37 to read as follows:

38 Any bonds issued under the provisions of this chapter and at any
39 time outstanding may at any time and from time to time be refunded by

1 a municipality by the issuance of its refunding bonds in such amount
2 as the governing body may deem necessary but not exceeding an amount
3 sufficient to refund the principal of the bonds to be so refunded,
4 together with any unpaid interest thereon and any premiums and
5 commissions necessary to be paid in connection therewith: PROVIDED,
6 That an issue of refunding bonds may be combined with an issue of
7 additional revenue bonds on any facilities. Any such refunding may be
8 effected whether the bonds to be refunded shall have then matured or
9 shall thereafter mature, either by sale of the refunding bonds and
10 the application of the proceeds thereof for the payment of the bonds
11 to be refunded thereby, or by exchange of the refunding bonds for the
12 bonds to be refunded thereby: PROVIDED FURTHER, That the owners of
13 any bonds to be so refunded shall not be compelled without their
14 consent to surrender their bonds for payment or exchange except on
15 the terms expressed on the face thereof. Any refunding bonds issued
16 under the authority of this chapter shall be subject to the
17 provisions contained in RCW 70.95A.040 (as recodified by this act)
18 and may be secured in accordance with the provisions of RCW
19 70.95A.050 (as recodified by this act).

20 **Sec. 1197.** RCW 70.95A.100 and 1973 c 132 s 11 are each amended
21 to read as follows:

22 Upon request by a municipality or by a user of the facilities the
23 department of ecology may in relation to chapter 54, Laws of 1972 ex.
24 sess. and this chapter issue its certificate stating that the
25 facilities (1) as designed are in furtherance of the purpose of
26 abating, controlling or preventing pollution, and/or (2) as designed
27 or as operated meet state and local requirements for the control of
28 pollution. This section shall not be construed as modifying the
29 provisions of RCW 82.34.030; chapter 70.94 RCW (as recodified by this
30 act); or chapter 90.48 RCW.

31 **Sec. 1198.** RCW 70.95B.060 and 1973 c 139 s 6 are each amended to
32 read as follows:

33 The director is authorized when taking action pursuant to RCW
34 70.95B.040 and 70.95B.050 (as recodified by this act) to consider
35 generally applicable criteria and guidelines developed by a
36 nationally recognized association of certification authorities.

1 **Sec. 1199.** RCW 70.95B.090 and 2018 c 213 s 1 are each amended to
2 read as follows:

3 The issuance and renewal of a certificate shall be subject to the
4 following conditions:

5 (1) A certificate shall be issued if the operator has
6 satisfactorily passed a written examination, or has met the
7 requirements of RCW 70.95B.080 (as recodified by this act), and has
8 met the requirements specified in the rules and regulations as
9 authorized by this chapter, and has paid the department an
10 application fee as established by the department under RCW 70.95B.095
11 (as recodified by this act).

12 (2) The term for all certificates shall be from the first of
13 January of the year of issuance until the thirty-first of December of
14 the renewal year. The renewal period, not to exceed three years,
15 shall be set by agency rule. Every certificate shall be renewed upon
16 the payment of a renewal fee as established by the department under
17 RCW 70.95B.095 (as recodified by this act) and satisfactory evidence
18 presented to the director that the operator demonstrates continued
19 professional growth in the field.

20 (3) Individuals who fail to renew their certificates before
21 December 31 of the renewal year, upon notice by the director shall
22 have their certificates suspended for sixty days. If, during the
23 suspension period, the renewal is not completed, the director shall
24 give notice of revocation to the employer and to the operator and the
25 certificate will be revoked ten days after such notice is given. An
26 operator whose certificate has been revoked must reapply for
27 certification and will be requested to meet the requirements of a new
28 applicant.

29 **Sec. 1200.** RCW 70.95B.095 and 2018 c 213 s 2 are each amended to
30 read as follows:

31 (1) The department shall establish and collect fees for the
32 issuance and renewal of wastewater treatment plant operator
33 certificates as provided for in RCW 70.95B.090 (as recodified by this
34 act). The department, with the advice of an advisory committee, shall
35 establish an initial fee schedule by rule. Fees shall be established
36 in amounts to fully recover and not to exceed expenses incurred by
37 the department to administer the wastewater operator certification
38 program, to include evaluating applications necessary to verify
39 compliance with certification requirements, maintaining and

1 administering credible examinations, ensuring operators receive
2 necessary training, outreach, and technical assistance, enforcing
3 certification program requirements, providing necessary education and
4 training to program staff, and supporting the overhead expenses
5 related to administering the wastewater operator certification
6 program.

7 (2) Once the initial fee schedule is adopted by rule, the
8 department shall conduct a workload analysis and prepare a biennial
9 budget estimate for the wastewater treatment plant operator
10 certification program. Thereafter, the department shall assess and
11 collect fees from all wastewater treatment plant operators at a level
12 that fully recovers the costs identified in its biennial operating
13 budget.

14 (3) If fee increases above the state's fiscal growth factor are
15 proposed, due to an expansion of the wastewater operator
16 certification program, the department must submit a report to the
17 legislature describing the need for the increase.

18 **Sec. 1201.** RCW 70.95B.120 and 1987 c 357 s 8 are each amended to
19 read as follows:

20 On and after one year following July 1, 1973, it shall be
21 unlawful for any person, firm, corporation, municipal corporation, or
22 other governmental subdivision or agency to operate a wastewater
23 treatment plant unless the individuals identified in RCW 70.95B.030
24 (as recodified by this act) are duly certified by the director under
25 the provisions of this chapter or any lawful rule, order, or
26 regulation of the department. It shall also be unlawful for any
27 person to perform the duties of an operator as defined in this
28 chapter, or in any lawful rule, order, or regulation of the
29 department, without being duly certified under the provisions of this
30 chapter.

31 **Sec. 1202.** RCW 70.95B.151 and 2017 c 35 s 1 are each amended to
32 read as follows:

33 The wastewater treatment plant operator certification account is
34 created in the state treasury. All fees paid pursuant to RCW
35 70.95B.095 (as recodified by this act) and any other receipts
36 realized in the administration of this chapter must be deposited into
37 the account. Moneys in the account may be spent only after
38 appropriation. Moneys from the account must be used by the department

1 to carry out the purposes of the wastewater treatment plant operator
2 certification program.

3 **Sec. 1203.** RCW 70.95C.010 and 1990 c 114 s 1 are each amended to
4 read as follows:

5 The legislature finds that land disposal and incineration of
6 solid and hazardous waste can be both harmful to the environment and
7 costly to those who must dispose of the waste. In order to address
8 this problem in the most cost-effective and environmentally sound
9 manner, and to implement the highest waste management priority as
10 articulated in RCW 70.95.010 and 70.105.150 (as recodified by this
11 act), public and private efforts should focus on reducing the
12 generation of waste. Waste reduction can be achieved by encouraging
13 voluntary efforts to redesign industrial, commercial, production, and
14 other processes to result in the reduction or elimination of waste
15 by-products and to maximize the in-process reuse or reclamation of
16 valuable spent material.

17 In the interest of protecting the public health, safety, and the
18 environment, the legislature declares that it is the policy of the
19 state of Washington to encourage reduction in the use of hazardous
20 substances and reduction in the generation of hazardous waste
21 whenever economically and technically practicable.

22 The legislature finds that hazardous wastes are generated by
23 numerous different sources including, but not limited to, large and
24 small business, households, and state and local government. The
25 legislature further finds that a goal against which efforts at waste
26 reduction may be measured is essential for an effective hazardous
27 waste reduction program. The Pacific Northwest hazardous waste
28 advisory council has endorsed a goal of reducing, through hazardous
29 substance use reduction and waste reduction techniques, the
30 generation of hazardous waste by fifty percent by 1995. The
31 legislature adopts this as a policy goal for the state of Washington.
32 The legislature recognizes that many individual businesses have
33 already reduced the generation of hazardous waste through appropriate
34 hazardous waste reduction techniques. The legislature also recognizes
35 that there are some basic industrial processes which by their nature
36 have limited potential for significantly reducing the use of certain
37 raw materials or substantially reducing the generation of hazardous
38 wastes. Therefore, the goal of reducing hazardous waste generation by
39 fifty percent cannot be applied as a regulatory requirement.

1 **Sec. 1204.** RCW 70.95C.020 and 1991 c 319 s 313 are each amended
2 to 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) "Department" means the department of ecology.

6 (2) "Director" means the director of the department of ecology or
7 the director's designee.

8 (3) "Dangerous waste" shall have the same definition as set forth
9 in RCW 70.105.010(~~((+5))~~) (1) (as recodified by this act) and shall
10 specifically include those wastes designated as dangerous by rules
11 adopted pursuant to chapter 70.105 RCW (as recodified by this act).

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

16 (5) "Extremely hazardous waste" shall have the same definition as
17 set forth in RCW 70.105.010(~~((+6))~~) (7) (as recodified by this act)
18 and shall specifically include those wastes designated as extremely
19 hazardous by rules adopted pursuant to chapter 70.105 RCW (as
20 recodified by this act).

21 (6) "Fee" means the annual hazardous waste fees imposed under RCW
22 70.95E.020 and 70.95E.030 (as recodified by this act).

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

26 (8) "Hazardous substance" means any hazardous substance listed as
27 a hazardous substance as of March 21, 1990, pursuant to section 313
28 of Title III of the Superfund Amendments and Reauthorization Act, any
29 other substance determined by the director by rule to present a
30 threat to human health or the environment, and all ozone depleting
31 compounds as defined by the Montreal Protocol of October 1987.

32 (9) (a) "Hazardous substance use reduction" means the reduction,
33 avoidance, or elimination of the use or production of hazardous
34 substances without creating substantial new risks to human health or
35 the environment.

36 (b) "Hazardous substance use reduction" includes proportionate
37 changes in the usage of hazardous substances as the usage of a
38 hazardous substance or hazardous substances changes as a result of
39 production changes or other business changes.

1 (10) "Hazardous substance user" means any facility required to
2 report under section 313 of Title III of the Superfund Amendments and
3 Reauthorization Act, except for those facilities which only
4 distribute or use fertilizers or pesticides intended for commercial
5 agricultural applications.

6 (11) "Hazardous waste" means and includes all dangerous and
7 extremely hazardous wastes, but does not include radioactive wastes
8 or a substance composed of both radioactive and hazardous components
9 and does not include any hazardous waste generated as a result of a
10 remedial action under state or federal law.

11 (12) "Hazardous waste generator" means any person generating
12 hazardous waste regulated by the department.

13 (13) "Office" means the office of waste reduction.

14 (14) "Plan" means the plan provided for in RCW 70.95C.200 (as
15 recodified by this act).

16 (15) "Person" means an individual, trust, firm, joint stock
17 company, partnership, association, state, public or private or
18 municipal corporation, commission, political subdivision of a state,
19 interstate body, the federal government, including any agency or
20 officer thereof, and any Indian tribe or authorized tribal
21 organization.

22 (16) "Process" means all industrial, commercial, production, and
23 other processes that result in the generation of waste.

24 (17) "Recycled for beneficial use" means the use of hazardous
25 waste, either before or after reclamation, as a substitute for a
26 commercial product or raw material, but does not include: (a) Use
27 constituting disposal; (b) incineration; or (c) use as a fuel.

28 (18) "Recycling" means reusing waste materials and extracting
29 valuable materials from a waste stream. Recycling does not include
30 burning for energy recovery.

31 (19) "Treatment" means the physical, chemical, or biological
32 processing of waste to render it completely innocuous, produce a
33 recyclable by-product, reduce toxicity, or substantially reduce the
34 volume of material requiring disposal as described in the priorities
35 established in RCW 70.105.150 (as recodified by this act). Treatment
36 does not include incineration.

37 (20) "Used oil" means (a) lubricating fluids that have been
38 removed from an engine crankcase, transmission, gearbox, hydraulic
39 device, or differential of an automobile, bus, truck, vessel, plane,
40 heavy equipment, or machinery powered by an internal combustion

1 engine; (b) any oil that has been refined from crude oil, used, and
2 as a result of use, has been contaminated with physical or chemical
3 impurities; and (c) any oil that has been refined from crude oil and,
4 as a consequence of extended storage, spillage, or contamination, is
5 no longer useful to the original purchaser. "Used oil" does not
6 include used oil to which hazardous wastes have been added.

7 (21) "Waste" means any solid waste as defined under RCW 70.95.030
8 (as recodified by this act), any hazardous waste, any air contaminant
9 as defined under RCW 70.94.030 (as recodified by this act), and any
10 organic or inorganic matter that shall cause or tend to cause water
11 pollution as defined under RCW 90.48.020.

12 (22) "Waste generator" means any individual, business, government
13 agency, or any other organization that generates waste.

14 (23) "Waste reduction" means all in-plant practices that reduce,
15 avoid, or eliminate the generation of wastes or the toxicity of
16 wastes, prior to generation, without creating substantial new risks
17 to human health or the environment. As used in RCW 70.95C.200 through
18 70.95C.240 (as recodified by this act), "waste reduction" refers to
19 hazardous waste only.

20 **Sec. 1205.** RCW 70.95C.030 and 1998 c 245 s 133 are each amended
21 to read as follows:

22 (1) There is established in the department an office of waste
23 reduction. The office shall use its authorities to encourage the
24 voluntary reduction of hazardous substance usage and waste generation
25 by waste generators and hazardous substance users. The office shall
26 prepare and submit a quarterly progress report to the director.

27 (2) The office shall be the coordinating center for all state
28 agency programs that provide technical assistance to waste generators
29 and hazardous substance users and shall serve as the state's lead
30 agency and promoter for such programs. In addition to this
31 coordinating function, the office shall encourage hazardous substance
32 use reduction and waste reduction by:

33 (a) Providing for the rendering of advice and consultation to
34 waste generators and hazardous substance users on hazardous substance
35 use reduction and waste reduction techniques, including assistance in
36 preparation of plans provided for in RCW 70.95C.200 (as recodified by
37 this act);

1 (b) Sponsoring or co-sponsoring with public or private
2 organizations technical workshops and seminars on waste reduction and
3 hazardous substance use reduction;

4 (c) Administering a waste reduction and hazardous substance use
5 reduction database and hotline providing comprehensive referral
6 services to waste generators and hazardous substance users;

7 (d) Administering a waste reduction and hazardous substance use
8 reduction research and development program;

9 (e) Coordinating a waste reduction and hazardous substance use
10 reduction public education program that includes the utilization of
11 existing publications from public and private sources, as well as
12 publishing necessary new materials on waste reduction;

13 (f) Recommending to institutions of higher education in the state
14 courses and curricula in areas related to waste reduction and
15 hazardous substance use reduction; and

16 (g) Operating an intern program in cooperation with institutions
17 of higher education and other outside resources to provide technical
18 assistance on hazardous substance use reduction and waste reduction
19 techniques and to carry out research projects as needed within the
20 office.

21 **Sec. 1206.** RCW 70.95C.040 and 1990 c 114 s 5 are each amended to
22 read as follows:

23 (1) The office shall establish a waste reduction and hazardous
24 substance use reduction consultation program to be coordinated with
25 other state waste reduction and hazardous substance use reduction
26 consultation programs.

27 (2) The director may grant a request by any waste generator or
28 hazardous substance user for advice and consultation on waste
29 reduction and hazardous substance use reduction techniques and
30 assistance in preparation or modification of a plan, executive
31 summary, or annual progress report, or assistance in the
32 implementation of a plan required by RCW 70.95C.200 (as recodified by
33 this act). Pursuant to a request from a facility such as a business,
34 governmental entity, or other process site in the state, the director
35 may visit the facility making the request for the purposes of
36 observing hazardous substance use and the waste-generating process,
37 obtaining information relevant to waste reduction and hazardous
38 substance use reduction, rendering advice, and making
39 recommendations. No such visit may be regarded as an inspection or

1 investigation, and no notices or citations may be issued, or civil
2 penalty be assessed, upon such a visit. A representative of the
3 director providing advisory or consultative services under this
4 section may not have any enforcement authority.

5 (3) Consultation and advice given under this section shall be
6 limited to the matters specified in the request and shall include
7 specific techniques of waste reduction and hazardous substance use
8 reduction tailored to the relevant process. In granting any request
9 for advisory or consultative services, the director may provide for
10 an alternative means of affording consultation and advice other than
11 on-site consultation.

12 (4) Any proprietary information obtained by the director while
13 carrying out the duties required under this section shall remain
14 confidential and shall not be publicized or become part of the
15 database established under RCW 70.95C.060 (as recodified by this act)
16 without written permission of the requesting party.

17 **Sec. 1207.** RCW 70.95C.070 and 1988 c 177 s 7 are each amended to
18 read as follows:

19 (1) The office may administer a waste reduction research and
20 development program. The director may contract with any public or
21 private organization for the purpose of developing methods and
22 technologies that achieve waste reduction. All research performed and
23 all methods or technologies developed as a result of a contract
24 entered into under this section shall become the property of the
25 state and shall be incorporated into the database system established
26 under RCW 70.95C.060 (as recodified by this act).

27 (2) Any contract entered into under this section shall be awarded
28 only after requests for proposals have been circulated to persons,
29 firms, or organizations who have requested that their names be placed
30 on a proposal list. The director shall establish a proposal list and
31 shall review and evaluate all proposals received.

32 **Sec. 1208.** RCW 70.95C.210 and 1990 c 114 s 7 are each amended to
33 read as follows:

34 A person required to prepare a plan under RCW 70.95C.200 (as
35 recodified by this act) because of the quantity of hazardous waste
36 generated may petition the director to be excused from this
37 requirement. The person must demonstrate to the satisfaction of the
38 director that the quantity of hazardous waste generated was due to

1 unique circumstances not likely to be repeated and that the person is
2 unlikely to generate sufficient hazardous waste to require a plan in
3 the next five years.

4 **Sec. 1209.** RCW 70.95C.220 and 2005 c 274 s 338 are each amended
5 to read as follows:

6 (1) The department may review a plan, executive summary, or an
7 annual progress report to determine whether the plan, executive
8 summary, or annual progress report is adequate pursuant to the rules
9 developed under this section and with the provisions of RCW
10 70.95C.200 (as recodified by this act). In determining the adequacy
11 of any plan, executive summary, or annual progress report, the
12 department shall base its determination solely on whether the plan,
13 executive summary, or annual progress report is complete and prepared
14 in accordance with the provisions of RCW 70.95C.200 (as recodified by
15 this act).

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

27 (3) If a hazardous substance user or hazardous waste generator
28 fails to complete an adequate plan, executive summary, or annual
29 progress report, the department shall notify the user or generator of
30 the inadequacy, identifying specific deficiencies. For the purposes
31 of this section, a deficiency may include failure to develop a plan,
32 failure to submit an executive summary pursuant to the schedule
33 provided in RCW 70.95C.200(5) (as recodified by this act), and
34 failure to submit an annual progress report pursuant to the rules
35 developed under RCW 70.95C.200(6) (as recodified by this act). The
36 department shall specify a reasonable time frame, of not less than
37 ninety days, within which the user or generator shall complete a
38 modified plan, executive summary, or annual progress report
39 addressing the specified deficiencies.

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

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

22 (b) If a hazardous substance user or hazardous waste generator
23 required to prepare a plan fails to complete an adequate plan,
24 executive summary, or annual progress report after the department has
25 levied against the user or generator the penalty provided in (a) of
26 this subsection, the user or generator shall be required to pay a
27 surcharge to the department whenever the user or generator disposes
28 of a hazardous waste at any hazardous waste incinerator or hazardous
29 waste landfill facility located in Washington state, until a plan,
30 executive summary, or annual progress report is completed and
31 determined to be adequate by the department. The surcharge shall be
32 equal to three times the fee charged for disposal. The department
33 shall furnish the incinerator and landfill facilities in this state
34 with a list of environmental protection agency/state identification
35 numbers of the hazardous waste generators that are not in compliance
36 with the requirements of RCW 70.95C.200 (as recodified by this act).

37 **Sec. 1210.** RCW 70.95C.230 and 1990 c 114 s 9 are each amended to
38 read as follows:

1 A user or generator may appeal from a department order or a
2 surcharge under RCW 70.95C.220 (as recodified by this act) to the
3 pollution control hearings board pursuant to chapter 43.21B RCW.

4 **Sec. 1211.** RCW 70.95D.010 and 1995 c 269 s 2801 are each amended
5 to read as follows:

6 Unless the context clearly requires otherwise the definitions in
7 this section apply throughout this chapter.

8 (1) "Certificate" means a certificate of competency issued by the
9 director stating that the operator has met the requirements for the
10 specified operator classification of the certification program.

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

12 (3) "Director" means the director of ecology.

13 (4) "Incinerator" means a facility which has the primary purpose
14 of burning or which is designed with the primary purpose of burning
15 solid waste or solid waste derived fuel, but excludes facilities that
16 have the primary purpose of burning hog fuel.

17 (5) "Landfill" means a landfill as defined under RCW 70.95.030
18 (as recodified by this act).

19 (6) "Owner" means, in the case of a town or city, the city or
20 town acting through its chief executive officer or the lessee if
21 operated pursuant to a lease or contract; in the case of a county,
22 the chief elected official of the county legislative authority or the
23 chief elected official's designee; in the case of a board of public
24 utilities, association, municipality, or other public body, the
25 president or chief elected official of the body or the president's or
26 chief elected official's designee; in the case of a privately owned
27 landfill or incinerator, the legal owner.

28 (7) "Solid waste" means solid waste as defined under RCW
29 70.95.030 (as recodified by this act).

30 **Sec. 1212.** RCW 70.95E.010 and 1995 c 207 s 1 are each amended to
31 read as follows:

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

34 (1) "Dangerous waste" shall have the same definition as set forth
35 in RCW 70.105.010(~~((+5))~~) (1) (as recodified by this act) and shall
36 include those wastes designated as dangerous by rules adopted
37 pursuant to chapter 70.105 RCW (as recodified by this act).

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

1 (3) "EPA/state identification number" means the number assigned
2 by the EPA (environmental protection agency) or by the department of
3 ecology to each generator and/or transporter and treatment, storage,
4 and/or disposal facility.

5 (4) "Extremely hazardous waste" shall have the same definition as
6 set forth in RCW 70.105.010(~~((+6+))~~) (7) (as recodified by this act)
7 and shall specifically include those wastes designated as extremely
8 hazardous by rules adopted pursuant to chapter 70.105 RCW (as
9 recodified by this act).

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

11 (6) "Generate" means any act or process which produces hazardous
12 waste or first causes a hazardous waste to become subject to
13 regulation.

14 (7) "Hazardous waste" means and includes all dangerous and
15 extremely hazardous wastes but for the purposes of this chapter
16 excludes all radioactive wastes or substances composed of both
17 radioactive and hazardous components.

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

22 (9) "Person" means an individual, trust, firm, joint stock
23 company, partnership, association, state, public or private or
24 municipal corporation, commission, political subdivision of a state,
25 interstate body, the federal government including any agency or
26 officer thereof, and any Indian tribe or authorized tribal
27 organization.

28 (10) "Price deflator" means the United States department of
29 commerce bureau of economic analysis, "Implicit Price Deflator for
30 Gross National Product" for "Government Purchases of Goods and
31 Services," for "State and Local Government."

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

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

38 **Sec. 1213.** RCW 70.95E.020 and 1995 c 207 s 2 are each amended to
39 read as follows:

1 A fee is imposed for the privilege of generating hazardous waste
2 in the state. The annual amount of the fee shall be thirty-five
3 dollars upon every hazardous waste generator doing business in
4 Washington in the current calendar year or any part thereof. This fee
5 shall be collected by the department or its designee. A hazardous
6 waste generator shall be exempt from the fee imposed under this
7 section if the value of products, gross proceeds of sales, or gross
8 income of the business, from all business activities of the hazardous
9 waste generator, is less than twelve thousand dollars in the current
10 calendar year. The department shall, subject to appropriation, use
11 the funds collected from the fees assessed in this subsection to
12 support the activities of the office of waste reduction as specified
13 in RCW 70.95C.030 (as recodified by this act). The fee imposed
14 pursuant to this section is due annually by July 1 of the year
15 following the calendar year for which the fee is imposed.

16 **Sec. 1214.** RCW 70.95E.030 and 1994 c 136 s 3 are each amended to
17 read as follows:

18 Hazardous waste generators and hazardous substance users required
19 to prepare plans under RCW 70.95C.200 (as recodified by this act)
20 shall pay an annual fee to support implementation of RCW 70.95C.200
21 and 70.95C.040 (as recodified by this act). These fees are to be used
22 by the department, subject to appropriation, for plan review,
23 technical assistance to facilities that are required to prepare
24 plans, other activities related to plan development and
25 implementation, and associated indirect costs. The total fees
26 collected under this subsection shall not exceed the department's
27 costs of implementing RCW 70.95C.200 and 70.95C.040 (as recodified by
28 this act) and shall not exceed one million dollars per year. The
29 annual fee for a facility shall not exceed ten thousand dollars per
30 year. Any facility that generates less than two thousand six hundred
31 forty pounds of hazardous waste per waste generation site in the
32 previous calendar year shall be exempt from the fee imposed by this
33 section. The annual fee for a facility generating at least two
34 thousand six hundred forty pounds but not more than four thousand
35 pounds of hazardous waste per waste generation site in the previous
36 calendar year shall not exceed fifty dollars. A person that develops
37 a plan covering more than one interrelated facility as provided for
38 in RCW 70.95C.200 (as recodified by this act) shall be assessed fees
39 only for the number of plans prepared. The department shall adopt a

1 fee schedule by rule after consultation with typical affected
2 businesses and other interested parties. Hazardous waste generated
3 and recycled for beneficial use, including initial amount of
4 hazardous substances introduced into a process and subsequently
5 recycled for beneficial use, shall not be used in the calculations of
6 hazardous waste generated for purposes of this section.

7 The annual fee imposed by this section shall be first due on July
8 1st of the year prior to the year that the facility is required to
9 prepare a plan, and by July 1st of each year thereafter.

10 **Sec. 1215.** RCW 70.95E.040 and 1990 c 114 s 14 are each amended
11 to read as follows:

12 On an annual basis, the department shall adjust the fees provided
13 for in RCW 70.95E.020 and 70.95E.030 (as recodified by this act),
14 including the maximum annual fee, and maximum total fees, by
15 conducting the calculation in subsection (1) of this section and
16 taking the actions set forth in subsection (2) of this section:

17 (1) In November of each year, the fees, annual fee, and maximum
18 total fees imposed in RCW 70.95E.020 and 70.95E.030 (as recodified by
19 this act), or as subsequently adjusted by this section, shall be
20 multiplied by a factor equal to the most current quarterly "price
21 deflator" available, divided by the "price deflator" used in the
22 numerator the previous year. However, the "price deflator" used in
23 the denominator for the first adjustment shall be defined by the
24 second quarter "price deflator" for 1990.

25 (2) Each year by March 1st the fee schedule, as adjusted in
26 subsection (1) of this section will be published. The department will
27 round the published fees to the nearest dollar.

28 **Sec. 1216.** RCW 70.95E.050 and 1995 c 207 s 3 are each amended to
29 read as follows:

30 In administration of this chapter for the enforcement and
31 collection of the fees due and owing under RCW 70.95E.020 and
32 70.95E.030 (as recodified by this act), the department may apply RCW
33 43.17.240.

34 **Sec. 1217.** RCW 70.95E.080 and 1991 sp.s. c 13 s 75 are each
35 amended to read as follows:

1 The hazardous waste assistance account is hereby created in the
2 state treasury. The following moneys shall be deposited into the
3 hazardous waste assistance account:

4 (1) Those revenues which are raised by the fees imposed under RCW
5 70.95E.020 and 70.95E.030 (as recodified by this act);

6 (2) Penalties and surcharges collected under chapter 70.95C RCW
7 (as recodified by this act) and this chapter; and

8 (3) Any other moneys appropriated or transferred to the account
9 by the legislature. Moneys in the hazardous waste assistance account
10 may be spent only for the purposes of this chapter following
11 legislative appropriation.

12 **Sec. 1218.** RCW 70.95E.090 and 1995 c 207 s 4 are each amended to
13 read as follows:

14 The department may use funds in the hazardous waste assistance
15 account to provide technical assistance and compliance education
16 assistance to hazardous substance users and waste generators, to
17 provide grants to local governments, and for administration of this
18 chapter.

19 Technical assistance may include the activities authorized under
20 chapter 70.95C RCW (as recodified by this act) and RCW 70.105.170 (as
21 recodified by this act) to encourage hazardous waste reduction and
22 hazardous use reduction and the assistance provided for by RCW
23 70.105.100(2) (as recodified by this act).

24 Compliance education may include the activities authorized under
25 RCW 70.105.100(2) (as recodified by this act) to train local agency
26 officials and to inform hazardous substance users and hazardous waste
27 generators and owners and operators of hazardous waste management
28 facilities of the requirements of chapter 70.105 RCW (as recodified
29 by this act) and related federal laws and regulations. To the extent
30 practicable, the department shall contract with private businesses to
31 provide compliance education.

32 Grants to local governments shall be used for small quantity
33 generator technical assistance and compliance education components of
34 their moderate risk waste plans as required by RCW 70.105.220 (as
35 recodified by this act).

36 **Sec. 1219.** RCW 70.95F.020 and 1991 c 319 s 104 are each amended
37 to read as follows:

1 (1) The provisions of this section and any rules adopted under
2 this section shall be interpreted to conform with nationwide plastics
3 industry standards.

4 (2) Except as provided in RCW 70.95F.030(2) (as recodified by
5 this act), after January 1, 1992, no person may distribute, sell, or
6 offer for sale in this state a plastic bottle or rigid plastic
7 container unless the container is labeled with a code identifying the
8 appropriate resin type used to produce the structure of the
9 container. The code shall consist of a number placed within three
10 triangulated arrows and letters placed below the triangle of arrows.
11 The triangulated arrows shall be equilateral, formed by three arrows
12 with the apex of each point of the triangle at the midpoint of each
13 arrow, rounded with a short radius. The pointer (arrowhead) of each
14 arrow shall be at the midpoint of each side of the triangle with a
15 short gap separating the pointer from the base of the adjacent arrow.
16 The triangle, formed by the three arrows curved at their midpoints
17 shall depict a clockwise path around the code number. The numbers and
18 letters used shall be as follows:

- 19 (a) 1.= PETE (polyethylene terephthalate)
- 20 (b) 2.= HDPE (high density polyethylene)
- 21 (c) 3.= V (vinyl)
- 22 (d) 4.= LDPE (low density polyethylene)
- 23 (e) 5.= PP (polypropylene)
- 24 (f) 6.= PS (polystyrene)
- 25 (g) 7.= OTHER

26 **Sec. 1220.** RCW 70.95F.030 and 1991 c 319 s 105 are each amended
27 to read as follows:

28 (1) A person who, after written notice from the department,
29 violates RCW 70.95F.020 (as recodified by this act) is subject to a
30 civil penalty of fifty dollars for each violation up to a maximum of
31 five hundred dollars and may be enjoined from continuing violations.
32 Each distribution constitutes a separate offense.

33 (2) Retailers and distributors shall have two years from May 21,
34 1991, to clear current inventory, delivered or received and held in
35 their possession as of May 21, 1991.

36 **Sec. 1221.** RCW 70.95G.030 and 1991 c 319 s 109 are each amended
37 to read as follows:

1 All packages and packaging components shall be subject to this
2 chapter except the following:

3 (1) Those packages or package components with a code indicating
4 date of manufacture that were manufactured prior to May 21, 1991;

5 (2) Those packages or packaging components that have been
6 purchased by, delivered to, or are possessed by a retailer on or
7 before twenty-four months following May 21, 1991, to permit
8 opportunity to clear existing inventory of the proscribed packaging
9 material;

10 (3) Those packages or packaging components to which lead,
11 cadmium, mercury, or hexavalent chromium have been added in the
12 manufacturing, forming, printing, or distribution process in order to
13 comply with health or safety requirements of federal law or for which
14 there is no feasible alternative; or

15 (4) Those packages and packaging components that would not exceed
16 the maximum contaminant levels set forth in RCW 70.95G.020(1) (as
17 recodified by this act) but for the addition of postconsumer
18 materials; and provided that the exemption for this subsection shall
19 expire six years after May 21, 1991.

20 **Sec. 1222.** RCW 70.95G.040 and 2018 c 138 s 3 are each amended to
21 read as follows:

22 A certificate of compliance stating that a package or packaging
23 component is in compliance with the requirements of this chapter
24 shall be developed by its manufacturer. For food packaging, a
25 manufacturer shall develop a compliance certificate by the date of a
26 prohibition taking effect under RCW 70.95G.070 (as recodified by this
27 act). If compliance is achieved under the exemption or exemptions
28 provided in RCW 70.95G.030 (as recodified by this act), the
29 certificate shall state the specific basis upon which the exemption
30 is claimed. The certificate of compliance shall be signed by an
31 authorized official of the manufacturing company. The certificate of
32 compliance shall be kept on file by the manufacturer for as long as
33 the package or packaging component is in use, and for three years
34 from the date of the last sale or distribution by the manufacturer.
35 Certificates of compliance, or copies thereof, shall be furnished to
36 the department of ecology upon request within sixty days. If
37 manufacturers are required under any other state statute to provide a
38 certificate of compliance, one certificate may be developed
39 containing all required information.

1 If the manufacturer or supplier of the package or packaging
2 component reformulates or creates a new package or packaging
3 component, the manufacturer shall develop an amended or new
4 certificate of compliance for the reformulated or new package or
5 packaging component.

6 **Sec. 1223.** RCW 70.95G.060 and 1991 c 319 s 112 are each amended
7 to read as follows:

8 The department of ecology may prohibit the sale of any package
9 for which a manufacturer has failed to respond to a request by the
10 department for a certificate of compliance within the allotted period
11 of time pursuant to RCW 70.95G.040 (as recodified by this act).

12 **Sec. 1224.** RCW 70.95I.010 and 1991 c 319 s 302 are each amended
13 to read as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

16 (1) "Rerefining used oil" means the reclaiming of base lube stock
17 from used oil for use again in the production of lube stock.
18 Rerefining used oil does not mean combustion or landfilling.

19 (2) "Used oil" means (a) lubricating fluids that have been
20 removed from an engine crankcase, transmission, gearbox, hydraulic
21 device, or differential of an automobile, bus, truck, vessel, plane,
22 heavy equipment, or machinery powered by an internal combustion
23 engine; (b) any oil that has been refined from crude oil, used, and
24 as a result of use, has been contaminated with physical or chemical
25 impurities; and (c) any oil that has been refined from crude oil and,
26 as a consequence of extended storage, spillage, or contamination, is
27 no longer useful to the original purchaser. "Used oil" does not
28 include used oil to which hazardous wastes have been added.

29 (3) "Public used oil collection site" means a site where a used
30 oil collection tank has been placed for the purpose of collecting
31 household generated used oil. "Public used oil collection site" also
32 means a vehicle designed or operated to collect used oil from the
33 public.

34 (4) "Lubricating oil" means any oil designed for use in, or
35 maintenance of, a vehicle, including, but not limited to, motor oil,
36 gear oil, and hydraulic oil. "Lubricating oil" does not mean
37 petroleum hydrocarbons with a flash point below one hundred degrees
38 Centigrade.

1 (5) "Vehicle" includes every device physically capable of being
2 moved upon a public or private highway, road, street, watercourse, or
3 trail, and in, upon, or by which any person or property is or may be
4 transported or drawn upon a public or private highway, road, street,
5 watercourse, or trail, except devices moved by human or animal power.

6 (6) "Department" means the department of ecology.

7 (7) "Local government" means a city or county developing a local
8 hazardous waste plan under RCW 70.105.220 (as recodified by this
9 act).

10 **Sec. 1225.** RCW 70.95I.020 and 2014 c 173 s 1 are each amended to
11 read as follows:

12 (1) Each local government and its local hazardous waste plan
13 under RCW 70.105.220 (as recodified by this act) is required to
14 include a used oil recycling element. This element shall include:

15 (a) A plan to reach the local goals for household used oil
16 recycling established by the local government and the department
17 under RCW 70.95I.030 (as recodified by this act). The plan shall, to
18 the maximum extent possible, incorporate voluntary agreements with
19 the private sector and state agencies to provide sites for the
20 collection of used oil. Where provided, the plan shall also
21 incorporate residential collection of used oil;

22 (b) A plan for enforcing the sign and container ordinances
23 required by RCW 70.95I.040 (as recodified by this act);

24 (c) A plan for public education on used oil recycling;

25 (d) A plan for addressing best management practices as provided
26 for under RCW 70.95I.030 (as recodified by this act); and

27 (e) An estimate of funding needed to implement the requirements
28 of this chapter. This estimate shall include a budget reserve for
29 disposal of contaminated oil detected at any public used oil
30 collection site administered by the local government.

31 (2) By July 1, 1993, each local government or combination of
32 contiguous local governments shall submit its used oil recycling
33 element to the department. The department shall approve or disapprove
34 the used oil recycling element by January 1, 1994, or within ninety
35 days of submission, whichever is later. The department shall approve
36 or disapprove the used oil recycling element if it determines that
37 the element is consistent with this chapter and the guidelines
38 developed by the department under RCW 70.95I.030 (as recodified by
39 this act).

1 (3) Each local government, or combination of contiguous local
2 governments, shall submit an annual statement to the department
3 describing the number of used oil collection sites and the quantity
4 of household used oil recycled for the jurisdiction during the
5 previous calendar year. The first statement shall be due April 1,
6 1994. Subsequent statements shall be due April 1st of each year.

7 (4) Nothing in this section shall be construed to require a city
8 or county to construct or operate a public used oil collection site.

9 **Sec. 1226.** RCW 70.95I.030 and 2014 c 173 s 2 are each amended to
10 read as follows:

11 (1) The department shall, in consultation with local governments,
12 maintain guidelines for the used oil recycling elements required by
13 RCW 70.95I.020 (as recodified by this act) and, by July 1, 2015,
14 shall develop best management practices for preventing and managing
15 polychlorinated biphenyl contamination at public used oil collection
16 sites.

17 (a) The guidelines shall:

18 (i) Require development of local collection and rerefining goals
19 for household used oil for each entity preparing a used oil recycling
20 element under RCW 70.95I.020 (as recodified by this act);

21 (ii) Require local government to recommend the number of used oil
22 collection sites needed to meet the local goals. The department shall
23 establish criteria regarding minimum levels of used oil collection
24 sites;

25 (iii) Require local government to identify locations suitable as
26 public used oil collection sites as described under RCW
27 70.95I.020(1)(a) (as recodified by this act).

28 (b) The best management practices for preventing and managing
29 polychlorinated biphenyl contamination at public used oil collection
30 sites must include, at a minimum:

31 (i) Tank testing requirements;

32 (ii) Contaminated tank labeling and security measures;

33 (iii) Contaminated tank cleanup standards;

34 (iv) Proper contaminated used oil disposal as required under
35 chapter 70.105 RCW (as recodified by this act) and 40 C.F.R. Part
36 761;

37 (v) Spill control measures; and

38 (vi) Model contract language for contracts with used oil
39 collection vendors.

1 (2) The department may waive all or part of the specific
2 requirements of RCW 70.95I.020 (as recodified by this act) if a local
3 government demonstrates to the satisfaction of the department that
4 the objectives of this chapter have been met.

5 (3) The department may prepare and implement a used oil recycling
6 plan for any local government failing to complete the used oil
7 recycling element of the plan.

8 (4) The department shall develop statewide collection and
9 rerefining goals for household used oil for each calendar year
10 beginning with calendar year 1994. Goals shall be based on the
11 estimated statewide collection and rerefining rate for calendar year
12 1993, and shall increase each year until calendar year 1996, when the
13 rate shall be eighty percent.

14 (5) By July 1, 2015, the department shall update the guidelines
15 establishing statewide equipment and operating standards for public
16 used oil collection sites. The updated guidelines must include the
17 best management practices for prevention and management of
18 contaminated used oil developed pursuant to subsection (1) of this
19 section and a process for how to petition the legislature for relief
20 of extraordinary costs incurred with the management and disposal of
21 contaminated used oil. In addition, the standards shall:

22 (a) Allow the use of used oil collection igloos and other types
23 of portable used oil collection tanks;

24 (b) Prohibit the disposal of nonhousehold-generated used oil;

25 (c) Limit the amount of used oil deposited to five gallons per
26 household per day;

27 (d) Ensure adequate protection against leaks and spills; and

28 (e) Include other requirements deemed appropriate by the
29 department.

30 **Sec. 1227.** RCW 70.95I.040 and 1991 c 319 s 305 are each amended
31 to read as follows:

32 (1) A person annually selling one thousand or more gallons of
33 lubricating oil to ultimate consumers for use or installation off the
34 premises, or five hundred or more vehicle oil filters to ultimate
35 consumers for use or installation off the premises within a city or
36 county having an approved used oil recycling element, shall:

37 (a) Post and maintain at or near the point of sale, durable and
38 legible signs informing the public of the importance of used oil
39 recycling and how and where used oil may be properly recycled; and

1 (b) Provide for sale at or near the display location of the
2 lubricating oil or vehicle oil filters, household used oil recycling
3 containers. The department shall design and print the signs required
4 by this section, and shall make them available to local governments
5 and retail outlets.

6 (2) A person, who, after notice, violates this section is guilty
7 of a misdemeanor and on conviction is subject to a fine not to exceed
8 one thousand dollars.

9 (3) The department is responsible for notifying retailers subject
10 to this section.

11 (4) A city or county may adopt household used oil recycling
12 container standards in order to ensure compatibility with local
13 recycling programs.

14 (5) Each local government preparing a used oil recycling element
15 of a local hazardous waste plan pursuant to RCW 70.95I.020 (as
16 recodified by this act) shall adopt ordinances within its
17 jurisdiction to enforce subsections (1) and (4) of this section.

18 **Sec. 1228.** RCW 70.95I.060 and 1991 c 319 s 307 are each amended
19 to read as follows:

20 (1) Effective January 1, 1992, the use of used oil for dust
21 suppression or weed abatement is prohibited.

22 (2) Effective July 1, 1992, no person may sell or distribute
23 absorbent-based kits, intended for home use, as a means for
24 collecting, recycling, or disposing of used oil.

25 (3) Effective January 1, 1994, no person may knowingly dispose of
26 used oil except by delivery to a person collecting used oil for
27 recycling, treatment, or disposal, subject to the provisions of this
28 chapter and chapter 70.105 RCW (as recodified by this act).

29 (4) Effective January 1, 1994, no owner or operator of a solid
30 waste landfill may knowingly accept used oil for disposal in the
31 landfill.

32 (5) A person who violates this section is guilty of a
33 misdemeanor.

34 **Sec. 1229.** RCW 70.95I.070 and 1991 c 319 s 308 are each amended
35 to read as follows:

36 (1) By January 1, 1993, the department shall adopt rules
37 requiring any transporter of used oil to comply with minimum
38 notification, invoicing, recordkeeping, and reporting requirements.

1 For the purpose of this section, a transporter means a person engaged
2 in the off-site transportation of used oil in quantities greater than
3 twenty-five gallons per day.

4 (2) By January 1, 1993, the department shall adopt minimum
5 standards for used oil that is blended into fuels. Standards shall,
6 at a minimum, establish testing and recordkeeping requirements.
7 Unless otherwise exempted, a processor is any person involved in the
8 marketing, blending, mixing, or processing of used oil to produce
9 fuel to be burned for energy recovery.

10 (3) Any person who knowingly transports used oil without meeting
11 the requirements of this section shall be subject to civil penalties
12 under chapter 70.105 RCW (as recodified by this act).

13 (4) Rules developed under this section shall not require a
14 manifest from individual residences served by a waste oil curbside
15 collection program.

16 **Sec. 1230.** RCW 70.95J.010 and 1992 c 174 s 3 are each amended to
17 read as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

20 (1) "Biosolids" means municipal sewage sludge that is a primarily
21 organic, semisolid product resulting from the wastewater treatment
22 process, that can be beneficially recycled and meets all requirements
23 under this chapter. For the purposes of this chapter, "biosolids"
24 includes septic tank sludge, also known as septage, that can be
25 beneficially recycled and meets all requirements under this chapter.

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

27 (3) "Local health department" has the same meaning as
28 "jurisdictional health department" in RCW 70.95.030 (as recodified by
29 this act).

30 (4) "Municipal sewage sludge" means a semisolid substance
31 consisting of settled sewage solids combined with varying amounts of
32 water and dissolved materials generated from a publicly owned
33 wastewater treatment plant.

34 **Sec. 1231.** RCW 70.95J.090 and 1992 c 174 s 11 are each amended
35 to read as follows:

36 (1) Any permit issued by a local health department under RCW
37 70.95J.080 (as recodified by this act) may be reviewed by the

1 department to ensure that the proposed site or facility conforms with
2 all applicable laws, rules, and standards under this chapter.

3 (2) If the department does not approve or disapprove a permit
4 within sixty days, the permit shall be considered approved.

5 (3) A local health department may appeal the department's
6 decision to disapprove a permit to the pollution control hearings
7 board, as provided in chapter 43.21B RCW.

8 **Sec. 1232.** RCW 70.95K.010 and 2019 c 432 s 32 are each amended
9 to read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Biomedical waste" means, and is limited to, the following
13 types of waste:

14 (a) "Animal waste" is waste animal carcasses, body parts, and
15 bedding of animals that are known to be infected with, or that have
16 been inoculated with, human pathogenic microorganisms infectious to
17 humans.

18 (b) "Biosafety level 4 disease waste" is waste contaminated with
19 blood, excretions, exudates, or secretions from humans or animals who
20 are isolated to protect others from highly communicable infectious
21 diseases that are identified as pathogenic organisms assigned to
22 biosafety level 4 by the centers for disease control, national
23 institute of health, biosafety in microbiological and biomedical
24 laboratories, current edition.

25 (c) "Cultures and stocks" are wastes infectious to humans and
26 includes specimen cultures, cultures and stocks of etiologic agents,
27 wastes from production of biologicals and serums, discarded live and
28 attenuated vaccines, and laboratory waste that has come into contact
29 with cultures and stocks of etiologic agents or blood specimens. Such
30 waste includes but is not limited to culture dishes, blood specimen
31 tubes, and devices used to transfer, inoculate, and mix cultures.

32 (d) "Human blood and blood products" is discarded waste human
33 blood and blood components, and materials containing free-flowing
34 blood and blood products.

35 (e) "Pathological waste" is waste human source biopsy materials,
36 tissues, and anatomical parts that emanate from surgery, obstetrical
37 procedures, and autopsy. "Pathological waste" does not include teeth,
38 human corpses, remains, and anatomical parts that are intended for
39 final disposition.

1 (f) "Sharps waste" is all hypodermic needles, syringes with
2 needles attached, IV tubing with needles attached, scalpel blades,
3 and lancets that have been removed from the original sterile package.

4 (2) "Local government" means city, town, or county.

5 (3) "Local health department" means the city, county, city-
6 county, or district public health department.

7 (4) "Person" means an individual, firm, corporation, association,
8 partnership, consortium, joint venture, commercial entity, state
9 government agency, or local government.

10 (5) "Treatment" means incineration, sterilization, or other
11 method, technique, or process that changes the character or
12 composition of a biomedical waste so as to minimize the risk of
13 transmitting an infectious disease.

14 (6) "Residential sharps waste" has the same meaning as "sharps
15 waste" in subsection (1) of this section except that the sharps waste
16 is generated and prepared for disposal at a residence, apartment,
17 dwelling, or other noncommercial habitat.

18 (7) "Sharps waste container" means a leak-proof, rigid, puncture-
19 resistant red container that is taped closed or tightly lidded to
20 prevent the loss of the residential sharps waste.

21 (8) "Mail programs" means those programs that provide sharps
22 users with a multiple barrier protection kit for the placement of a
23 sharps container and subsequent mailing of the wastes to an approved
24 disposal facility.

25 (9) "Pharmacy return programs" means those programs where sharps
26 containers are returned by the user to designated return sites
27 located at a pharmacy to be transported by a biomedical or solid
28 waste collection company approved by the utilities and transportation
29 commission.

30 (10) "Drop-off programs" means those program sites designated by
31 the solid waste planning jurisdiction where sharps users may dispose
32 of their sharps containers.

33 (11) "Source separation" has the same meaning as in RCW 70.95.030
34 (as recodified by this act).

35 (12) "Unprotected sharps" means residential sharps waste that are
36 not disposed of in a sharps waste container.

37 **Sec. 1233.** RCW 70.95K.011 and 1992 c 14 s 3 are each amended to
38 read as follows:

1 The definition of biomedical waste set forth in RCW 70.95K.010
2 (as recodified by this act) shall be the sole state definition for
3 biomedical waste within the state, and shall preempt biomedical waste
4 definitions established by a local health department or local
5 government.

6 **Sec. 1234.** RCW 70.95L.010 and 1993 c 118 s 2 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout RCW 70.95L.005 through 70.95L.030 (as
10 recodified by this act).

11 (1) "Department" means the department of ecology.

12 (2) "Dishwashing detergent" means a cleaning agent sold, used, or
13 manufactured for the purpose of cleaning dishes, whether by hand or
14 by household machine.

15 (3) "Laundry detergent" means a cleaning agent sold, used, or
16 manufactured for the purpose of cleaning laundry, whether by hand or
17 by household machine.

18 (4) "Person" means an individual, firm, association,
19 copartnership, political subdivision, government agency,
20 municipality, industry, public or private corporation, or any other
21 entity whatsoever.

22 (5) "Phosphorus" means elemental phosphorus.

23 **Sec. 1235.** RCW 70.95L.040 and 1993 c 118 s 5 are each amended to
24 read as follows:

25 The attorney general or appropriate city or county prosecuting
26 attorney is authorized to bring an appropriate action to enjoin any
27 violation of the provisions of RCW 70.95L.020 (as recodified by this
28 act).

29 **Sec. 1236.** RCW 70.95M.080 and 2019 c 422 s 405 are each amended
30 to read as follows:

31 A violation of this chapter is punishable by a civil penalty not
32 to exceed one thousand dollars for each violation in the case of a
33 first violation. Repeat violators are liable for a civil penalty not
34 to exceed five thousand dollars for each repeat violation. Penalties
35 collected under this section must be deposited in the model toxics
36 control operating account created in RCW 70.105D.190 (as recodified
37 by this act).

1 **Sec. 1237.** RCW 70.95M.110 and 2003 c 260 s 13 are each amended
2 to read as follows:

3 Nothing in RCW 70.95M.020, 70.95M.050 (1), (3), or (4), or
4 70.95M.060 (as recodified by this act) applies to medical equipment
5 or reagents used in medical or research tests regulated by the food
6 and drug administration under the federal food, drug, and cosmetic
7 act (21 U.S.C. Sec. 301 et seq.).

8 **Sec. 1238.** RCW 70.95N.020 and 2013 c 305 s 1 are each reenacted
9 and amended to read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Authority" means the Washington materials management and
13 financing authority created under RCW 70.95N.280 (as recodified by
14 this act).

15 (2) "Authorized party" means a manufacturer who submits an
16 individual independent plan or the entity authorized to submit an
17 independent plan for more than one manufacturer.

18 (3) "Board" means the board of directors of the Washington
19 materials management and financing authority created under RCW
20 70.95N.290 (as recodified by this act).

21 (4) "Collector" means an entity licensed to do business in the
22 state that gathers unwanted covered electronic products from
23 households, small businesses, school districts, small governments,
24 and charities for the purpose of recycling and meets minimum
25 standards that may be developed by the department.

26 (5) "Contract for services" means an instrument executed by the
27 authority and one or more persons or entities that delineates
28 collection, transportation, and recycling services, in whole or in
29 part, that will be provided to the citizens of the state within
30 service areas as described in the approved standard plan.

31 (6) "Covered electronic product" includes a cathode ray tube or
32 flat panel computer monitor having a viewable area greater than four
33 inches when measured diagonally, a desktop computer, a laptop or a
34 portable computer, or a cathode ray tube or flat panel television
35 having a viewable area greater than four inches when measured
36 diagonally that has been used in the state by any covered entity
37 regardless of original point of purchase. "Covered electronic
38 product" does not include: (a) A motor vehicle or replacement parts
39 for use in motor vehicles or aircraft, or any computer, computer

1 monitor, or television that is contained within, and is not separate
2 from, the motor vehicle or aircraft; (b) monitoring and control
3 instruments or systems; (c) medical devices; (d) products including
4 materials intended for use as ingredients in those products as
5 defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec.
6 301 et seq.) or the virus-serum-toxin act of 1913 (21 U.S.C. Sec. 151
7 et seq.), and regulations issued under those acts; (e) equipment used
8 in the delivery of patient care in a health care setting; (f) a
9 computer, computer monitor, or television that is contained within a
10 clothes washer, clothes dryer, refrigerator, refrigerator and
11 freezer, microwave oven, conventional oven or range, dishwasher, room
12 air conditioner, dehumidifier, or air purifier; or (g) handheld
13 portable voice or data devices used for commercial mobile services as
14 defined in 47 U.S.C. Sec. 332 (d)(1).

15 (7) "Covered entity" means any household, charity, school
16 district, small business, or small government located in Washington
17 state.

18 (8) "Curbside service" means a collection service providing
19 regularly scheduled pickup of covered electronic products from
20 households or other covered entities in quantities generated from
21 households.

22 (9) "Department" means the department of ecology.

23 (10) "Electronic product" includes a cathode ray tube or flat
24 panel computer monitor having a viewable area greater than four
25 inches when measured diagonally; a desktop computer; a laptop or a
26 portable computer; or a cathode ray tube or flat screen television
27 having a viewable area greater than four inches when measured
28 diagonally.

29 (11) "Equivalent share" means the weight in pounds of covered
30 electronic products identified for an individual manufacturer under
31 this chapter as determined by the department under RCW 70.95N.200 (as
32 recodified by this act).

33 (12) "Household" means a single detached dwelling unit or a
34 single unit of a multiple dwelling unit and appurtenant structures.

35 (13) "Independent plan" means a plan for the collection,
36 transportation, and recycling of unwanted covered electronic products
37 that is developed, implemented, and financed by an individual
38 manufacturer or by an authorized party.

39 (14) "Manufacturer" means any person, in business or no longer in
40 business but having a successor in interest, who, irrespective of the

1 selling technique used, including by means of distance or remote
2 sale:

3 (a) Manufactures or has manufactured a covered electronic product
4 under its own brand names for sale in or into this state;

5 (b) Assembles or has assembled a covered electronic product that
6 uses parts manufactured by others for sale in or into this state
7 under the assembler's brand names;

8 (c) Resells or has resold in or into this state under its own
9 brand names a covered electronic product produced by other suppliers,
10 including retail establishments that sell covered electronic products
11 under their own brand names;

12 (d) Manufactures or manufactured a cobranded product for sale in
13 or into this state that carries the name of both the manufacturer and
14 a retailer;

15 (e) Imports or has imported a covered electronic product into the
16 United States that is sold in or into this state. However, if the
17 imported covered electronic product is manufactured by any person
18 with a presence in the United States meeting the criteria of
19 manufacturer under (a) through (d) of this subsection, that person is
20 the manufacturer. For purposes of this subsection, "presence" means
21 any person that performs activities conducted under the standards
22 established for interstate commerce under the commerce clause of the
23 United States Constitution;

24 (f) Sells at retail a covered electronic product acquired from an
25 importer that is the manufacturer as described in (e) of this
26 subsection, and elects to register in lieu of the importer as the
27 manufacturer for those products; or

28 (g) Beginning in program year 2016, elects to assume the
29 responsibility and register in lieu of a manufacturer as defined
30 under this section. In the event the entity who assumes
31 responsibility fails to comply, the manufacturer as defined under (a)
32 through (f) of this subsection remains fully responsible.

33 (15) "Market share" means the percentage of covered electronic
34 products by weight identified for an individual manufacturer, as
35 determined by the department under RCW 70.95N.190 (as recodified by
36 this act).

37 (16) "New entrant" means: (a) A manufacturer of televisions that
38 have been sold in the state for less than ten years; or (b) a
39 manufacturer of desktop computers, laptop and portable computers, or
40 computer monitors that have been sold in the state for less than five

1 years. However, a manufacturer of both televisions and computers or a
2 manufacturer of both televisions and computer monitors that is deemed
3 a new entrant under either only (a) or (b) of this subsection is not
4 considered a new entrant for purposes of this chapter.

5 (17) "Orphan product" means a covered electronic product that
6 lacks a manufacturer's brand or for which the manufacturer is no
7 longer in business and has no successor in interest.

8 (18) "Plan's equivalent share" means the weight in pounds of
9 covered electronic products for which a plan is responsible. A plan's
10 equivalent share is equal to the sum of the equivalent shares of each
11 manufacturer participating in that plan.

12 (19) "Plan's market share" means the sum of the market shares of
13 each manufacturer participating in that plan.

14 (20) "Plan's return share" means the sum of the return shares of
15 each manufacturer participating in that plan.

16 (21) "Premium service" means services such as at-location system
17 upgrade services provided to covered entities and at-home pickup
18 services offered to households. "Premium service" does not include
19 curbside service.

20 (22) "Processor" means an entity engaged in disassembling,
21 dismantling, or shredding electronic products to recover materials
22 contained in the electronic products and prepare those materials for
23 reclaiming or reuse in new products in accordance with processing
24 standards established by this chapter and by the department. A
25 processor may also salvage parts to be used in new products.

26 (23) "Product type" means one of the following categories:
27 Computer monitors; desktop computers; laptop and portable computers;
28 and televisions.

29 (24) "Program" means the collection, transportation, and
30 recycling activities conducted to implement an independent plan or
31 the standard plan.

32 (25) "Program year" means each full calendar year after the
33 program has been initiated.

34 (26) "Recycling" means transforming or remanufacturing unwanted
35 electronic products, components, and by-products into usable or
36 marketable materials for use other than landfill disposal or
37 incineration. "Recycling" does not include energy recovery or energy
38 generation by means of combusting unwanted electronic products,
39 components, and by-products with or without other waste. Smelting of
40 electronic materials to recover metals for reuse in conformance with

1 all applicable laws and regulations is not considered disposal or
2 energy recovery.

3 (27) "Retailer" means a person who offers covered electronic
4 products for sale at retail through any means including, but not
5 limited to, remote offerings such as sales outlets, catalogs, or the
6 internet, but does not include a sale that is a wholesale transaction
7 with a distributor or a retailer.

8 (28) "Return 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 (29) "Reuse" means any operation by which an electronic product
13 or a component of a covered electronic product changes ownership and
14 is used for the same purpose for which it was originally purchased.

15 (30) "Small business" means a business employing less than fifty
16 people.

17 (31) "Small government" means a city in the state with a
18 population less than fifty thousand, a county in the state with a
19 population less than one hundred twenty-five thousand, and special
20 purpose districts in the state.

21 (32) "Standard plan" means the plan for the collection,
22 transportation, and recycling of unwanted covered electronic products
23 developed, implemented, and financed by the authority on behalf of
24 manufacturers participating in the authority.

25 (33) "Transporter" means an entity that transports covered
26 electronic products from collection sites or services to processors
27 or other locations for the purpose of recycling, but does not include
28 any entity or person that hauls their own unwanted electronic
29 products.

30 (34) "Unwanted electronic product" means a covered electronic
31 product that has been discarded or is intended to be discarded by its
32 owner.

33 (35) "White box manufacturer" means a person who manufactured
34 unbranded covered electronic products offered for sale in the state
35 within ten years prior to a program year for televisions or within
36 five years prior to a program year for desktop computers, laptop or
37 portable computers, or computer monitors.

38 **Sec. 1239.** RCW 70.95N.040 and 2013 c 305 s 2 are each amended to
39 read as follows:

1 (1) By January 1, 2007, and annually thereafter, each
2 manufacturer must register with the department.

3 (2) A manufacturer must submit to the department with each
4 registration or annual renewal a fee to cover the administrative
5 costs of this chapter as determined by the department under RCW
6 70.95N.230 (as recodified by this act).

7 (3) The department shall review the registration or renewal
8 application and notify the manufacturer if their registration does
9 not meet the requirements of this section. Within thirty days of
10 receipt of such a notification from the department, the manufacturer
11 must file with the department a revised registration addressing the
12 requirements noted by the department.

13 (4) The registration must include the following information:

14 (a) The name and contact information of the manufacturer
15 submitting the registration;

16 (b) The manufacturer's brand names of covered electronic
17 products, including all brand names sold in the state in the past,
18 all brand names currently being sold in the state, and all brand
19 names for which the manufacturer has legal responsibility under RCW
20 70.95N.100 (as recodified by this act);

21 (c) The method or methods of sale used in the state; and

22 (d) Whether the registrant will be participating in the standard
23 plan or submitting an independent plan to the department for
24 approval.

25 (5) The registrant shall submit any changes to the information
26 provided in the registration to the department within fourteen days
27 of such change.

28 (6) The department shall identify, using all reasonable means,
29 manufacturers that are in business or that are no longer in business
30 but that have a successor in interest by examining best available
31 return share data, product advertisements, and other pertinent data.
32 The department shall notify manufacturers that have been identified
33 and for whom an address has been found of the requirements of this
34 chapter, including registration and plan requirements under this
35 section and RCW 70.95N.050 (as recodified by this act).

36 **Sec. 1240.** RCW 70.95N.060 and 2006 c 183 s 6 are each amended to
37 read as follows:

38 (1) All initial independent plans and the initial standard plan
39 required under RCW 70.95N.050 (as recodified by this act) must be

1 submitted to the department by February 1, 2008. The department shall
2 review each independent plan and the standard plan.

3 (2) The authority submitting the standard plan and each
4 authorized party submitting an independent plan to the department
5 must pay a fee to the department to cover the costs of administering
6 and implementing this chapter. The department shall set the fees as
7 described under RCW 70.95N.230 (as recodified by this act).

8 (3) The fees in subsection (2) of this section apply to the
9 initial plan submission and plan updates and revisions required in
10 RCW 70.95N.070 (as recodified by this act).

11 (4) Within ninety days after receipt of a plan, the department
12 shall determine whether the plan complies with this chapter. If the
13 plan is approved, the department shall send a letter of approval. If
14 a plan is rejected, the department shall provide the reasons for
15 rejecting the plan to the authority or authorized party. The
16 authority or authorized party must submit a new plan within sixty
17 days after receipt of the letter of disapproval.

18 (5) An independent plan and the standard plan must contain the
19 following elements:

20 (a) Contact information for the authority or authorized party and
21 a comprehensive list of all manufacturers participating in the plan
22 and their contact information;

23 (b) A description of the collection, transportation, and
24 recycling systems and service providers used, including a description
25 of how the authority or authorized party will:

26 (i) Seek to use businesses within the state, including retailers,
27 charities, processors, and collection and transportation services;

28 (ii) Fairly compensate collectors for providing collection
29 services; and

30 (iii) Fairly compensate processors for providing processing
31 services;

32 (c) The method or methods for the reasonably convenient
33 collection of all product types of covered electronic products in
34 rural and urban areas throughout the state, including how the plan
35 will provide for collection services in each county of the state and
36 for a minimum of one collection site or alternate collection service
37 for each city or town with a population greater than ten thousand. A
38 collection site for a county may be the same as a collection site for
39 a city or town in the county;

1 (d) A description of how the plan will provide service to small
2 businesses, small governments, charities, and school districts in
3 Washington;

4 (e) The processes and methods used to recycle covered electronic
5 products including a description of the processing that will be used
6 and the facility location;

7 (f) Documentation of audits of each processor used in the plan
8 and compliance with processing standards established under RCW
9 70.95N.250 (~~and section 26 of this act~~) (as recodified by this
10 act);

11 (g) A description of the accounting and reporting systems that
12 will be employed to track progress toward the plan's equivalent
13 share;

14 (h) A timeline describing start-up, implementation, and progress
15 towards milestones with anticipated results;

16 (i) A public information campaign to inform consumers about how
17 to recycle their covered electronic products at the end of the
18 product's life; and

19 (j) A description of how manufacturers participating in the plan
20 will communicate and work with processors utilized by that plan to
21 promote and encourage design of electronic products and their
22 components for recycling.

23 (6) The standard plan shall address how it will incorporate and
24 fairly compensate registered collectors providing curbside or premium
25 services such that they are not compensated at a lower rate for
26 collection costs than the compensation offered other collectors
27 providing drop-off collection sites in that geographic area.

28 (7) All transporters, collectors, and processors used to fulfill
29 the requirements of this section must be registered as described in
30 RCW 70.95N.240 (as recodified by this act).

31 **Sec. 1241.** RCW 70.95N.070 and 2006 c 183 s 7 are each amended to
32 read as follows:

33 (1) An independent plan and the standard plan must be updated at
34 least every five years and as required in (a) and (b) of this
35 subsection.

36 (a) If the program fails to provide service in each county in the
37 state or meet other plan requirements, the authority or authorized
38 party shall submit to the department within sixty days of failing to
39 provide service an updated plan addressing how the program will be

1 adjusted to meet the program geographic coverage and collection
2 service requirements established in RCW 70.95N.090 (as recodified by
3 this act).

4 (b) The authority or authorized party shall notify the department
5 of any modification to the plan. If the department determines that
6 the authority or authorized party has significantly modified the
7 program described in the plan, the authority or authorized party
8 shall submit a revised plan describing the changes to the department
9 within sixty days of notification by the department.

10 (2) Within sixty days after receipt of a revised plan, the
11 department shall determine whether the revised plan complies with
12 this chapter. If the revised plan is approved, the department shall
13 send a letter of approval. If the revised plan is rejected, the
14 department shall provide the reasons for rejecting the plan to the
15 authority or authorized party. The authority or authorized party must
16 submit a new plan revision within sixty days after receipt of the
17 letter of disapproval.

18 (3) The authority or authorized parties may buy and sell
19 collected covered electronic products with other programs without
20 submitting a plan revision for review.

21 **Sec. 1242.** RCW 70.95N.080 and 2006 c 183 s 8 are each amended to
22 read as follows:

23 (1) A manufacturer participating in an independent plan may join
24 the standard plan by notifying the authority and the department of
25 its intention at least five months prior to the start of the next
26 program year.

27 (2) Manufacturers may not change from one plan to another plan
28 during a program year.

29 (3) A manufacturer participating in the standard plan wishing to
30 implement or participate in an independent plan may do so by
31 complying with rules adopted by the department under RCW 70.95N.230
32 (as recodified by this act).

33 **Sec. 1243.** RCW 70.95N.130 and 2006 c 183 s 13 are each amended
34 to read as follows:

35 (1) The electronic products recycling account is created in the
36 custody of the state treasurer. All payments resulting from plans not
37 reaching their equivalent share, as described in RCW 70.95N.220 (as
38 recodified by this act), shall be deposited into the account. Any

1 moneys collected for manufacturer registration fees, fees associated
2 with reviewing and approving plans and plan revisions, and penalties
3 levied under this chapter shall be deposited into the account.

4 (2) Only the director of the department or the director's
5 designee may authorize expenditures from the account. The account is
6 subject to allotment procedures under chapter 43.88 RCW, but an
7 appropriation is not required for expenditures.

8 (3) Moneys in the account may be used solely by the department
9 for the purposes of fulfilling department responsibilities specified
10 in this chapter and for expenditures to the authority and authorized
11 parties resulting from plans exceeding their equivalent share, as
12 described in RCW 70.95N.220 (as recodified by this act). Funds in the
13 account may not be diverted for any purpose or activity other than
14 those specified in this section.

15 **Sec. 1244.** RCW 70.95N.140 and 2013 c 305 s 6 and 2013 c 292 s 1
16 are each reenacted and amended to read as follows:

17 (1) By March 1st of the second program year and each program year
18 thereafter, the authority and each authorized party shall file with
19 the department an annual report for the preceding program year.

20 (2) The annual report must include the following information:

21 (a) The total weight in pounds of each type of covered electronic
22 products collected and recycled, by county, during the preceding
23 program year including documentation verifying collection and
24 processing of that material. The total weight in pounds includes
25 orphan products. The report must also indicate and document the
26 weight in pounds received from each nonprofit charitable organization
27 primarily engaged in the business of reuse and resale used by the
28 plan. The report must document the weight in pounds that were
29 received in large quantities from small businesses, small
30 governments, charities and school districts as described in RCW
31 70.95N.090(5) (as recodified by this act);

32 (b) The collection services provided in each county and for each
33 city with a population over ten thousand including a list of all
34 collection sites and services operating in the state in the prior
35 program year and the parties who operated them;

36 (c) (i) A list of processors used, the weight of covered
37 electronic products processed by each direct processor, and a
38 description of the processes and methods used to recycle the covered
39 electronic products including a description of the processing and

1 facility locations. The report must also include a list of
2 subcontractors who further processed or recycled unwanted covered
3 electronic products or electronic components, including facility
4 locations.

5 (ii) An estimate of the weight of each type of material recovered
6 as a result of the processing of recycled covered electronic
7 products. Recovered materials catalogued under this subsection must
8 include, at a minimum: Cathode ray tube glass, circuit boards,
9 batteries, mercury-containing devices, plastics, and metals.

10 (iii) An estimate of the percentage, by weight, of all collected
11 products that ultimately are reused, recycled, or end up as residual
12 waste that is disposed of in another manner;

13 (d) Educational and promotional efforts that were undertaken;

14 (e) For program years 2009 through 2014, the results of sampling
15 and sorting as required in RCW 70.95N.110 (as recodified by this
16 act), including a list of the brand names of covered electronic
17 products by product type, the number of covered electronic products
18 by product type, the weight of covered electronic products that are
19 identified for each brand name or that lack a manufacturer's brand,
20 and the total weight of the sample by product type;

21 (f) The list of manufacturers that are participating in the
22 standard plan;

23 (g) A description of program revenues and costs, including: (i)
24 The total cost of the program; and (ii) the average cost of the
25 program per pound of covered electronic product collected;

26 (h) A detailed accounting of the following costs of the program:
27 (i) Program delivery, including: (A) Education and promotional
28 efforts; (B) collection; (C) transportation; and (D) processing and
29 labor; and (ii) program administration;

30 (i) A description of the methods used by the program to collect,
31 transport, recycle, and process covered electronic products; and

32 (j) Any other information deemed necessary by the department.

33 (3) The department shall review each report within ninety days of
34 its submission and shall notify the authority or authorized party of
35 any need for additional information or documentation, or any
36 deficiency in its program.

37 (4) All reports submitted to the department must be available to
38 the general public through the internet. Proprietary information
39 submitted to the department under this chapter is exempt from public
40 disclosure under RCW 42.56.270.

1 **Sec. 1245.** RCW 70.95N.170 and 2006 c 183 s 17 are each amended
2 to read as follows:

3 No person may sell or offer for sale a covered electronic product
4 to any person in this state unless the manufacturer of the covered
5 electronic product has filed a registration with the department under
6 RCW 70.95N.040 (as recodified by this act) and is participating in an
7 approved plan under RCW 70.95N.050 (as recodified by this act). A
8 person that sells or offers for sale a covered electronic product in
9 the state shall consult the department's web site for lists of
10 manufacturers with registrations and approved plans prior to selling
11 a covered electronic product in the state. A person is considered to
12 have complied with this section if on the date the product was
13 ordered from the manufacturer or its agent, the manufacturer was
14 listed as having registered and having an approved plan on the
15 department's web site.

16 **Sec. 1246.** RCW 70.95N.180 and 2013 c 305 s 7 are each amended to
17 read as follows:

18 (1) The department shall maintain on its web site the following
19 information:

20 (a) The names of the manufacturers and the manufacturer's brands
21 that are registered with the department under RCW 70.95N.040 (as
22 recodified by this act);

23 (b) The names of the manufacturers and the manufacturer's brands
24 that are participating in an approved plan under RCW 70.95N.050 (as
25 recodified by this act);

26 (c) The names and addresses of the collectors and transporters
27 that are listed in registrations filed with the department under RCW
28 70.95N.240 (as recodified by this act);

29 (d) The names and addresses of the processors used to fulfill the
30 requirements of the plans;

31 (e) For program years 2009 through 2015, return and equivalent
32 shares for all manufacturers.

33 (2) The department shall update this web site information
34 promptly upon receipt of a registration or a report.

35 **Sec. 1247.** RCW 70.95N.190 and 2013 c 305 s 8 are each amended to
36 read as follows:

37 (1) For program years 2009 through 2015, the department shall
38 determine the return share for each manufacturer in the standard plan

1 or an independent plan by dividing the weight of covered electronic
2 products identified for each manufacturer by the total weight of
3 covered electronic products identified for all manufacturers in the
4 standard plan or an independent plan, then multiplying the quotient
5 by one hundred.

6 (2) For the first program year, the department shall determine
7 the return share for such manufacturers using all reasonable means
8 and based on best available information regarding return share data
9 from other states and other pertinent data.

10 (3) For 2014, the department shall determine the return share for
11 such manufacturers using all reasonable means and based on the most
12 recent sampling of covered electronic products conducted in the state
13 under RCW 70.95N.110 (as recodified by this act).

14 (4) (a) For program year 2016 and all subsequent program years,
15 the department shall determine market share by weight for all
16 manufacturers using any combination of the following data:

17 (i) Generally available market research data;

18 (ii) Sales data supplied by manufacturers for brands they
19 manufacture or sell; or

20 (iii) Sales data provided by retailers for brands they sell.

21 (b) The department shall determine each manufacturer's percentage
22 of market share by dividing each manufacturer's total pounds of
23 covered electronic products sold in Washington by the sum total of
24 all pounds of covered electronic products sold in Washington by all
25 manufacturers.

26 (5) Data reported by manufacturers under subsection (4) of this
27 section is exempt from public disclosure under chapter 42.56 RCW.

28 **Sec. 1248.** RCW 70.95N.200 and 2013 c 305 s 9 are each amended to
29 read as follows:

30 (1) For program years 2009 through 2015, the department shall
31 determine the total equivalent share for each manufacturer in the
32 standard plan or an independent plan by dividing the return share
33 percentage for each manufacturer by one hundred, then multiplying the
34 quotient by the total weight in pounds of covered electronic products
35 collected for that program year, allowing as needed for the
36 additional credit authorized in subsection (3) of this section. For
37 program year 2016 and all subsequent program years, the department
38 shall determine the total equivalent share for each manufacturer in
39 the standard plan or an independent plan by dividing the market share

1 percentage for each manufacturer by one hundred, then multiplying the
2 quotient by the total weight in pounds of covered electronic products
3 collected for that program year, allowing as needed for the
4 additional credit authorized in subsection (3) of this section.

5 (2) (a) By June 1st of each program year, the department shall
6 notify each manufacturer of the manufacturer's equivalent share of
7 covered electronic products to be applied to the previous program
8 year. The department shall also notify each manufacturer of how its
9 equivalent share was determined.

10 (b) By June 1st of each program year, the department shall bill
11 any authorized party or authority that has not attained its plan's
12 equivalent share as determined under RCW 70.95N.220 (as recodified by
13 this act). The authorized party or authority shall remit payment to
14 the department within sixty days from the billing date.

15 (c) By September 1st of each program year, the department shall
16 pay any authorized party or authority that exceeded its plan's
17 equivalent share.

18 (3) Plans that utilize the collection services of nonprofit
19 charitable organizations that qualify for a taxation exemption under
20 section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C.
21 Sec. 501(c)(3)) that are primarily engaged in the business of reuse
22 and resale must be given an additional five percent credit to be
23 applied toward a plan's equivalent share for pounds that are received
24 for recycling from those organizations. The department may adjust the
25 percentage of credit annually.

26 **Sec. 1249.** RCW 70.95N.230 and 2013 c 305 s 11 are each amended
27 to read as follows:

28 (1) The department shall adopt rules to determine the process for
29 manufacturers to change plans under RCW 70.95N.080 (as recodified by
30 this act).

31 (2) The department shall establish annual registration and plan
32 review fees for administering this chapter. An initial fee schedule
33 must be established by rule and be adjusted no more often than once
34 every two years. All fees charged must be based on factors relating
35 to administering this chapter and be based on a sliding scale that is
36 representative of annual sales of covered electronic products in the
37 state, either by weight or unit, or by representative market share.
38 Fees must be established in amounts to fully recover and not to
39 exceed expenses incurred by the department to implement this chapter.

1 (3) The department shall establish an annual process for local
2 governments and local communities to report their satisfaction with
3 the services provided by plans under this chapter. This information
4 must be used by the department in reviewing plan updates and
5 revisions.

6 (4) The department may adopt rules as necessary for the purpose
7 of implementing, administering, and enforcing this chapter.

8 **Sec. 1250.** RCW 70.95N.260 and 2006 c 183 s 27 are each amended
9 to read as follows:

10 (1) No manufacturer may sell or offer for sale a covered
11 electronic product in or into the state unless the manufacturer of
12 the covered electronic product is participating in an approved plan.
13 The department shall send a written warning to a manufacturer that
14 does not have an approved plan or is not participating in an approved
15 plan as required under RCW 70.95N.050 (as recodified by this act).
16 The written warning must inform the manufacturer that it must
17 participate in an approved plan within thirty days of the notice. Any
18 violation after the initial written warning shall be assessed a
19 penalty of up to ten thousand dollars for each violation.

20 (2) If the authority or any authorized party fails to implement
21 their approved plan, the department must assess a penalty of up to
22 five thousand dollars for the first violation along with notification
23 that the authority or authorized party must implement its plan within
24 thirty days of the violation. After thirty days, the authority or any
25 authorized party failing to implement their approved plan must be
26 assessed a penalty of up to ten thousand dollars for the second and
27 each subsequent violation.

28 (3) Any person that does not comply with manufacturer
29 registration requirements under RCW 70.95N.040 (as recodified by this
30 act), education and outreach requirements under RCW 70.95N.120 (as
31 recodified by this act), reporting requirements under RCW 70.95N.140
32 (as recodified by this act), labeling requirements under RCW
33 70.95N.160 (as recodified by this act), retailer responsibility
34 requirements under RCW 70.95N.170 (as recodified by this act),
35 collector or transporter registration requirements under RCW
36 70.95N.240 (as recodified by this act), or requirements under RCW
37 70.95N.250 ~~((and section 26 of this act))~~ (as recodified by this
38 act), must first receive a written warning including a copy of the
39 requirements under this chapter and thirty days to correct the

1 violation. After thirty days, a person must be assessed a penalty of
2 up to one thousand dollars for the first violation and up to two
3 thousand dollars for the second and each subsequent violation.

4 (4) All penalties levied under this section must be deposited
5 into the electronic products recycling account created under RCW
6 70.95N.130 (as recodified by this act).

7 (5) The department shall enforce this section.

8 **Sec. 1251.** RCW 70.95N.280 and 2006 c 183 s 29 are each amended
9 to read as follows:

10 (1) The Washington materials management and financing authority
11 is established as a public body corporate and politic, constituting
12 an instrumentality of the state of Washington exercising essential
13 governmental functions.

14 (2) The authority shall plan and implement a collection,
15 transportation, and recycling program for manufacturers that have
16 registered with the department their intent to participate in the
17 standard program as required under RCW 70.95N.040 (as recodified by
18 this act).

19 (3) Membership in the authority is comprised of registered
20 participating manufacturers. Any registered manufacturer who does not
21 qualify or is not approved to submit an independent plan, or whose
22 independent plan has not been approved by the department, is a member
23 of the authority. All new entrants and white box manufacturers are
24 also members of the authority.

25 (4) The authority shall act as a business management organization
26 on behalf of the citizens of the state to manage financial resources
27 and contract for services for collection, transportation, and
28 recycling of covered electronic products.

29 (5) The authority's standard plan is responsible for collecting,
30 transporting, and recycling the sum of the equivalent shares of each
31 participating manufacturer.

32 (6) The authority shall accept into the standard program covered
33 electronic products from any registered collector who meets the
34 requirements of this chapter. The authority shall compensate
35 registered collectors for the reasonable costs associated with
36 collection, but is not required to compensate nor restricted from
37 compensating the additional collection costs resulting from the
38 additional convenience offered to customers through premium and
39 curbside services.

1 (7) The authority shall accept and utilize in the standard
2 program any registered processor meeting the requirements of this
3 chapter and any requirements described in the authority's operating
4 plan or through contractual arrangements. Processors utilized by the
5 standard plan shall provide documentation to the authority at least
6 annually regarding how they are meeting the requirements in RCW
7 70.95N.250 (~~and section 26 of this act~~) (as recodified by this
8 act), including enough detail to allow the standard plan to meet its
9 reporting requirements in RCW 70.95N.140(2)(c) (~~and (d)~~) (as
10 recodified by this act), and must submit to audits conducted by or
11 for the authority. The authority shall compensate such processors for
12 the reasonable costs, as determined by the authority, associated with
13 processing unwanted electronic products. Such processors must
14 demonstrate that the unwanted electronic products have been received
15 from registered collectors or transporters, and provide other
16 documentation as may be required by the authority.

17 (8) Except as specifically allowed in this chapter, the authority
18 shall operate without using state funds or lending the credit of the
19 state or local governments.

20 (9) The authority shall develop innovative approaches to improve
21 materials management efficiency in order to ensure and increase the
22 use of secondary material resources within the economy.

23 **Sec. 1252.** RCW 70.95N.300 and 2013 c 305 s 13 are each amended
24 to read as follows:

25 (1) Manufacturers participating in the standard plan shall pay
26 the authority to cover all administrative and operational costs
27 associated with the collection, transportation, and recycling of
28 covered electronic products within the state of Washington incurred
29 by the standard program operated by the authority to meet the
30 standard plan's equivalent share obligation as described in RCW
31 70.95N.280(5) (as recodified by this act).

32 (2) The authority shall assess charges on each manufacturer
33 participating in the standard plan and collect funds from each
34 participating manufacturer for the manufacturer's portion of the
35 costs in subsection (1) of this section. For program years 2009
36 through 2015, such apportionment must be based on return share,
37 market share, any combination of return share and market share, or
38 any other equitable method. For the 2016 program year and all
39 subsequent program years, such apportionment must be based on market

1 share. The authority's apportionment of costs to manufacturers
2 participating in the standard plan may not include nor be based on
3 electronic products imported through the state and subsequently
4 exported outside the state. Charges assessed under this section must
5 not be formulated in such a way as to create incentives to divert
6 imported electronic products to ports or distribution centers in
7 other states. The authority shall adjust the charges to manufacturers
8 participating in the standard plan as necessary in order to ensure
9 that all costs associated with the identified activities are covered.

10 (3) The authority may require financial assurances or performance
11 bonds for manufacturers participating in the standard plan, including
12 but not limited to new entrants and white box manufacturers, when
13 determining equitable methods for apportioning costs to ensure that
14 the long-term costs for collecting, transporting, and recycling of a
15 covered electronic product are borne by the appropriate manufacturer
16 in the event that the manufacturer ceases to participate in the
17 program.

18 (4) Nothing in this section authorizes the authority to assess
19 fees or levy taxes directly on the sale or possession of electronic
20 products.

21 (5) If a manufacturer has not met its financial obligations as
22 determined by the authority under this section, the authority shall
23 notify the department that the manufacturer is no longer
24 participating in the standard plan.

25 (6) For program years 2009 through 2015, the authority shall
26 submit its plan for assessing charges and apportioning cost on
27 manufacturers participating in the standard plan to the department
28 for review and approval along with the standard plan as provided in
29 RCW 70.95N.060 (as recodified by this act).

30 (7)(a) Any manufacturer participating in the standard plan may
31 appeal an assessment of charges or apportionment of costs levied by
32 the authority under this section by written petition to the director
33 of the department. The director of the department or the director's
34 designee shall review all appeals within timelines established by the
35 department and shall reverse any assessments of charges or
36 apportionment of costs if the director finds that the authority's
37 assessments or apportionment of costs was an arbitrary administrative
38 decision, an abuse of administrative discretion, or is not an
39 equitable assessment or apportionment of costs. The director shall
40 make a fair and impartial decision based on sound data. If the

1 director of the department reverses an assessment of charges, the
2 authority must redetermine the assessment or apportionment of costs.

3 (b) Disputes regarding a final decision made by the director or
4 director's designee may be challenged through arbitration. The
5 director shall appoint one member to serve on the arbitration panel
6 and the challenging party shall appoint one other. These two persons
7 shall choose a third person to serve. If the two persons cannot agree
8 on a third person, the presiding judge of the Thurston county
9 superior court shall choose a third person. The decision of the
10 arbitration panel shall be final and binding, subject to review by
11 the superior court solely upon the question of whether the decision
12 of the panel was arbitrary or capricious.

13 **Sec. 1253.** RCW 70.95N.310 and 2006 c 183 s 32 are each amended
14 to read as follows:

15 (1) The authority shall use any funds legally available to it for
16 any purpose specifically authorized by this chapter to:

17 (a) Contract and pay for collecting, transporting, and recycling
18 of covered electronic products and education and other services as
19 identified in the standard plan;

20 (b) Pay for the expenses of the authority including, but not
21 limited to, salaries, benefits, operating costs and consumable
22 supplies, equipment, office space, and other expenses related to the
23 costs associated with operating the authority;

24 (c) Pay into the electronic products recycling account amounts
25 billed by the department to the authority for any deficit in reaching
26 the standard plan's equivalent share as required under RCW 70.95N.220
27 (as recodified by this act); and

28 (d) Pay the department for the fees for submitting the standard
29 plan and any plan revisions.

30 (2) If practicable, the authority shall avoid creating new
31 infrastructure already available through private industry in the
32 state.

33 (3) The authority may not receive an appropriation of state
34 funds, other than:

35 (a) Funds that may be provided as a one-time loan to cover
36 administrative costs associated with start-up of the authority, such
37 as electing the board of directors and conducting the public hearing
38 for the operating plan, provided that no appropriated funds may be

1 used to pay for collection, transportation, or recycling services;
2 and

3 (b) Funds received from the department from the electronic
4 products recycling account for exceeding the standard plan's
5 equivalent share.

6 (4) The authority may receive additional sources of funding that
7 do not obligate the state to secure debt.

8 (5) All funds collected by the authority under this chapter,
9 including interest, dividends, and other profits, are and must remain
10 under the complete control of the authority and its board of
11 directors, be fully available to achieve the intent of this chapter,
12 and be used for the sole purpose of achieving the intent of this
13 chapter.

14 **Sec. 1254.** RCW 70.98.020 and 1975-'76 2nd ex.s. c 108 s 13 are
15 each amended to read as follows:

16 It is the purpose of this chapter to effectuate the policies set
17 forth in RCW 70.98.010 (as recodified by this act) as now or
18 hereafter amended by providing for:

19 (1) A program of effective regulation of sources of ionizing
20 radiation for the protection of the occupational and public health
21 and safety;

22 (2) A program to promote an orderly regulatory pattern within the
23 state, among the states and between the federal government and the
24 state and facilitate intergovernmental cooperation with respect to
25 use and regulation of sources of ionizing radiation to the end that
26 duplication of regulation may be minimized;

27 (3) A program to establish procedures for assumption and
28 performance of certain regulatory responsibilities with respect to
29 by-product, source, and special nuclear materials.

30 **Sec. 1255.** RCW 70.98.085 and 2012 c 19 s 9 are each amended to
31 read as follows:

32 (1) The agency is empowered to administer a user permit system
33 and issue site use permits for generators, packagers, or brokers to
34 use the commercial low-level radioactive waste disposal facility. The
35 agency may issue a site use permit consistent with the requirements
36 of this chapter and the rules adopted under it and the requirements
37 of the Northwest Interstate Compact on Low-Level Radioactive Waste
38 Management under chapter 43.145 RCW (as recodified by this act). The

1 agency may deny an application for a site use permit or modify,
2 suspend, or revoke a site use permit in any case in which it finds
3 that the permit was obtained by fraud or there is or has been a
4 failure, refusal, or inability to comply with the requirements of
5 this chapter or rules adopted under this chapter or the requirements
6 of the Northwest Interstate Compact on Low-Level Radioactive Waste
7 Management under chapter 43.145 RCW (as recodified by this act). The
8 agency may also deny or suspend a site use permit for failure to
9 comply with RCW 43.200.230 (as recodified by this act).

10 (2) Any permit issued by the department of ecology for a site use
11 permit pursuant to chapter 43.200 RCW (as recodified by this act) is
12 valid until the first expiration date that occurs after July 1, 2012.

13 (3) The agency shall collect a fee from the applicants for site
14 use permits that is sufficient to fund the costs to the agency to
15 administer the user permit system. The site use permit fee must be
16 set at a level that is also sufficient to fund state participation in
17 activities related to the Northwest Interstate Compact on Low-Level
18 Radioactive Waste Management under chapter 43.145 RCW (as recodified
19 by this act). The site use permit fees must be deposited in the site
20 closure account established in RCW 43.200.080(2) (as recodified by
21 this act). Appropriations to the department of health or the
22 department of ecology are required to permit expenditures using site
23 use permit fee funds from the site closure account.

24 (4) The agency shall collect a surveillance fee as an added
25 charge on each cubic foot of low-level radioactive waste disposed of
26 at the commercial low-level radioactive waste disposal site in this
27 state which shall be set at a level that is sufficient to fund
28 completely the radiation control activities of the agency directly
29 related to the disposal site, including but not limited to the
30 management, licensing, monitoring, and regulation of the site. The
31 fee shall also provide funds to the Washington state patrol for costs
32 incurred from inspection of low-level radioactive waste shipments
33 entering this state. Disbursements for this purpose shall be by
34 authorization of the secretary of the department of health or the
35 secretary's designee.

36 (5) The agency shall require that any person who holds or applies
37 for a permit under this chapter indemnify and hold harmless the state
38 from claims, suits, damages, or expenses on account of injuries to or
39 death of persons and property damage, arising or growing out of any

1 operations and activities for which the person holds the permit, and
2 any necessary or incidental operations.

3 (6) The agency may adopt such rules as are necessary to carry out
4 its responsibilities under this section.

5 **Sec. 1256.** RCW 70.98.095 and 2012 c 19 s 10 are each amended to
6 read as follows:

7 (1) The radiation control agency may require any person who
8 applies for, or holds, a license under this chapter to demonstrate
9 that the person has financial assurance sufficient to assure that
10 liability incurred as a result of licensed operations and activities
11 can be fully satisfied. Financial assurance may be in the form of
12 insurance, cash deposits, surety bonds, corporate guarantees, letters
13 of credit, or other financial instruments or guarantees determined by
14 the agency to be acceptable financial assurance. The agency may
15 require financial assurance in an amount determined by the secretary
16 pursuant to RCW 70.98.098 (as recodified by this act).

17 (2) The radiation control agency may require site use permit
18 holders to demonstrate financial assurance in an amount that is
19 adequate to protect the state and its citizens from all claims,
20 suits, losses, damages, or expenses on account of injuries to persons
21 and property damage arising or growing out of the transportation or
22 disposal of commercial low-level radioactive waste. The financial
23 assurance may be in the form of insurance, cash deposits, surety
24 bonds, corporate guarantees, and other acceptable instruments or
25 guarantees determined by the secretary to be acceptable evidence of
26 financial assurance. The agency may require financial assurance in an
27 amount determined by the secretary pursuant to RCW 70.98.098 (as
28 recodified by this act).

29 (3) The radiation control agency shall refuse to issue a license
30 or permit or suspend the license or permit of any person required by
31 this section to demonstrate financial assurance who fails to
32 demonstrate compliance with this section. The license or permit shall
33 not be issued or reinstated until the person demonstrates compliance
34 with this section.

35 (4) The radiation control agency shall require (a) that any
36 person required to demonstrate financial assurance, maintain with the
37 agency current copies of any insurance policies, certificates of
38 insurance, letters of credit, surety bonds, or any other documents
39 used to comply with this section, (b) that the agency be notified of

1 any changes in the financial assurance or financial condition of the
2 person, and (c) that the state be named as an insured party on any
3 insurance policy used to comply with this section.

4 **Sec. 1257.** RCW 70.98.098 and 2012 c 19 s 11 are each amended to
5 read as follows:

6 (1) In making the determination of the appropriate level of
7 financial assurance, the secretary shall consider: (a) Any report
8 prepared by the department of ecology pursuant to RCW 43.200.200 (as
9 recodified by this act); (b) the potential cost of decontamination,
10 treatment, disposal, decommissioning, and cleanup of facilities or
11 equipment; (c) federal cleanup and decommissioning requirements; and
12 (d) the legal defense cost, if any, that might be paid from the
13 required financial assurance.

14 (2) The secretary may establish different levels of required
15 financial assurance for various classes of permit or license holders.

16 (3) The secretary shall establish by rule the instruments or
17 mechanisms by which a person may demonstrate financial assurance as
18 required by RCW 70.98.095 (as recodified by this act).

19 (4) To the extent that money in the site closure account together
20 with the amount of money identified for repayment to the site closure
21 account pursuant to RCW 43.200.080 (as recodified by this act) equals
22 or exceeds the cost estimate approved by the department of health for
23 closure and decommissioning of the commercial low-level radioactive
24 waste disposal facility, the money in the site closure account
25 together with the amount of money identified for repayment to the
26 site closure account shall constitute adequate financial assurance
27 for purposes of the department of health financial assurance
28 requirements under RCW 70.98.095 (as recodified by this act).

29 **Sec. 1258.** RCW 70.98.122 and 1985 c 372 s 3 are each amended to
30 read as follows:

31 The department of ecology shall seek federal funding, such as is
32 available under the clean air act (42 U.S.C. Sec. 1857 et seq.) and
33 the nuclear waste policy act (42 U.S.C. Sec. 10101 et seq.) to carry
34 out the purposes of RCW 70.98.050(4) ~~((+e))~~ (e) (as recodified by
35 this act).

36 **Sec. 1259.** RCW 70.98.220 and 2012 c 19 s 13 are each amended to
37 read as follows:

1 The agency shall adopt rules for administering a site use permit
2 program under RCW 70.98.085 (as recodified by this act).

3 **Sec. 1260.** RCW 70.98.910 and 1961 c 207 s 23 are each amended to
4 read as follows:

5 The provisions of this act relating to the control of by-product,
6 source and special nuclear materials shall become effective on the
7 effective date of the agreement between the federal government and
8 this state as authorized in RCW 70.98.110 (as recodified by this
9 act). All other provisions of this act shall become effective on the
10 30th day of June, 1961.

11 **Sec. 1261.** RCW 70.99.050 and 1981 c 1 s 5 are each amended to
12 read as follows:

13 (1) A violation of or failure to comply with the provisions of
14 RCW 70.99.030 or 70.99.040 (as recodified by this act) is a gross
15 misdemeanor.

16 (2) Any person or entity that violates or fails to comply with
17 the provisions of RCW 70.99.030 or 70.99.040 (as recodified by this
18 act) is subject to a civil penalty of one thousand dollars for each
19 violation or failure to comply.

20 (3) Each day upon which a violation occurs constitutes a separate
21 violation for the purposes of subsections (1) and (2) of this
22 section.

23 (4) Any person or entity violating this chapter may be enjoined
24 from continuing the violation. The attorney general or any person
25 residing in the state of Washington may bring an action to enjoin
26 violations of this chapter, on his or her own behalf and on the
27 behalf of all persons similarly situated. Such action may be
28 maintained in the person's own name or in the name of the state of
29 Washington. No bond may be required as a condition to obtaining any
30 injunctive relief. The superior courts have jurisdiction over actions
31 brought under this section, and venue shall lie in the county of the
32 plaintiff's residence, in the county in which the violation is
33 alleged to occur, or in Thurston county. In addition to other relief,
34 the court in its discretion may award attorney's and expert witness
35 fees and costs of the suit to a party who demonstrates that a
36 violation of this chapter has occurred.

1 **Sec. 1262.** RCW 70.102.020 and 2005 c 274 s 339 are each amended
2 to read as follows:

3 There is hereby created the hazardous substance information and
4 education office. Through this office the department shall:

5 (1) Facilitate access to existing information on hazardous
6 substances within a community;

7 (2) Request and obtain information about hazardous substances at
8 specified locations and facilities from agencies that regulate those
9 locations and facilities. The department shall review, approve, and
10 provide confidentiality as provided by statute. Upon request of the
11 department, each agency shall provide the information within forty-
12 five days;

13 (3) At the request of citizens or public health or public safety
14 organizations, compile existing information about hazardous substance
15 use at specified locations and facilities. This information shall
16 include but not be limited to:

17 (a) Point and nonpoint air and water emissions;

18 (b) Extremely hazardous, moderate risk wastes and dangerous
19 wastes as defined in chapter 70.105 RCW (as recodified by this act)
20 produced, used, stored, transported from, or disposed of by any
21 facility;

22 (c) A list of the hazardous substances present at a given site
23 and data on their acute and chronic health and environmental effects;

24 (d) Data on governmental pesticide use at a given site;

25 (e) Data on commercial pesticide use at a given site if such data
26 is only given to individuals who are chemically sensitive; and

27 (f) Compliance history of any facility.

28 (4) Provide education to the public on the proper production,
29 use, storage, and disposal of hazardous substances, including but not
30 limited to:

31 (a) A technical resource center on hazardous substance management
32 for industry and the public;

33 (b) Programs, in cooperation with local government, to educate
34 generators of moderate risk waste, and provide information regarding
35 the potential hazards to human health and the environment resulting
36 from improper use and disposal of the waste and proper methods of
37 handling, reducing, recycling, and disposing of the waste;

38 (c) Public information and education relating to the safe
39 handling and disposal of hazardous household substances; and

1 (d) Guidelines to aid counties in developing and implementing a
2 hazardous household substances program.

3 Requests for information from the hazardous substance information
4 and education office may be made by letter or by a toll-free
5 telephone line, if one is established by the department. Requests
6 shall be responded to in accordance with chapter 42.56 RCW.

7 This section shall not require any agency to compile information
8 that is not required by existing laws or rules.

9 **Sec. 1263.** RCW 70.103.030 and 2010 c 158 s 3 are each amended to
10 read as follows:

11 (1) The department shall administer and enforce a state program
12 for worker training and certification, and training program
13 accreditation, which shall include those program elements necessary
14 to assume responsibility for federal requirements for a program as
15 set forth in Title IV of the toxic substances control act (15 U.S.C.
16 Sec. 2601 et seq.), the residential lead-based paint hazard reduction
17 act of 1992 (42 U.S.C. Sec. 4851 et seq.), 40 C.F.R. Part 745,
18 Subparts L and Q (1996), and Title X of the housing and community
19 development act of 1992 (P.L. 102-550). The department may delegate
20 or enter into a memorandum of understanding with local governments or
21 private entities for implementation of components of the state
22 program.

23 (2) The department is authorized to adopt rules that are
24 consistent with federal requirements to implement a state program.
25 Rules adopted under this section shall:

26 (a) Establish minimum accreditation requirements for lead-based
27 paint activities for training providers;

28 (b) Establish work practice standards for conduct of lead-based
29 paint activities;

30 (c) Establish certification requirements for individuals and
31 firms engaged in lead-based paint activities including provisions for
32 recognizing certifications accomplished under existing certification
33 programs;

34 (d) Require the use of certified personnel in all lead-based
35 paint activities;

36 (e) Be revised as necessary to comply with federal law and rules
37 and to maintain eligibility for federal funding;

38 (f) Facilitate reciprocity and communication with other states
39 having a lead-based paint certification program;

1 (g) Provide for decertification, deaccreditation, and financial
2 assurance for a person certified by or a training provider accredited
3 by the department; and

4 (h) Be issued in accordance with the administrative procedure
5 act, chapter 34.05 RCW.

6 (3) The department may accept federal funds for the
7 administration of the program.

8 (4) This program shall equal, but not exceed, legislative
9 authority under federal requirements as set forth in Title IV of the
10 toxic substances control act (15 U.S.C. Sec. 2601 et seq.), the
11 residential lead-based paint hazard reduction act of 1992 (42 U.S.C.
12 Sec. 4851 et seq.), and Title X of the housing and community
13 development act of 1992 (P.L. 102-550).

14 (5) Any rules adopted by the department shall be consistent with
15 federal laws, regulations, and requirements relating to lead-based
16 paint activities specified by the residential lead-based paint hazard
17 reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.) and Title X of
18 the housing and community development act of 1992 (P.L. 102-550), and
19 rules adopted pursuant to chapter 70.105D RCW (as recodified by this
20 act), to ensure consistency in regulatory action. The rules may not
21 be more restrictive than corresponding federal and state regulations
22 unless such stringency is specifically authorized by this chapter.

23 (6) The department shall collect a fee in the amount of twenty-
24 five dollars for certification and recertification of lead paint
25 firms, inspectors, project developers, risk assessors, supervisors,
26 abatement workers, renovators, and dust sampling technicians.

27 (7) The department shall collect a fee in the amount of two
28 hundred dollars for the accreditation of lead paint training
29 programs.

30 **Sec. 1264.** RCW 70.103.040 and 2010 c 158 s 4 are each amended to
31 read as follows:

32 (1) The department shall establish a program for certification of
33 persons involved in lead-based paint activities and for accreditation
34 of training providers in compliance with federal laws and rules.

35 (2) Rules adopted under this section shall:

36 (a) Establish minimum accreditation requirements for lead-based
37 paint activities for training providers;

38 (b) Establish work practice standards for conduct of lead-based
39 paint activities;

1 (c) Establish certification requirements for individuals and
2 firms engaged in lead-based paint activities including provisions for
3 recognizing certifications accomplished under existing certification
4 programs;

5 (d) Require the use of certified personnel in any lead-based
6 paint hazard reduction activity;

7 (e) Be revised as necessary to comply with federal law and rules
8 and to maintain eligibility for federal funding;

9 (f) Facilitate reciprocity and communication with other states
10 having a lead-based paint certification program;

11 (g) Provide for decertification, deaccreditation, and financial
12 assurance for a person certified or accredited by the department; and

13 (h) Be issued in accordance with the administrative procedure
14 act, chapter 34.05 RCW.

15 (3) This program shall equal, but not exceed, legislative
16 authority under federal requirements as set forth in Title IV of the
17 toxic substances control act (15 U.S.C. Sec. 2601 et seq.), the
18 residential lead-based paint hazard reduction act of 1992 (42 U.S.C.
19 Sec. 4851 et seq.), 40 C.F.R. Part 745 (1996), Subparts L and Q, and
20 Title X of the housing and community development act of 1992 (P.L.
21 102-550).

22 (4) Any rules adopted by the department shall be consistent with
23 federal laws, regulations, and requirements relating to lead-based
24 paint activities specified by the residential lead-based paint hazard
25 reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.) and Title X of
26 the housing and community development act of 1992 (P.L. 102-550), and
27 rules adopted pursuant to chapter 70.105D RCW (as recodified by this
28 act), to ensure consistency in regulatory action. The rules may not
29 be more restrictive than corresponding federal and state regulations
30 unless such stringency is specifically authorized by this chapter.

31 (5) The department may accept federal funds for the
32 administration of the program.

33 (6) For the purposes of certification under the federal
34 requirements as set forth in section 2682 of the toxic substances
35 control act (15 U.S.C. Sec. 2682), the department may require
36 renovators and dust sampling technicians to apply for a certification
37 badge issued by the department. The department may impose a fee on
38 the applicant for processing the application. The application shall
39 include a photograph of the applicant and a fee in the amount imposed
40 by the department.

1 **Sec. 1265.** RCW 70.103.050 and 2010 c 158 s 5 are each amended to
2 read as follows:

3 The department shall adopt rules to:

4 (1) Establish procedures and requirements for the accreditation
5 of lead-based paint activities training programs including, but not
6 limited to, the following:

7 (a) Training curriculum;

8 (b) Training hours;

9 (c) Hands-on training;

10 (d) Trainee competency and proficiency;

11 (e) Training program quality control;

12 (f) Procedures for the reaccreditation of training programs;

13 (g) Procedures for the oversight of training programs; and

14 (h) Procedures for the suspension, revocation, or modification of
15 training program accreditations, or acceptance of training offered by
16 an accredited training provider in another state or Indian tribe
17 authorized by the environmental protection agency;

18 (2) Establish procedures for the purposes of certification, for
19 the acceptance of training offered by an accredited training provider
20 in a state or Indian tribe authorized by the environmental protection
21 agency;

22 (3) Certify individuals involved in lead-based paint activities
23 to ensure that certified individuals are trained by an accredited
24 training program and possess appropriate educational or experience
25 qualifications for certification;

26 (4) Establish procedures for recertification;

27 (5) Require the conduct of lead-based paint activities in
28 accordance with work practice standards;

29 (6) Establish procedures for the suspension, revocation, or
30 modification of certifications;

31 (7) Establish requirements for the administration of third-party
32 certification exams;

33 (8) Use laboratories accredited under the environmental
34 protection agency's national lead laboratory accreditation program;

35 (9) Establish work practice standards for the conduct of lead-
36 based paint activities, as defined in RCW 70.103.020 (as recodified
37 by this act);

38 (10) Establish an enforcement response policy that shall include:

39 (a) Warning letters, notices of noncompliance, notices of
40 violation, or the equivalent;

1 (b) Administrative or civil actions, including penalty authority,
2 including accreditation or certification suspension, revocation, or
3 modification; and

4 (c) Authority to apply criminal sanctions or other criminal
5 authority using existing state laws as applicable.

6 The department shall prepare and submit a biennial report to the
7 legislature regarding the program's status, its costs, and the number
8 of persons certified by the program.

9 **Sec. 1266.** RCW 70.103.060 and 2003 c 322 s 6 are each amended to
10 read as follows:

11 The lead paint account is created in the state treasury. All
12 receipts from RCW 70.103.030 (as recodified by this act) shall be
13 deposited into the account. Moneys in the account may be spent only
14 after appropriation. Expenditures from the account may be used only
15 for the purposes of this chapter.

16 **Sec. 1267.** RCW 70.103.070 and 2003 c 322 s 7 are each amended to
17 read as follows:

18 (1)(a) The director or the director's designee is authorized to
19 inspect at reasonable times and, when feasible, with at least twenty-
20 four hours prior notification:

21 (i) Premises or facilities where those engaged in training for
22 lead-based paint activities conduct business; and

23 (ii) The business records of, and take samples at, the businesses
24 accredited or certified under this chapter to conduct lead-based
25 paint training or activities.

26 (b) Any accredited training program or any firm or individual
27 certified under this chapter that denies access to the department for
28 the purposes of (a) of this subsection is subject to deaccreditation
29 or decertification under RCW 70.103.040 (as recodified by this act).

30 (2) The director or the director's designee is authorized to
31 inspect premises or facilities, with the consent of the owner or
32 owner's agent, where violations may occur concerning lead-based paint
33 activities, as defined under RCW 70.103.020 (as recodified by this
34 act), at reasonable times and, when feasible, with at least forty-
35 eight hours prior notification of the inspection.

36 (3) Prior to receipt of federal lead-based paint abatement
37 funding, all premise or facility owners shall be notified by any
38 entity that receives and disburses the federal funds that an

1 inspection may be conducted. If a premise or facility owner does not
2 wish to have an inspection conducted, that owner is not eligible to
3 receive lead-based paint abatement funding.

4 **Sec. 1268.** RCW 70.105.005 and 1985 c 448 s 2 are each amended to
5 read as follows:

6 The legislature hereby finds and declares:

7 (1) The health and welfare of the people of the state depend on
8 clean and pure environmental resources unaffected by hazardous waste
9 contamination. At the same time, the quality of life of the people of
10 the state is in part based upon a large variety of goods produced by
11 the economy of the state. The complex industrial processes that
12 produce these goods also generate waste by-products, some of which
13 are hazardous to the public health and the environment if improperly
14 managed.

15 (2) Safe and responsible management of hazardous waste is
16 necessary to prevent adverse effects on the environment and to
17 protect public health and safety.

18 (3) The availability of safe, effective, economical, and
19 environmentally sound facilities for the management of hazardous
20 waste is essential to protect public health and the environment and
21 to preserve the economic strength of the state.

22 (4) Strong and effective enforcement of federal and state
23 hazardous waste laws and regulations is essential to protect the
24 public health and the environment and to meet the public's concerns
25 regarding the acceptance of needed new hazardous waste management
26 facilities.

27 (5) Negotiation, mediation, and similar conflict resolution
28 techniques are useful in resolving concerns over the local impacts of
29 siting hazardous waste management facilities.

30 (6) Safe and responsible management of hazardous waste requires
31 an effective planning process that involves local and state
32 governments, the public, and industry.

33 (7) Public acceptance and successful siting of needed new
34 hazardous waste management facilities depends on several factors,
35 including:

36 (a) Public confidence in the safety of the facilities;

37 (b) Assurance that the hazardous waste management priorities
38 established in this chapter are being carried out to the maximum
39 degree practical;

1 (c) Recognition that all state citizens benefit from certain
2 products whose manufacture results in the generation of hazardous by-
3 products, and that all state citizens must, therefore, share in the
4 responsibility for finding safe and effective means to manage this
5 hazardous waste; and

6 (d) Provision of adequate opportunities for citizens to meet with
7 facility operators and resolve concerns about local hazardous waste
8 management facilities.

9 (8) Due to the controversial and regional nature of facilities
10 for the disposal and incineration of hazardous waste, the facilities
11 have had difficulty in obtaining necessary local approvals. The
12 legislature finds that there is a statewide interest in assuring that
13 such facilities can be sited.

14 It is therefore the intent of the legislature to preempt local
15 government's authority to approve, deny, or otherwise regulate
16 disposal and incineration facilities, and to vest in the department
17 of ecology the sole authority among state, regional, and local
18 agencies to approve, deny, and regulate preempted facilities, as
19 defined in this chapter.

20 In addition, it is the intent of the legislature that such
21 complete preemptive authority also be vested in the department for
22 treatment and storage facilities, in addition to disposal and
23 incineration facilities, if a local government fails to carry out its
24 responsibilities established in RCW 70.105.225 (as recodified by this
25 act).

26 It is further the intent of the legislature that no local
27 ordinance, permit requirement, other requirement, or decision shall
28 prohibit on the basis of land use considerations the construction of
29 a hazardous waste management facility within any zone designated and
30 approved in accordance with this chapter, provided that the proposed
31 site for the facility is consistent with applicable state siting
32 criteria.

33 (9) With the exception of the disposal site authorized for
34 acquisition under this chapter, the private sector has had the
35 primary role in providing hazardous waste management facilities and
36 services in the state. It is the intent of the legislature that this
37 role be encouraged and continue into the future to the extent
38 feasible. Whether privately or publicly owned and operated, hazardous
39 waste management facilities and services should be subject to strict
40 governmental regulation as provided under this chapter.

1 (10) Wastes that are exempt or excluded from full regulation
2 under this chapter due to their small quantity or household origin
3 have the potential to pose significant risk to public health and the
4 environment if not properly managed. It is the intent of the
5 legislature that the specific risks posed by such waste be
6 investigated and assessed and that programs be carried out as
7 necessary to manage the waste appropriately. In addition, the
8 legislature finds that, because local conditions vary substantially
9 in regard to the quantities, risks, and management opportunities
10 available for such wastes, local government is the appropriate level
11 of government to plan for and carry out programs to manage moderate-
12 risk waste, with assistance and coordination provided by the
13 department.

14 **Sec. 1269.** RCW 70.105.010 and 2010 1st sp.s. c 7 s 88 are each
15 amended to read as follows:

16 The words and phrases defined in this section shall have the
17 meanings indicated when used in this chapter unless the context
18 clearly requires otherwise.

19 (1) "Dangerous wastes" means any discarded, useless, unwanted, or
20 abandoned substances, including but not limited to certain
21 pesticides, or any residues or containers of such substances which
22 are disposed of in such quantity or concentration as to pose a
23 substantial present or potential hazard to human health, wildlife, or
24 the environment because such wastes or constituents or combinations
25 of such wastes:

26 (a) Have short-lived, toxic properties that may cause death,
27 injury, or illness or have mutagenic, teratogenic, or carcinogenic
28 properties; or

29 (b) Are corrosive, explosive, flammable, or may generate pressure
30 through decomposition or other means.

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

32 (3) "Designated zone facility" means any facility that requires
33 an interim or final status permit under rules adopted under this
34 chapter and that is not a preempted facility as defined in this
35 section.

36 (4) "Director" means the director of the department of ecology or
37 the director's designee.

1 (5) "Disposal site" means a geographical site in or upon which
2 hazardous wastes are disposed of in accordance with the provisions of
3 this chapter.

4 (6) "Dispose or disposal" means the discarding or abandoning of
5 hazardous wastes or the treatment, decontamination, or recycling of
6 such wastes once they have been discarded or abandoned.

7 (7) "Extremely hazardous waste" means any dangerous waste which:

8 (a) Will persist in a hazardous form for several years or more at
9 a disposal site and which in its persistent form

10 (i) Presents a significant environmental hazard and may be
11 concentrated by living organisms through a food chain or may affect
12 the genetic makeup of human beings or wildlife, and

13 (ii) Is highly toxic to human beings or wildlife

14 (b) If disposed of at a disposal site in such quantities as would
15 present an extreme hazard to human beings or the environment.

16 (8) "Facility" means all contiguous land and structures, other
17 appurtenances, and improvements on the land used for recycling,
18 storing, treating, incinerating, or disposing of hazardous waste.

19 (9) "Hazardous household substances" means those substances
20 identified by the department as hazardous household substances in the
21 guidelines developed under RCW 70.105.220 (as recodified by this
22 act).

23 (10) "Hazardous substances" means any liquid, solid, gas, or
24 sludge, including any material, substance, product, commodity, or
25 waste, regardless of quantity, that exhibits any of the
26 characteristics or criteria of hazardous waste as described in rules
27 adopted under this chapter.

28 (11) "Hazardous waste" means and includes all dangerous and
29 extremely hazardous waste, including substances composed of both
30 radioactive and hazardous components.

31 (12) "Local government" means a city, town, or county.

32 (13) "Moderate-risk waste" means (a) any waste that exhibits any
33 of the properties of hazardous waste but is exempt from regulation
34 under this chapter solely because the waste is generated in
35 quantities below the threshold for regulation, and (b) any household
36 wastes which are generated from the disposal of substances identified
37 by the department as hazardous household substances.

38 (14) "Person" means any person, firm, association, county, public
39 or municipal or private corporation, agency, or other entity
40 whatsoever.

1 (15) "Pesticide" shall have the meaning of the term as defined in
2 RCW 15.58.030 as now or hereafter amended.

3 (16) "Preempted facility" means any facility that includes as a
4 significant part of its activities any of the following operations:
5 (a) Landfill, (b) incineration, (c) land treatment, (d) surface
6 impoundment to be closed as a landfill, or (e) waste pile to be
7 closed as a landfill.

8 (17) "Service charge" means an assessment imposed under RCW
9 70.105.280 (as recodified by this act) against those facilities that
10 store, treat, incinerate, or dispose of dangerous or extremely
11 hazardous waste that contains both a nonradioactive hazardous
12 component and a radioactive component. Service charges shall also
13 apply to facilities undergoing closure under this chapter in those
14 instances where closure entails the physical characterization of
15 remaining wastes which contain both a nonradioactive hazardous
16 component and a radioactive component or the management of such
17 wastes through treatment or removal, except any commercial low-level
18 radioactive waste facility.

19 **Sec. 1270.** RCW 70.105.020 and 1994 c 264 s 42 are each amended
20 to read as follows:

21 The department after notice and public hearing shall:

22 (1) Adopt regulations designating as extremely hazardous wastes
23 subject to the provisions of this chapter those substances which
24 exhibit characteristics consistent with the definition provided in
25 RCW 70.105.010 ~~((+6))~~ (7) (as recodified by this act);

26 (2) Adopt and may revise when appropriate, minimum standards and
27 regulations for disposal of extremely hazardous wastes to protect
28 against hazards to the public, and to the environment. Before
29 adoption of such standards and regulations, the department shall
30 consult with appropriate agencies of interested local governments and
31 secure technical assistance from the department of agriculture, the
32 department of social and health services, the department of fish and
33 wildlife, the department of natural resources, the department of
34 labor and industries, and the department of ~~((community, trade, and
35 economic development))~~ commerce, through the director of fire
36 protection.

37 **Sec. 1271.** RCW 70.105.035 and 1994 c 254 s 5 are each amended to
38 read as follows:

1 Solid wastes that designate as dangerous waste or extremely
2 hazardous waste but do not designate as hazardous waste under federal
3 law are conditionally exempt from the requirements of this chapter,
4 if:

5 (1) The waste is generated pursuant to a consent decree issued
6 under chapter 70.105D RCW (as recodified by this act);

7 (2) The consent decree characterizes the solid waste and
8 specifies management practices and a department-approved treatment or
9 disposal location;

10 (3) The management practices are consistent with RCW 70.105.150
11 (as recodified by this act) and are protective of human health and
12 the environment as determined by the department of ecology; and

13 (4) Waste treated or disposed of on-site will be managed in a
14 manner determined by the department to be as protective of human
15 health and the environment as clean-up standards pursuant to chapter
16 70.105D RCW (as recodified by this act).

17 This section shall not be interpreted to limit the ability of the
18 department to apply any requirement of this chapter through a consent
19 decree issued under chapter 70.105D RCW (as recodified by this act),
20 if the department determines these requirements to be appropriate.
21 Neither shall this section be interpreted to limit the application of
22 this chapter to a cleanup conducted under the federal comprehensive
23 environmental response, compensation, and liability act (42 U.S.C.
24 Sec. 9601 et seq., as amended).

25 **Sec. 1272.** RCW 70.105.050 and 1994 c 254 s 6 are each amended to
26 read as follows:

27 (1) No person shall dispose of designated extremely hazardous
28 wastes at any disposal site in the state other than the disposal site
29 established and approved for such purpose under provisions of this
30 chapter, except:

31 (a) When such wastes are going to a processing facility which
32 will result in the waste being reclaimed, treated, detoxified,
33 neutralized, or otherwise processed to remove its harmful properties
34 or characteristics; or

35 (b) When such wastes are managed on-site as part of a remedial
36 action conducted by the department or by potentially liable persons
37 under a consent decree issued by the department pursuant to chapter
38 70.105D RCW (as recodified by this act).

1 (2) Extremely hazardous wastes that contain radioactive
2 components may be disposed at a radioactive waste disposal site that
3 is (a) owned by the United States department of energy or a licensee
4 of the nuclear regulatory commission and (b) permitted by the
5 department and operated in compliance with the provisions of this
6 chapter. However, prior to disposal, or as a part of disposal, all
7 reasonable methods of treatment, detoxification, neutralization, or
8 other waste management methodologies designed to mitigate hazards
9 associated with these wastes shall be employed, as required by
10 applicable federal and state laws and regulations.

11 **Sec. 1273.** RCW 70.105.090 and 2011 c 96 s 51 are each amended to
12 read as follows:

13 In addition to the penalties imposed pursuant to RCW 70.105.080
14 (as recodified by this act), any person who violates any provisions
15 of this chapter, or of the rules implementing this chapter, and any
16 person who knowingly aids or abets another in conducting any
17 violation of any provisions of this chapter, or of the rules
18 implementing this chapter, shall be guilty of a gross misdemeanor and
19 upon conviction thereof shall be punished by a fine of not less than
20 one hundred dollars nor more than ten thousand dollars, and/or by
21 imprisonment in the county jail for up to three hundred sixty-four
22 days, for each separate violation. Each and every such violation
23 shall be a separate and distinct offense. In case of continuing
24 violation, every day's continuance shall be a separate and distinct
25 offense.

26 **Sec. 1274.** RCW 70.105.105 and 1985 c 65 s 1 are each amended to
27 read as follows:

28 The department of ecology shall regulate under this chapter
29 ~~((70.105—RCW))~~, wastes generated from the salvaging, rebuilding, or
30 discarding of transformers or capacitors that have been sold or
31 otherwise transferred for salvage or disposal after the completion or
32 termination of their useful lives and which contain polychlorinated
33 biphenyls (PCB's) and whose disposal is not regulated under 40 C.F.R.
34 part 761. Nothing in this section shall prohibit such wastes from
35 being incinerated or disposed of at facilities permitted to manage
36 PCB wastes under 40 C.F.R. part 761.

1 **Sec. 1275.** RCW 70.105.110 and 1987 c 488 s 3 are each amended to
2 read as follows:

3 (1) Nothing in this chapter shall alter, amend, or supersede the
4 provisions of chapter 80.50 RCW, except that, notwithstanding any
5 provision of chapter 80.50 RCW, regulation of dangerous wastes
6 associated with energy facilities from generation to disposal shall
7 be solely by the department pursuant to this chapter (~~(70.105-RCW)~~).
8 In the implementation of said section, the department shall consult
9 and cooperate with the energy facility site evaluation council and,
10 in order to reduce duplication of effort and to provide necessary
11 coordination of monitoring and on-site inspection programs at energy
12 facility sites, any on-site inspection by the department that may be
13 required for the purposes of this chapter shall be performed pursuant
14 to an interagency coordination agreement with the council.

15 (2) To facilitate the implementation of this chapter, the energy
16 facility site evaluation council may require certificate holders to
17 remove from their energy facility sites any dangerous wastes,
18 controlled by this chapter, within ninety days of their generation.

19 **Sec. 1276.** RCW 70.105.111 and 1987 c 488 s 5 are each amended to
20 read as follows:

21 Nothing in this chapter diminishes the authority of the
22 department of social and health services to regulate the radioactive
23 portion of mixed wastes pursuant to chapter 70.98 RCW (as recodified
24 by this act).

25 **Sec. 1277.** RCW 70.105.112 and 1987 c 528 s 9 are each amended to
26 read as follows:

27 This chapter does not apply to special incinerator ash regulated
28 under chapter 70.138 RCW (as recodified by this act) except that, for
29 purposes of RCW 4.22.070(3)(a), special incinerator ash shall be
30 considered hazardous waste.

31 **Sec. 1278.** RCW 70.105.116 and 1994 c 257 s 17 are each amended
32 to read as follows:

33 The procedural requirements of this chapter shall not apply to
34 any person conducting a remedial action at a facility pursuant to a
35 consent decree, order, or agreed order issued pursuant to chapter
36 70.105D RCW (as recodified by this act), or to the department of
37 ecology when it conducts a remedial action under chapter 70.105D RCW

1 (as recodified by this act). The department of ecology shall ensure
2 compliance with the substantive requirements of this chapter through
3 the consent decree, order, or agreed order issued pursuant to chapter
4 70.105D RCW (as recodified by this act), or during the department-
5 conducted remedial action, through the procedures developed by the
6 department pursuant to RCW 70.105D.090 (as recodified by this act).

7 **Sec. 1279.** RCW 70.105.135 and 1986 c 82 s 1 are each amended to
8 read as follows:

9 Any person who generates, treats, stores, disposes, or otherwise
10 handles dangerous or extremely hazardous wastes shall provide copies
11 of any notification forms, or annual reports that are required
12 pursuant to RCW 70.105.130 (as recodified by this act) to the fire
13 departments or fire districts that service the areas in which the
14 wastes are handled upon the request of the fire departments or fire
15 districts. In areas that are not serviced by a fire department or
16 fire district, the forms or reports shall be provided to the sheriff
17 or other county official designated pursuant to RCW ~~((48.48.060))~~
18 43.44.050 upon the request of the sheriff or other county official.
19 This section shall not apply to the transportation of hazardous
20 wastes.

21 **Sec. 1280.** RCW 70.105.140 and 1980 c 144 s 3 are each amended to
22 read as follows:

23 Rules implementing RCW 70.105.130 (as recodified by this act)
24 shall be submitted to the house and senate committees on ecology for
25 review prior to being adopted in accordance with chapter 34.05 RCW.

26 **Sec. 1281.** RCW 70.105.145 and 1984 c 237 s 2 are each amended to
27 read as follows:

28 Notwithstanding any other provision of this chapter ~~((70.105~~
29 ~~RCW))~~, the department of ecology is empowered to participate fully in
30 and is empowered to administer all aspects of the programs of the
31 federal Resource Conservation and Recovery Act, as it exists on June
32 7, 1984, (42 U.S.C. Sec. 6901 et seq.), contemplated for
33 participation and administration by a state under that act.

34 **Sec. 1282.** RCW 70.105.160 and 2010 1st sp.s. c 7 s 89 are each
35 amended to read as follows:

1 The department shall conduct a study to determine the best
2 management practices for categories of waste for the priority waste
3 management methods established in RCW 70.105.150 (as recodified by
4 this act), with due consideration in the course of the study to sound
5 environmental management and available technology. As an element of
6 the study, the department shall review methods that will help achieve
7 the priority of RCW 70.105.150(1)(a) (as recodified by this act),
8 waste reduction. Before issuing any proposed rules, the department
9 shall conduct public hearings regarding the best management practices
10 for the various waste categories studied by the department. After
11 conducting the study, the department shall prepare new rules or
12 modify existing rules as appropriate to promote implementation of the
13 priorities established in RCW 70.105.150 (as recodified by this act)
14 for management practices which assure use of sound environmental
15 management techniques and available technology. The preliminary study
16 shall be completed by July 1, 1986, and the rules shall be adopted by
17 July 1, 1987.

18 The studies shall be updated at least once every five years. The
19 funding for these studies shall be from the hazardous waste control
20 and elimination account, subject to legislative appropriation.

21 **Sec. 1283.** RCW 70.105.165 and 1984 c 254 s 1 are each amended to
22 read as follows:

23 (1) Independent of the processing or issuance of any or all
24 federal, state, and local permits for disposal of dangerous wastes,
25 no disposal of dangerous wastes at a commercial off-site land
26 disposal facility may be undertaken prior to July 1, 1986, unless:

27 (a) The disposal results from actions taken under RCW 70.105A.060
28 (2) and (3), or results from other emergency situations; or

29 (b) Studies undertaken by the department under RCW 70.105.160 (as
30 recodified by this act) to determine the best management practices
31 for various waste categories under the priority waste management
32 methods established in RCW 70.105.150 (as recodified by this act) are
33 completed for the particular wastes or waste categories to be
34 disposed of and any regulatory revisions deemed necessary by the
35 department are proposed and do not prohibit land disposal of such
36 wastes; or

37 (c) Final regulations have been adopted by the department that
38 allow for such disposal.

1 (2) Construction of facilities used solely for the purpose of
2 disposal of wastes that have not met the requirements of subsection
3 (1) of this section shall not be undertaken by any developer of a
4 dangerous waste disposal facility.

5 (3) The department shall prioritize the studies of waste
6 categories undertaken under RCW 70.105.160 (as recodified by this
7 act) to provide initial consideration of those categories most likely
8 to be suitable for land disposal. Any regulatory changes deemed
9 necessary by the department shall be proposed and subjected to the
10 rule-making process by category as the study of each waste category
11 is completed. All of the study shall be completed, and implementing
12 regulations proposed, by July 1, 1986.

13 (4) Any final permit issued by the department before the adoption
14 of rules promulgated as a result of the study conducted under RCW
15 70.105.160 (as recodified by this act) shall be modified as necessary
16 to be consistent with such rules.

17 **Sec. 1284.** RCW 70.105.170 and 1983 1st ex.s. c 70 s 3 are each
18 amended to read as follows:

19 Consistent with the purposes of RCW 70.105.150 and 70.105.160 (as
20 recodified by this act), the department is authorized to promote the
21 priority waste management methods listed in RCW 70.105.150 (as
22 recodified by this act) by establishing or assisting in the
23 establishment of: (1) Consultative services which, in conjunction
24 with any business or industry requesting such service, study and
25 recommend alternative waste management practices; and (2) technical
26 assistance, such as a toll-free telephone service, to persons
27 interested in waste management alternatives. Any person receiving
28 such service or assistance may, in accordance with state law, request
29 confidential treatment of information about their manufacturing or
30 business practices.

31 **Sec. 1285.** RCW 70.105.200 and 1985 c 448 s 4 are each amended to
32 read as follows:

33 (1) The department shall develop, and shall update at least once
34 every five years, a state hazardous waste management plan. The plan
35 shall include, but shall not be limited to, the following elements:

36 (a) A state inventory and assessment of the capacity of existing
37 facilities to treat, store, dispose, or otherwise manage hazardous
38 waste;

1 (b) A forecast of future hazardous waste generation;

2 (c) A description of the plan or program required by RCW
3 70.105.160 (as recodified by this act) to promote the waste
4 management priorities established in RCW 70.105.150 (as recodified by
5 this act);

6 (d) Siting criteria as appropriate for hazardous waste management
7 facilities, including such criteria as may be appropriate for the
8 designation of eligible zones for designated zone facilities.
9 However, these criteria shall not prevent the continued operation, at
10 or below the present level of waste management activity, of existing
11 facilities on the basis of their location in areas other than those
12 designated as eligible zones pursuant to RCW 70.105.225 (as
13 recodified by this act);

14 (e) Siting policies as deemed appropriate by the department; and

15 (f) A plan or program to provide appropriate public information
16 and education relating to hazardous waste management. The department
17 shall ensure to the maximum degree practical that these plans or
18 programs are coordinated with public education programs carried out
19 by local government under RCW 70.105.220 (as recodified by this act).

20 (2) The department shall seek, encourage, and assist
21 participation in the development, revision, and implementation of the
22 state hazardous waste management plan by interested citizens, local
23 government, business and industry, environmental groups, and other
24 entities as appropriate.

25 (3) Siting criteria shall be completed by December 31, 1986.
26 Other plan components listed in subsection (1) of this section shall
27 be completed by June 30, 1987.

28 (4) The department shall incorporate into the state hazardous
29 waste management plan those elements of the local hazardous waste
30 management plans that it deems necessary to assure effective and
31 coordinated programs throughout the state.

32 **Sec. 1286.** RCW 70.105.210 and 1989 1st ex.s. c 13 s 2 are each
33 amended to read as follows:

34 By May 31, 1990, the department shall develop and adopt criteria
35 for the siting of hazardous waste management facilities. These
36 criteria will be part of the state hazardous waste management plan as
37 described in RCW 70.105.200 (as recodified by this act). To the
38 extent practical, these criteria shall be designed to minimize the
39 short-term and long-term risks and costs that may result from

1 hazardous waste management facilities. These criteria may vary by
2 type of facilities and may consider natural site characteristics and
3 engineered protection. Criteria may be established for:

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

19 **Sec. 1287.** RCW 70.105.220 and 1992 c 17 s 1 are each amended to
20 read as follows:

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

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

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

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

37 (ii) Proper methods of handling, reducing, recycling, and
38 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. 1288.** 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. 1289.** 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. 1290.** 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. 1291.** 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. 1292.** 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. 1293.** 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. 1294.** 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. 1295.** 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. 1296.** 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) (iv) and (vi).

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. 1297.** 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. 1298.** 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. 1299.** 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. 1300.** 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. 1301.** 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. 1302.** 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. 1303.** 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. 1304.** 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. 1305.** 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. 1306.** 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. 1307.** 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. 1308.** 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. 1309.** 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. 1310.** 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. 1311.** 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. 1312.** RCW 70.105E.020 and 2005 c 1 s 2 are each amended to
38 read as follows:

1 (1) The Hanford nuclear reservation, through which the Columbia
2 river flows for fifty miles, is the most contaminated area in North
3 America. Use of Hanford as a national waste dump for radioactive
4 and/or hazardous or toxic wastes will increase contamination and
5 risks.

6 (2) Cleanup is the state of Washington's top priority at sites
7 with hazardous waste contamination that threatens our rivers,
8 groundwater, environment, and health. Adding more waste to
9 contaminated sites undermines the cleanup of those sites. Cleanup is
10 delayed and funds and resources diverted if facilities needed to
11 treat or clean up existing waste are used for imported waste, and if
12 larger facilities must be built to accommodate off-site wastes.

13 (3) The fundamental and inalienable right of each person residing
14 in Washington state to a healthy environment has been jeopardized by
15 pollution of air and water spreading from Hanford.

16 (4) The economy of Washington state, from agriculture to tourism,
17 to fisheries, could be irreparably harmed from any accident releasing
18 radiation or mixed radioactive and hazardous wastes.

19 (5) It is Washington state policy to prohibit adding more waste
20 to a site where mixed radioactive and hazardous wastes (a) are not
21 stored or monitored in compliance with state and federal hazardous
22 waste laws and (b) have been dumped in unlined soil trenches which
23 threaten to contaminate our state's resources.

24 (6) It is state policy to protect Washington's current and future
25 residents, particularly children and other sensitive individuals,
26 from the cumulative risks of cancer caused by all cancer-causing
27 hazardous substances, including radionuclides, by ensuring that
28 hazardous substance release and disposal sites meet the standards
29 established pursuant to chapter 70.105D RCW (as recodified by this
30 act).

31 (7) Effective public and tribal involvement is necessary for
32 government agencies to make sound decisions that will protect human
33 health and the environment for thousands of years. It is Washington
34 state policy to encourage and enhance effective public and tribal
35 involvement in the complex decisions relating to cleanup, closure,
36 permitting, and transportation of mixed waste; and to provide
37 effective assistance to the public and local governments in reviewing
38 and commenting upon complex decision documents. It is appropriate
39 that the polluter pay for necessary public participation for

1 decisions relating to waste releases and risks from mixed waste
2 sites.

3 (8) The transport of mixed radioactive and hazardous wastes is
4 inherently dangerous, and should be minimized. Decisions involving
5 transportation of these wastes must be made with full involvement of
6 the potentially affected public through whose communities these
7 wastes will pass.

8 **Sec. 1313.** RCW 70.105E.030 and 2005 c 1 s 3 are each amended to
9 read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Dangerous waste" has the same meaning as the term is defined
13 in RCW 70.105.010 (as recodified by this act).

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

15 (3) "Dispose" or "disposal" have the same meanings as the terms
16 are defined in RCW 70.105.010 (as recodified by this act).

17 (4) "Facility" has the same meaning as the term is defined in RCW
18 70.105.010 (as recodified by this act).

19 (5) "Hanford" means the geographic area comprising the Hanford
20 nuclear reservation, owned and operated by the United States
21 department of energy, or any successor federal agency.

22 (6) "Hazardous substance" has the same meaning as the term is
23 defined in RCW 70.105D.020 (as recodified by this act).

24 (7) "Hazardous waste" means and includes all dangerous and
25 extremely hazardous waste, as those terms are defined in RCW
26 70.105.010 (as recodified by this act).

27 (8) "Local government" means a city, town, or county.

28 (9) "Mixed waste" or "mixed radioactive and hazardous waste"
29 means any hazardous substance or dangerous or extremely hazardous
30 waste that contains both a nonradioactive hazardous component and a
31 radioactive component, including any such substances that have been
32 released to the environment, or pose a threat of future release, in a
33 manner that may expose persons or the environment to either the
34 nonradioactive or radioactive hazardous substances.

35 (10) "Mixed waste surcharge" means an additional charge for the
36 purposes of local government and public participation in decisions
37 relating to mixed waste facilities: Added to the service charge
38 assessed under RCW 70.105.280 (as recodified by this act) against
39 those facilities that store, treat, incinerate, or dispose of mixed

1 wastes; or against facilities at which mixed wastes have been
2 released, or which are undergoing closure pursuant to chapter 70.105
3 RCW (as recodified by this act) or remedial action pursuant to
4 chapter 70.105D RCW (as recodified by this act).

5 (11) "Person" has the same meaning as the term is defined in RCW
6 70.105D.020 (as recodified by this act).

7 (12) "Release" has the same meaning as the term is defined in RCW
8 70.105D.020 (as recodified by this act).

9 (13) "Remedy or remedial action" have the same meanings as the
10 terms are defined in RCW 70.105D.020 (as recodified by this act).

11 (14) "Site" means the contiguous geographic area under the same
12 ownership, lease, or operation where a facility is located, or where
13 there has been a release of hazardous substances. In the event of a
14 release of hazardous substances, "site" includes any area, or body of
15 surface or ground water, where a hazardous substance has been
16 deposited, stored, disposed of, placed, migrated to, or otherwise
17 come to be located.

18 (15) Unless otherwise defined, or the context indicates
19 otherwise, terms not defined in this section have the same meaning as
20 defined in chapter 70.105 RCW (as recodified by this act), when used
21 in this chapter.

22 **Sec. 1314.** RCW 70.105E.040 and 2005 c 1 s 4 are each amended to
23 read as follows:

24 (1) The department of ecology shall regulate mixed wastes to the
25 fullest extent it is not preempted by federal law, pursuant to
26 chapter 70.105 RCW (as recodified by this act) and the further
27 provisions of this chapter.

28 (2) Any facility owner or operator of a site storing, managing,
29 processing, transferring, treating, or disposing of mixed wastes
30 shall apply for and obtain a final facility permit under chapter
31 70.105 RCW (as recodified by this act), this chapter, and the federal
32 resource, conservation, and recovery act (RCRA), 42 U.S.C. Sec. 6901
33 et seq., as amended, before transporting to, storing or disposing at,
34 the facility any additional mixed wastes not generated at the
35 facility. At any facility granted a sitewide permit, under which
36 permits for individual units are appended or become individual
37 chapters, final facility permits must be applied for and obtained,
38 for each unit or facility within the site where mixed wastes are, or
39 will be, stored or disposed, prior to transporting to, storing or

1 disposing at, the facility any additional mixed wastes not generated
2 at the facility.

3 (3) The department shall not issue any permit requested under
4 subsection (2) of this section unless the facility owner or operator
5 is in compliance with the requirements of chapter 70.105 RCW (as
6 recodified by this act), this chapter, and RCRA, 42 U.S.C. Sec. 6901
7 et seq., as amended, for obtaining and maintaining a final facility
8 permit for existing mixed wastes stored, treated, or disposed of at
9 the facility.

10 (4) If any sites, units, or facilities have interim status or an
11 interim status permit, but fail to meet requirements for maintaining
12 interim status under chapter 70.105 RCW (as recodified by this act),
13 this chapter, or RCRA, 42 U.S.C. Sec. 6901 et seq., as amended,
14 including but not limited to groundwater monitoring and compliance
15 requirements, the department shall find that the applicant for a
16 final facility permit for mixed wastes under this section has failed
17 to demonstrate compliance for purposes of obtaining such a permit
18 pursuant to subsection (2) or (3) of this section.

19 (5) The addition of new trenches or cells, or widening or
20 deepening of trenches, at a site with existing trenches containing
21 mixed wastes shall be considered an expansion of the existing
22 facilities for purposes of compliance with chapter 70.105 RCW (as
23 recodified by this act) or this chapter, and any permit or permit
24 modification for such expansion shall be subject to the requirements
25 of this section.

26 (6)(a) The department shall not issue a permit, or modify any
27 existing permit, allowing for the treatment, storage, or disposal of
28 any additional mixed wastes not generated at the site or facility as
29 part of a remedial or corrective action, until:

30 (i) The site or facility is in full compliance with the
31 requirements of chapter 70.105 RCW (as recodified by this act), this
32 chapter, and RCRA, 42 U.S.C. Sec. 6901 et seq., as amended, for
33 obtaining and maintaining a closure permit for any facility or unit
34 from which a release of hazardous substances has occurred or is
35 threatened to occur, after characterization and corrective action; or

36 (ii) The department has issued a formal determination that no
37 further remedial action is necessary to remedy such a release
38 pursuant to chapter 70.105D RCW (as recodified by this act).

39 (b) The prohibitions of this subsection (6) against granting or
40 modifying a permit apply whenever a release of a hazardous substance,

1 including but not limited to releases of radionuclides and any other
2 carcinogenic substances, has occurred at a site or facility, and such
3 release, or the cumulative impact of all releases at the site, are
4 projected by the department to have the potential to exceed the
5 following standards:

6 (i) Surface or ground water standards established pursuant to
7 federal or state laws, including but not limited to maximum
8 concentration limits, drinking water, or other standards; or

9 (ii) Cleanup or other standards adopted to protect human health
10 or the environment pursuant to RCW 70.105D.030 (as recodified by this
11 act).

12 (7) Until all the requirements of subsection (6) (~~(of this~~
13 ~~section)~~) of this section have been met, the department shall, by
14 permit condition, limit any new construction of, expansion of, or
15 final facility permit for, a facility for treating, storing or
16 disposing of mixed waste to the capacity or size necessary for
17 investigation, characterization, remediation, or corrective action of
18 facilities or units undergoing closure, or remedial or corrective
19 action at the site.

20 (8) The department may grant or modify permits pursuant to
21 chapter 70.105 RCW (as recodified by this act) solely for the purpose
22 of remediating or closing existing facilities or units where there
23 has been a release or threatened release of mixed wastes, if the
24 permit expressly bars the storage or disposal of wastes that are not
25 generated on-site pursuant to a remedial action, closure or
26 corrective action approved by the department pursuant to this chapter
27 or chapter 70.105D RCW (as recodified by this act).

28 (9) The department may permit specific treatment capacity at
29 sites subject to the limitations of this section to be utilized for
30 remediation or clean-up wastes from other sites, consistent with a
31 site treatment plan approved by the department pursuant to RCRA, 42
32 U.S.C. (~~(See.)~~) Sec. 6901 et seq., as amended; provided that the
33 department determines, after public notice and comment and
34 consideration of impacts and alternatives in an environmental impact
35 statement prepared pursuant to chapter 43.21C RCW, that use of such
36 capacity will not: ~~((i))~~ (a) Significantly increase any emissions,
37 discharges, risks or consequences of potential accidents; ~~((ii))~~
38 (b) result in permanent disposal of imported off-site wastes in the
39 soil at the site; ~~((iii))~~ (c) be stored in excess of any applicable
40 time limits, or any applicable requirement; or ~~((iv))~~ (d) impact

1 funding for cleanup and corrective actions at the site or, result in
2 delay of treatment or remediation of wastes at the site.

3 **Sec. 1315.** RCW 70.105E.050 and 2005 c 1 s 5 are each amended to
4 read as follows:

5 (1) The department shall consider releases, or potential
6 releases, of radioactive substances or radionuclides as hazardous
7 substances if the radioactive substance poses a risk of a
8 carcinogenic, toxic, or any other adverse health or environmental
9 effect. The department shall require corrective action for, or
10 remediation of, such releases to meet the same health risk based
11 minimum clean-up standards as adopted for other carcinogenic, toxic,
12 or other hazardous substances posing similar health risks pursuant to
13 RCW 70.105D.030 (as recodified by this act).

14 (2) The department shall include all known or suspected human
15 carcinogens, including radionuclides and radioactive substances, in
16 calculating the applicable clean-up standard, corrective action
17 level, or maximum allowable projected release from a landfill or
18 other facility or unit at which mixed wastes are stored, disposed, or
19 are reasonably believed by the department to be present, for purposes
20 of chapter 70.105 RCW (as recodified by this act), this chapter, or
21 chapter 70.105D RCW (as recodified by this act). In making any permit
22 decision pursuant to chapter 70.105 RCW (as recodified by this act)
23 or this chapter, or in reviewing the adequacy of any environmental
24 document prepared by another state, local, or federal agency,
25 relating to mixed waste sites or facilities, the department shall
26 ensure that the cumulative risk from all such carcinogens does not
27 exceed the maximum acceptable carcinogen risk established by the
28 department for purposes of determining clean-up standards pursuant to
29 RCW 70.105D.030 (as recodified by this act), or one additional cancer
30 caused from exposure to all potential releases of hazardous
31 substances at the site per one hundred thousand exposed individuals,
32 whichever is more protective.

33 **Sec. 1316.** RCW 70.105E.060 and 2005 c 1 s 6 are each amended to
34 read as follows:

35 (1)(a) The department, within sixty days after December 2, 2004,
36 shall order any site owner or operator utilizing landfills or burial
37 grounds containing unlined soil trenches in which mixed wastes are
38 reasonably believed by the department to have been disposed to:

1 (i) Cease disposal of all further wastes in unlined soil trenches
2 or facilities within thirty days of the order;

3 (ii) Initiate an investigation to provide the department with an
4 inventory based on actual characterization of all hazardous
5 substances potentially disposed in unlined trenches;

6 (iii) Initiate an investigation of releases or potential releases
7 of any hazardous substances that were potentially disposed in unlined
8 trenches;

9 (iv) Prepare, or pay the costs of the department to prepare,
10 pursuant to the provisions of chapters 70.105 and 70.105D RCW (as
11 recodified by this act), a plan for waste retrieval, treatment,
12 closure, and monitoring for the unlined soil trenches, which may
13 include temporary caps pending full characterization and remediation,
14 the schedule for which shall be based upon determination of
15 requirements to prevent migration of wastes; and

16 (v) Install and maintain a groundwater and soil column monitoring
17 system, within two years, which is in compliance with all
18 requirements of chapter 70.105 RCW (as recodified by this act), this
19 chapter, and RCRA, 42 U.S.C. Sec. 6901 et seq., as amended.

20 (b) The department shall provide, by rule, for public notice,
21 hearings, and comment on the scope of investigations and all actions
22 necessary to fulfill the purposes of this section. Notice to the
23 public for purposes of this section shall include a description of
24 potential impacts to health or the environment from the facilities,
25 and the potential for any state resources, or land areas, to be
26 restricted from future use due to potential releases of hazardous
27 substances from the site or facility.

28 (2) At any site with one or more land disposal facilities or
29 units containing unlined trenches or pits, at which mixed wastes are
30 stored or were disposed, any proposed expansion of such land disposal
31 facility or unit, or application to permit new land disposal
32 facilities at the same site, shall be considered to be an
33 impermissible expansion of the existing units or facilities where:

34 (a) There is a reasonable basis to believe mixed or hazardous
35 wastes are buried or stored that have not been fully characterized to
36 conclusively determine that no mixed or hazardous wastes are present;

37 (b) A release of a hazardous substance has occurred, including
38 but not limited to releases of radioactive or mixed wastes; or

39 (c) The department has information to indicate that there is a
40 significant potential for a release of hazardous substances.

1 (3) Determinations and permit actions, pursuant to chapter 70.105
2 RCW (as recodified by this act) or this chapter, relating to the
3 closure of tank systems consisting of one or more interconnected
4 tanks in which mixed wastes are currently, or were, stored, shall be
5 made by the department only after consideration of the cumulative
6 impacts of all tank residuals and leaks from such systems at the site
7 pursuant to chapter 43.21C RCW. Actions may not be taken to close
8 individual tanks, or which may prevent the retrieval of residual
9 mixed wastes remaining in a tank, in any element of the tank system,
10 or in the soil due to leaks from the tank system, prior to compliance
11 with this section and determination of the quantity, nature, and
12 potential impacts from such residuals or releases. In no event may
13 the department allow the use of a landfill closure for mixed waste
14 tank systems prior to all potentially effective and practicable
15 actions having been taken to characterize, and remediate, releases
16 and potential releases. The department may require research and
17 development of technologies for characterization or retrieval
18 pursuant to this section.

19 **Sec. 1317.** RCW 70.105E.100 and 2005 c 1 s 10 are each amended to
20 read as follows:

21 (1) Any person may bring a civil action to compel the owner or
22 operator of a mixed waste facility to comply with the requirements of
23 this chapter or any permit or order issued by the department pursuant
24 to this chapter; or to compel the department to perform any
25 nondiscretionary duty under this chapter. At least thirty days before
26 commencing the action, the person must give written notice to the
27 department of intent to sue, unless a substantial endangerment
28 exists. The court may award attorney fees and other costs to a
29 prevailing plaintiff in the action.

30 (2) Orders of the department relating to mixed waste facilities
31 under this chapter may be appealed to the pollution control hearings
32 board, by any person whose interests in natural resources or health
33 may be adversely affected by the action or inaction of the
34 department.

35 (3) Civil actions under this section may be brought in superior
36 court of Thurston county or of the county in which the release or
37 threatened release of a hazardous substance occurs, or where mixed
38 wastes that are the subject of the action may be transported, stored,
39 treated, or disposed.

1 (4) Any violation of this chapter shall be considered a violation
2 of chapter 70.105 RCW (as recodified by this act), and subject to all
3 enforcement actions by the department or attorney general for
4 violations of that chapter, including imposition of civil or criminal
5 penalties.

6 **Sec. 1318.** RCW 70.106.030 and 1974 ex.s. c 49 s 3 are each
7 amended to read as follows:

8 The definitions in RCW 70.106.040 through 70.106.090 (as
9 recodified by this act) unless the context otherwise requires shall
10 govern the construction of this chapter.

11 **Sec. 1319.** RCW 70.106.070 and 1974 ex.s. c 49 s 7 are each
12 amended to read as follows:

13 "Package" means the immediate container or wrapping in which any
14 household substance is contained for consumption, use, or storage by
15 individuals in or about the household, and, for purposes of RCW
16 70.106.110(1)(b) (as recodified by this act), also means any outer
17 container or wrapping used in the retail display of any such
18 substance to consumers. Such term does not include:

19 (1) Any shipping container or wrapping used solely for the
20 transportation of any household substance in bulk or in quantity to
21 manufacturers, packers, or processors, or to wholesale or retail
22 distributors thereof; or

23 (2) Any shipping container or outer wrapping used by retailers to
24 ship or deliver any household substance to consumers unless it is the
25 only such container or wrapping.

26 **Sec. 1320.** RCW 70.106.100 and 2012 c 117 s 419 are each amended
27 to read as follows:

28 (1) The director may establish in accordance with the provisions
29 of this chapter, by regulation, standards for the special packaging
30 of any household substance if he or she finds that:

31 (a) The degree or nature of the hazard to children in the
32 availability of such substance, by reason of its packaging is such
33 that special packaging is required to protect children from serious
34 personal injury or serious illness resulting from handling, using, or
35 ingesting such substance; and

1 (b) The special packaging to be required by such standard is
2 technically feasible, practicable, and appropriate for such
3 substance.

4 (2) In establishing a standard under this section, the director
5 shall consider:

6 (a) The reasonableness of such standard;

7 (b) Available scientific, medical, and engineering data
8 concerning special packaging and concerning childhood accidental
9 ingestions, illness, and injury caused by household substances;

10 (c) The manufacturing practices of industries affected by this
11 chapter; and

12 (d) The nature and use of the household substance.

13 (3) In carrying out the provisions of this chapter, the director
14 shall publish his or her findings, his or her reasons therefor, and
15 citation of the sections of statutes which authorize his or her
16 action.

17 (4) Nothing in this chapter authorizes the director to prescribe
18 specific packaging designs, product content, package quantity, or,
19 with the exception of authority granted in RCW 70.106.110(1)(b) (as
20 recodified by this act), labeling. In the case of a household
21 substance for which special packaging is required pursuant to a
22 regulation under this section, the director may in such regulation
23 prohibit the packaging of such substance in packages which he or she
24 determines are unnecessarily attractive to children.

25 (5) The director shall cause the regulations promulgated under
26 this chapter to conform with the requirements or exemptions of the
27 federal hazardous substances act and with the regulations or
28 interpretations promulgated pursuant thereto.

29 **Sec. 1321.** RCW 70.106.110 and 2012 c 117 s 420 are each amended
30 to read as follows:

31 (1) For the purpose of making any household substance which is
32 subject to a standard established under RCW 70.106.100 (as recodified
33 by this act) readily available to elderly persons or persons with
34 disabilities unable to use such substance when packaged in compliance
35 with such standard, the manufacturer or packer, as the case may be,
36 may package any household substance, subject to such a standard, in
37 packaging of a single size which does not comply with such standard
38 if:

1 (a) The manufacturer or packer also supplies such substance in
2 packages which comply with such standard; and

3 (b) The packages of such substance which do not meet such
4 standard bear conspicuous labeling stating: "This package for
5 households without young children"; except that the director may by
6 regulation prescribe a substitute statement to the same effect for
7 packaging too small to accommodate such labeling.

8 (2) In the case of a household substance which is subject to such
9 a standard and which is dispensed pursuant to an order of a
10 physician, dentist, or other licensed medical practitioner authorized
11 to prescribe, such substance may be dispensed in noncomplying
12 packages only when directed in such order or when requested by the
13 purchaser.

14 (3) In the case of a household substance subject to such a
15 standard which is packaged under subsection (1) of this section in a
16 noncomplying package, if the director determines that such substance
17 is not also being supplied by a manufacturer or packer in popular
18 size packages which comply with such standard, he or she may, after
19 giving the manufacturer or packer an opportunity to comply with the
20 purposes of this chapter, by order require such substance to be
21 packaged by such manufacturer or packer exclusively in special
22 packaging complying with such standard if he or she finds, after
23 opportunity for hearing, that such exclusive use of special packaging
24 is necessary to accomplish the purposes of this chapter.

25 **Sec. 1322.** RCW 70.107.070 and 1987 c 330 s 749 are each amended
26 to read as follows:

27 Any rule adopted under this chapter relating to the operation of
28 motor vehicles on public highways shall be administered according to
29 testing and inspection procedures adopted by rule by the state
30 patrol. Violation of any motor vehicle performance standard adopted
31 pursuant to this chapter shall be a misdemeanor, enforced by such
32 authorities and in such manner as violations of chapter 46.37 RCW.
33 Violations subject to the provisions of this section shall be exempt
34 from the provisions of RCW 70.107.050 (as recodified by this act).

35 **Sec. 1323.** RCW 70.116.050 and 1995 c 376 s 7 are each amended to
36 read as follows:

37 (1) Each purveyor within the boundaries of a critical water
38 supply service area shall develop a water system plan for the

1 purveyor's future service area if such a plan has not already been
2 developed: PROVIDED, That nonmunicipally owned public water systems
3 are exempt from the planning requirements of this chapter, except for
4 the establishment of service area boundaries if they have no plans
5 for water service beyond their existing service area: PROVIDED
6 FURTHER, That if the county legislative authority permits a change in
7 development that will increase the demand for water service of such a
8 system beyond the existing system's ability to provide minimum water
9 service, the purveyor shall develop a water system plan in accordance
10 with this section. The establishment of future service area
11 boundaries shall be in accordance with RCW 70.116.070 (as recodified
12 by this act).

13 (2) After the boundaries of a critical water supply service area
14 have been established pursuant to RCW 70.116.040 (as recodified by
15 this act), the committee established in RCW 70.116.040 (as recodified
16 by this act) shall participate in the development of a coordinated
17 water system plan for the designated area. Such a plan shall
18 incorporate all water system plans developed pursuant to subsection
19 (1) of this section. The plan shall provide for maximum integration
20 and coordination of public water system facilities consistent with
21 the protection and enhancement of the public health and well-being.
22 Decisions of the committee shall be by majority vote of those present
23 at meetings of the committee.

24 (3) Those portions of a critical water supply service area not
25 yet served by a public water system shall have a coordinated water
26 system plan developed by existing purveyors based upon permitted
27 densities in county plans, ordinances, and/or growth policies for a
28 minimum of five years beyond the date of establishment of the
29 boundaries of the critical water supply service area.

30 (4) To insure that the plan incorporates the proper designs to
31 protect public health, the secretary shall adopt regulations pursuant
32 to chapter 34.05 RCW concerning the scope and content of coordinated
33 water system plans, and shall ensure, as minimum requirements, that
34 such plans:

35 (a) Are reviewed by the appropriate local governmental agency to
36 insure that the plan is not inconsistent with the land use plans,
37 shoreline master programs, and/or developmental policies of the
38 general purpose local government or governments whose jurisdiction
39 the water system plan affects.

1 (b) Recognize all water resource plans, water quality plans, and
2 water pollution control plans which have been adopted by units of
3 local, regional, and state government.

4 (c) Incorporate the fire protection standards developed pursuant
5 to RCW 70.116.080 (as recodified by this act).

6 (d) Identify the future service area boundaries of the public
7 water system or systems included in the plan within the critical
8 water supply service area.

9 (e) Identify feasible emergency inter-ties between adjacent
10 purveyors.

11 (f) Include satellite system management requirements consistent
12 with RCW 70.116.134 (as recodified by this act).

13 (g) Include policies and procedures that generally address
14 failing water systems for which counties may become responsible under
15 RCW 43.70.195.

16 (5) If a "water general plan" for a critical water supply service
17 area or portion thereof has been prepared pursuant to chapter 36.94
18 RCW and such a plan meets the requirements of subsections (1) and (4)
19 of this section, such a plan shall constitute the coordinated water
20 system plan for the applicable geographical area.

21 (6) The committee established in RCW 70.116.040 (as recodified by
22 this act) may develop and utilize a mechanism for addressing disputes
23 that arise in the development of the coordinated water system plan.

24 (7) Prior to the submission of a coordinated water system plan to
25 the secretary for approval pursuant to RCW 70.116.060 (as recodified
26 by this act), the legislative authorities of the counties in which
27 the critical water supply service area is located shall hold a public
28 hearing thereon and shall determine the plan's consistency with
29 subsection (4) of this section. If within sixty days of receipt of
30 the plan, the legislative authorities find any segment of a proposed
31 service area of a purveyor's plan or any segment of the coordinated
32 water system plan to be inconsistent with any current land use plans,
33 shoreline master programs, and/or developmental policies of the
34 general purpose local government or governments whose jurisdiction
35 the water system plan affects, the secretary shall not approve that
36 portion of the plan until the inconsistency is resolved between the
37 local government and the purveyor. If no comments have been received
38 from the legislative authorities within sixty days of receipt of the
39 plan, the secretary may consider the plan for approval.

1 (8) Any county legislative authority may adopt an abbreviated
2 plan for the provision of water supplies within its boundaries that
3 includes provisions for service area boundaries, minimum design
4 criteria, and review process. The elements of the abbreviated plan
5 shall conform to the criteria established by the department under
6 subsection (4) of this section and shall otherwise be consistent with
7 other adopted land use and resource plans. The county legislative
8 authority may, in lieu of the committee required under RCW 70.116.040
9 (as recodified by this act), and the procedures authorized in this
10 section, utilize an advisory committee that is representative of the
11 water utilities and local governments within its jurisdiction to
12 assist in the preparation of the abbreviated plan, which may be
13 adopted by resolution and submitted to the secretary for approval.
14 Purveyors within the boundaries covered by the abbreviated plan need
15 not develop a water system plan, except to the extent required by the
16 secretary or state board of health under other authority. Any
17 abbreviated plan adopted by a county legislative authority pursuant
18 to this subsection shall be subject to the same provisions contained
19 in RCW 70.116.060 (as recodified by this act) for coordinated water
20 system plans that are approved by the secretary.

21 **Sec. 1324.** RCW 70.116.060 and 1995 c 376 s 2 are each amended to
22 read as follows:

23 (1) A coordinated water system plan shall be submitted to the
24 secretary for design approval within two years of the establishment
25 of the boundaries of a critical water supply service area.

26 (2) The secretary shall review the coordinated water system plan
27 and, to the extent the plan is consistent with the requirements of
28 this chapter and regulations adopted hereunder, shall approve the
29 plan, provided that the secretary shall not approve those portions of
30 a coordinated water system plan that fail to meet the requirements
31 for future service area boundaries until any boundary dispute is
32 resolved as set forth in RCW 70.116.070 (as recodified by this act).

33 (3) Following the approval of a coordinated water system plan by
34 the secretary:

35 (a) All purveyors constructing or proposing to construct public
36 water system facilities within the area covered by the plan shall
37 comply with the plan.

38 (b) No other purveyor shall establish a public water system
39 within the area covered by the plan, unless the local legislative

1 authority determines that existing purveyors are unable to provide
2 the service in a timely and reasonable manner, pursuant to guidelines
3 developed by the secretary. An existing purveyor is unable to provide
4 the service in a timely manner if the water cannot be provided to an
5 applicant for water within one hundred twenty days unless specified
6 otherwise by the local legislative authority. If such a determination
7 is made, the local legislative authority shall require the new public
8 water system to be constructed in accordance with the construction
9 standards and specifications embodied in the coordinated water system
10 plan approved for the area. The service area boundaries in the
11 coordinated plan for the affected utilities shall be revised to
12 reflect the decision of the local legislative authority.

13 (4) The secretary may deny proposals to establish or to expand
14 any public water system within a critical water supply service area
15 for which there is not an approved coordinated water system plan at
16 any time after two years of the establishment of the critical water
17 supply service area: PROVIDED, That service connections shall not be
18 considered expansions.

19 (5) The affected legislative authorities may develop and utilize
20 a mechanism for addressing disputes that arise in the implementation
21 of the coordinated water system plan after the plan has been approved
22 by the secretary.

23 (6) After adoption of the initial coordinated water system plan,
24 the local legislative authority or the secretary may determine that
25 the plan should be updated or revised. The legislative authority may
26 initiate an update at any time, but the secretary may initiate an
27 update no more frequently than once every five years. The update may
28 encompass all or a portion of the plan, with the scope of the update
29 to be determined by the secretary and the legislative authority. The
30 process for the update shall be the one prescribed in RCW 70.116.050
31 (as recodified by this act).

32 (7) The provisions of subsection (3) of this section shall not
33 apply in any county for which a coordinated water system plan has not
34 been approved under subsection (2) of this section.

35 (8) If the secretary initiates an update or revision of a
36 coordinated water system plan, the state shall pay for the cost of
37 updating or revising the plan.

38 **Sec. 1325.** RCW 70.116.070 and 1995 c 376 s 13 are each amended
39 to read as follows:

1 (1) The proposed service area boundaries of public water systems
2 within the critical water supply service area that are required to
3 submit water system plans under this chapter shall be identified in
4 the system's plan. The local legislative authority, or its planning
5 department or other designee, shall review the proposed boundaries to
6 determine whether the proposed boundaries of one or more systems
7 overlap. The boundaries determined by the local legislative authority
8 not to overlap shall be incorporated into the coordinated water
9 system plan. Where any overlap exists, the local legislative
10 authority may attempt to resolve the conflict through procedures
11 established under RCW 70.116.060(5) (as recodified by this act).

12 (2) Any final decision by a local legislative authority regarding
13 overlapping service areas, or any unresolved disputes regarding
14 service area boundaries, may be appealed or referred to the secretary
15 in writing for resolution. After receipt of an appeal or referral,
16 the secretary shall hold a public hearing thereon. The secretary
17 shall provide notice of the hearing by certified mail to each
18 purveyor involved in the dispute, to each county legislative
19 authority having jurisdiction in the area and to the public. The
20 secretary shall provide public notice pursuant to the provisions of
21 chapter 65.16 RCW. Such notice shall be given at least twenty days
22 prior to the hearing. The hearing may be continued from time to time
23 and, at the termination thereof, the secretary may restrict the
24 expansion of service of any purveyor within the area if the secretary
25 finds such restriction is necessary to provide the greatest
26 protection of the public health and well-being.

27 **Sec. 1326.** RCW 70.118.060 and 1994 c 281 s 3 are each amended to
28 read as follows:

29 (1) After July 1, 1994, a person may not use, sell, or distribute
30 a chemical additive to on-site sewage disposal systems.

31 (2) After January 1, 1996, no person shall use, sell, or
32 distribute any on-site sewage disposal additive whose ingredients
33 have not been approved by the department.

34 (3) Each manufacturer of an on-site sewage disposal system
35 additive that is sold, advertised, or distributed in the state shall
36 submit the following information to the department: (a) The name and
37 address of the company; (b) the name of the product; (c) the complete
38 product formulation; (d) the location where the product is

1 manufactured; (e) the intended method of product application; and (f)
2 a request that the product be reviewed.

3 (4) The department shall adopt rules providing the criteria,
4 review, and decision-making procedures to be used in reviewing on-
5 site sewage disposal additives for use, sale, or distribution in the
6 state. The criteria shall be designed to determine whether the
7 additive has an adverse effect on public health or water quality. The
8 department may charge a fee sufficient to cover the costs of
9 evaluating the additive, including the development of criteria and
10 review procedures. The fee schedule shall be established by rule.

11 (5) The department shall issue a decision as to whether a product
12 registered pursuant to subsection (3) of this section is approved or
13 denied within forty-five days of receiving a complete evaluation as
14 required pursuant to subsection (4) of this section.

15 (6) Manufacturers shall reregister their product as provided in
16 subsection (3) of this section each time their product formulation
17 changes. The department may require a new approval for products
18 registered under this subsection prior to allowing the use, sale, or
19 distribution within the state.

20 (7) The department may contract with private laboratories for the
21 performance of any duties necessary to carry out the purpose of this
22 section.

23 (8) The attorney general or appropriate city or county
24 prosecuting attorney is authorized to bring an appropriate action to
25 enjoin any violation of the prohibition on the sale or distribution
26 of additives, or to enjoin any violation of the conditions in RCW
27 70.118.080 (as recodified by this act).

28 (9) The department is responsible for providing written
29 notification to additives manufacturers of the provisions of this
30 section and RCW 70.118.070 and 70.118.080 (as recodified by this
31 act). The notification shall be provided no later than thirty days
32 after April 1, 1994. Within thirty days of notification from the
33 department, manufacturers shall provide the same notification to
34 their distributors, wholesalers, and retail customers.

35 **Sec. 1327.** RCW 70.118.070 and 1994 c 281 s 4 are each amended to
36 read as follows:

37 The department shall hold confidential any information obtained
38 pursuant to RCW 70.118.060 (as recodified by this act) when shown by
39 any manufacturer that such information, if made public, would divulge

1 confidential business information, methods, or processes entitled to
2 protection as trade secrets of the manufacturer.

3 **Sec. 1328.** RCW 70.118.080 and 1994 c 281 s 5 are each amended to
4 read as follows:

5 (1) Each manufacturer of a certified and approved additive
6 product advertised, sold, or distributed in the state shall:

7 (a) Make no claims relating to the elimination of the need for
8 septic tank pumping or proper septic tank maintenance;

9 (b) List the components of additive products on the product
10 label, along with information regarding instructions for use and
11 precautions;

12 (c) Make no false statements, design, or graphic representation
13 relative to an additive product that is inconsistent with RCW
14 70.118.060, 70.118.070 (as recodified by this act), or this section;
15 and

16 (d) Make no claims, either direct or implied, about the
17 performance of the product based on state approval of its
18 ingredients.

19 (2) A violation of this section is an unfair act or practice in
20 violation of the consumer protection act, chapter 19.86 RCW.

21 **Sec. 1329.** RCW 70.118.130 and 2007 c 343 s 9 are each amended to
22 read as follows:

23 A local health officer who is responsible for administering and
24 enforcing regulations regarding on-site sewage disposal systems is
25 authorized to issue civil penalties for violations of those
26 regulations under the same limitations and requirements imposed on
27 the department under RCW 70.118B.050 (as recodified by this act),
28 except that the amount of a penalty shall not exceed one thousand
29 dollars per day for every violation, and judgments shall be entered
30 in the name of the local health jurisdiction and penalties shall be
31 placed into the general fund or funds of the entity or entities
32 operating the local health jurisdiction.

33 **Sec. 1330.** RCW 70.118A.020 and 2006 c 18 s 2 are each amended to
34 read as follows:

35 The definitions in this section apply throughout this chapter
36 unless the context clearly requires otherwise.

37 (1) "Board" means the state board of health.

1 (2) "Department" means the department of health.

2 (3) "Failing" means a condition of an existing on-site sewage
3 disposal system or component that threatens the public health by
4 inadequately treating sewage, or by creating a potential for direct
5 or indirect contact between sewage and the public. Examples of a
6 failing on-site sewage disposal system include:

7 (a) Sewage on the surface of the ground;

8 (b) Sewage backing up into a structure caused by slow soil
9 absorption of septic tank effluent;

10 (c) Sewage leaking from a sewage tank or collection system;

11 (d) Cesspools or seepage pits where evidence of groundwater or
12 surface water quality degradation exists;

13 (e) Inadequately treated effluent contaminating groundwater or
14 surface water; or

15 (f) Noncompliance with standards stipulated on the permit.

16 (4) "Local health officer" or "local health jurisdiction" means
17 the local health officers and local health jurisdictions in the
18 following counties bordering Puget Sound: Clallam, Island, Kitsap,
19 Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-
20 Pierce, Thurston, and Whatcom.

21 (5) "Marine recovery area" means an area of definite boundaries
22 where the local health officer, or the department in consultation
23 with the health officer, determines that additional requirements for
24 existing on-site sewage disposal systems may be necessary to reduce
25 potential failing systems or minimize negative impacts of on-site
26 sewage disposal systems.

27 (6) "Marine recovery area on-site strategy" or "on-site strategy"
28 means a local health jurisdiction's on-site sewage disposal system
29 strategy required under RCW 70.118A.050 (as recodified by this act).
30 This strategy is a component of the on-site program management plan
31 required under RCW 70.118A.030 (as recodified by this act).

32 (7) "On-site sewage disposal system" means an integrated system
33 of components, located on or nearby the property it serves, that
34 conveys, stores, treats, or provides subsurface soil treatment and
35 dispersal of sewage. It consists of a collection system, a treatment
36 component or treatment sequence, and a soil dispersal component. An
37 on-site sewage disposal system also refers to a holding tank sewage
38 system or other system that does not have a soil dispersal component.
39 For purposes of this chapter, the term "on-site sewage disposal

1 system" does not include any system regulated by a water quality
2 discharge permit issued under chapter 90.48 RCW.

3 (8) "Unknown system" means an on-site sewage disposal system that
4 was installed without the knowledge or approval of the local health
5 jurisdiction, including those that were installed before such
6 approval was required.

7 **Sec. 1331.** RCW 70.118A.040 and 2006 c 18 s 4 are each amended to
8 read as follows:

9 (1) In developing on-site program management plans required under
10 RCW 70.118A.030 (as recodified by this act), the local health officer
11 shall propose a marine recovery area for those land areas where
12 existing on-site sewage disposal systems are a significant factor
13 contributing to concerns associated with:

14 (a) Shellfish growing areas that have been threatened or
15 downgraded by the department under chapter 69.30 RCW;

16 (b) Marine waters that are listed by the department of ecology
17 under section 303(d) of the federal clean water act (33 U.S.C. Sec.
18 1251 et seq.) for low-dissolved oxygen or fecal coliform; or

19 (c) Marine waters where nitrogen has been identified as a
20 contaminant of concern by the local health officer.

21 (2) In determining the boundaries for a marine recovery area, the
22 local health officer shall assess and include those land areas where
23 existing on-site sewage disposal systems may affect water quality in
24 the marine recovery area.

25 (3) Determinations made by the local health officer under this
26 section, including identification of nitrogen as a contaminant of
27 concern, will be based on published guidance developed by the
28 department. The guidance must be designed to ensure the proper use of
29 available scientific and technical data. The health officer shall
30 document the basis for these determinations when plans are submitted
31 to the department.

32 (4) After July 1, 2007, the local health officer may designate
33 additional marine recovery areas meeting the criteria of this
34 section, according to new information. Where the department
35 recommends the designation of a marine recovery area or expansion of
36 a designated marine recovery area, the local health officer shall
37 notify the department of its decision concerning the recommendation
38 within ninety days of receipt of the recommendation.

1 **Sec. 1332.** RCW 70.118A.050 and 2006 c 18 s 5 are each amended to
2 read as follows:

3 (1) The local health officer of a local health jurisdiction where
4 a marine recovery area has been proposed under RCW 70.118A.040 (as
5 recodified by this act) shall develop and approve a marine recovery
6 area on-site strategy that includes designation of marine recovery
7 areas to guide the local health jurisdiction in developing and
8 managing all existing on-site sewage disposal systems within marine
9 recovery areas within its jurisdiction. The on-site strategy must be
10 a component of the program management plan required under RCW
11 70.118A.030 (as recodified by this act). The department may grant an
12 extension of twelve months where a local health jurisdiction has
13 demonstrated substantial progress toward completing its on-site
14 strategy.

15 (2) An on-site strategy for a marine recovery area must specify
16 how the local health jurisdiction will by July 1, 2012, and
17 thereafter, find:

18 (a) Existing failing systems and ensure that system owners make
19 necessary repairs; and

20 (b) Unknown systems and ensure that they are inspected as
21 required to ensure that they are functioning properly, and repaired,
22 if necessary.

23 **Sec. 1333.** RCW 70.118A.070 and 2006 c 18 s 7 are each amended to
24 read as follows:

25 (1) The on-site program management plans of local health
26 jurisdictions required under RCW 70.118A.030 (as recodified by this
27 act) must be submitted to the department by July 1, 2007, and be
28 reviewed to determine if they contain all necessary elements. The
29 department shall provide in writing to the local board of health its
30 review of the completeness of the plan. The board may adopt
31 additional criteria by rule for approving plans.

32 (2) In reviewing the on-site strategy component of the plan, the
33 department shall ensure that all required elements, including
34 designation of any marine recovery area, have been addressed.

35 (3) Within thirty days of receiving an on-site strategy, the
36 department shall either approve the on-site strategy or provide in
37 writing the reasons for not approving the strategy and recommend
38 changes. If the department does not approve the on-site strategy, the

1 local health officer must amend and resubmit the plan to the
2 department for approval.

3 (4) Upon receipt of department approval or after thirty days
4 without notification, whichever comes first, the local health officer
5 shall implement the on-site strategy.

6 (5) If the department denies approval of an on-site strategy, the
7 local health officer may appeal the denial to the board. The board
8 must make a final determination concerning the denial.

9 (6) The department shall assist local health jurisdictions in:

10 (a) Developing written on-site program management plans required
11 by RCW 70.118A.030 (as recodified by this act);

12 (b) Identifying reasonable methods for finding unknown systems;
13 and

14 (c) Developing or enhancing electronic data systems that will
15 enable each local health jurisdiction to actively manage all on-site
16 sewage disposal systems within their jurisdictions, with priority
17 given to those on-site sewage disposal systems that are located in or
18 which could affect designated marine recovery areas.

19 **Sec. 1334.** RCW 70.118A.080 and 2006 c 18 s 8 are each amended to
20 read as follows:

21 (1) The department shall enter into a contract with each local
22 health jurisdiction subject to the requirements of this chapter to
23 implement plans developed under this chapter, and to develop or
24 enhance electronic data systems required by this chapter. The
25 contract must include state funding assistance to the local health
26 jurisdiction from funds appropriated to the department for this
27 purpose.

28 (2) The contract must require, at a minimum, that within a marine
29 recovery area, the local health jurisdiction:

30 (a) Show progressive improvement in finding failing systems;

31 (b) Show progressive improvement in working with on-site sewage
32 disposal system owners to make needed system repairs;

33 (c) Is actively taking steps to find previously unknown systems
34 and ensuring that they are inspected as required and repaired if
35 necessary;

36 (d) Show progressive improvement in the percentage of on-site
37 sewage disposal systems that are included in an electronic data
38 system; and

1 (e) Of those on-site sewage disposal systems in the electronic
2 data system, show progressive improvement in the percentage that have
3 had required inspections.

4 (3) The contract must also include provisions for state
5 assistance in updating the plan. Beginning July 1, 2012, the contract
6 may adopt revised compliance dates, including those in RCW
7 70.118A.050 (as recodified by this act), where the local health
8 jurisdiction has demonstrated substantial progress in updating the
9 on-site strategy.

10 (4) The department shall convene a work group for the purpose of
11 making recommendations to the appropriate committees of the
12 legislature for the development of certification or licensing of
13 maintenance specialists. The work group shall make its recommendation
14 with consideration given to the 1998 report to the legislature
15 entitled "On-Site Wastewater Certification Work Group" as it pertains
16 to maintenance specialists. The work group may give priority to
17 appropriate levels of certification or licensure of maintenance
18 specialists who work in the Puget Sound basin.

19 **Sec. 1335.** RCW 70.118A.090 and 2006 c 18 s 9 are each amended to
20 read as follows:

21 The provisions of this chapter are supplemental to all other
22 authorities governing on-site sewage disposal systems, including
23 chapter 70.118 RCW (as recodified by this act) and rules adopted
24 under that chapter.

25 **Sec. 1336.** RCW 70.118B.005 and 2007 c 343 s 1 are each amended
26 to read as follows:

27 The legislature finds that:

28 (1) Protection of the environment and public health requires
29 properly designed, operated, and maintained on-site sewage systems.
30 Failure of those systems can pose certain health and environmental
31 hazards if sewage leaks above ground or if untreated sewage reaches
32 surface or groundwater.

33 (2) Chapter 70.118A RCW (as recodified by this act) provides a
34 framework for ongoing management of on-site sewage systems located in
35 marine recovery areas and regulated by local health jurisdictions
36 under state board of health rules. This chapter will provide a
37 framework for comprehensive management of large on-site sewage
38 systems statewide.

1 (3) The primary purpose of this chapter is to establish, in a
2 single state agency, comprehensive regulation of the design,
3 operation, and maintenance of large on-site sewage systems, and their
4 operators, that provides both public health and environmental
5 protection. To accomplish these purposes, this chapter provides for:

6 (a) The permitting and continuing oversight of large on-site
7 sewage systems;

8 (b) The establishment by the department of standards and rules
9 for the siting, design, construction, installation, operation,
10 maintenance, and repair of large on-site sewage systems; and

11 (c) The enforcement by the department of the standards and rules
12 established under this chapter.

13 **Sec. 1337.** RCW 70.118B.020 and 2007 c 343 s 3 are each amended
14 to read as follows:

15 (1) For the protection of human health and the environment the
16 department shall:

17 (a) Establish and provide for the comprehensive regulation of
18 large on-site sewage systems including, but not limited to, system
19 siting, design, construction, installation, operation, maintenance,
20 and repair;

21 (b) Control and prevent pollution of streams, lakes, rivers,
22 ponds, inland waters, salt waters, water courses, and other surface
23 and underground waters of the state of Washington, except to the
24 extent authorized by permits issued under this chapter;

25 (c) Issue annual operating permits for large on-site sewage
26 systems based on the system's ability to function properly in
27 compliance with the applicable comprehensive regulatory requirements;
28 and

29 (d) Enforce the large on-site sewage system requirements.

30 (2) Large on-site sewage systems permitted by the department may
31 not be used for treatment and disposal of industrial wastewater or
32 combined sanitary sewer and stormwater systems.

33 (3) The work group convened under RCW 70.118A.080(4) (as
34 recodified by this act) to make recommendations to the appropriate
35 committees of the legislature for the development of certification or
36 licensing of maintenance specialists shall include recommendations
37 for the development of certification or licensing of large on-site
38 (~~(+sewage+)~~) sewage system operators.

1 **Sec. 1338.** RCW 70.118B.030 and 2007 c 343 s 4 are each amended
2 to read as follows:

3 (1) A person may not install or operate a large on-site sewage
4 system without an operating permit as provided in this chapter after
5 July 1, 2009. The owner of the system is responsible for obtaining a
6 permit.

7 (2) The department shall issue operating permits in accordance
8 with the rules adopted under RCW 70.118B.040 (as recodified by this
9 act).

10 (3) The department shall ensure the system meets all applicable
11 siting, design, construction, and installation requirements prior to
12 issuing an initial operating permit. Prior to renewing an operating
13 permit, the department may review the performance of the system to
14 determine compliance with rules and any permit conditions.

15 (4) At the time of initial permit application or at the time of
16 permit renewal the department shall impose those permit conditions,
17 requirements for system improvements, and compliance schedules as it
18 determines are reasonable and necessary to ensure that the system
19 will be operated and maintained properly. Each application must be
20 accompanied by a fee as established in rules adopted by the
21 department.

22 (5) Operating permits shall be issued for a term of one year, and
23 shall be renewed annually, unless the operator fails to apply for a
24 new permit or the department finds good cause to deny the application
25 for renewal.

26 (6) Each permit may be issued only for the site and owner named
27 in the application. Permits are not transferable or assignable except
28 with the written approval of the department.

29 (7) The department may deny an application for a permit or
30 modify, suspend, or revoke a permit in any case in which it finds
31 that the permit was obtained by fraud or there is or has been a
32 failure, refusal, or inability to comply with the requirements of
33 this chapter or the standards or rules adopted under this chapter.
34 RCW 43.70.115 governs notice of denial, revocation, suspension, or
35 modification and provides the right to an adjudicative proceeding to
36 the permit applicant or permittee.

37 (8) For systems with design flows of more than fourteen thousand
38 five hundred gallons per day, the department shall adopt rules to
39 ensure adequate public notice and opportunity for review and comment
40 on initial large on-site sewage system permit applications and

1 subsequent permit applications to increase the volume of waste
2 disposal or change effluent characteristics. The rules must include
3 provisions for notice of final decisions. Methods for providing
4 notice may include (~~electronic~~) email, posting on the department's
5 internet site, publication in a local newspaper, press releases,
6 mailings, or other means of notification the department determines
7 appropriate.

8 (9) A person aggrieved by the issuance of an initial permit, or
9 by the issuance of a subsequent permit to increase the volume of
10 waste disposal or to change effluent characteristics, for systems
11 with design flows of more than fourteen thousand five hundred gallons
12 per day, has the right to an adjudicative proceeding. The application
13 for an adjudicative proceeding must be in writing, state the basis
14 for contesting the action, include a copy of the decision, be served
15 on and received by the department within twenty-eight days of receipt
16 of notice of the final decision, and be served in a manner that shows
17 proof of receipt. An adjudicative proceeding conducted under this
18 subsection is governed by chapter 34.05 RCW.

19 (10) Any permit issued by the department of ecology for a large
20 on-site sewage system under chapter 90.48 RCW is valid until it first
21 expires after July 22, 2007. The system owner shall apply for an
22 operating permit at least one hundred twenty days prior to expiration
23 of the department of ecology permit.

24 (11) Systems required to meet operator certification requirements
25 under chapter 70.95B RCW (as recodified by this act) must continue to
26 meet those requirements as a condition of the department operating
27 permit.

28 **Sec. 1339.** RCW 70.119.030 and 2009 c 221 s 2 are each amended to
29 read as follows:

30 (1) A public water system shall have a certified operator if:

31 (a) It is a group A water system; or

32 (b) It is a public water system using a surface water source or a
33 groundwater source under the direct influence of surface water.

34 (2) The certified operators shall be in charge of the technical
35 direction of a water system's operation, or an operating shift of
36 such a system, or a major segment of a system necessary for
37 monitoring or improving the quality of water. The operator shall be
38 certified as provided in RCW 70.119.050 (as recodified by this act).

1 (3) A certified operator may provide required services to more
2 than one system or to a group of systems. The amount of time that a
3 certified operator shall be required to be present at any given
4 system shall be based upon the time required to properly operate and
5 maintain the public water system as designed and constructed in
6 accordance with RCW 43.20.050. The employing or appointing officials
7 shall designate the position or positions requiring mandatory
8 certification within their individual systems and shall assure that
9 such certified operators are responsible for the system's technical
10 operation.

11 (4) The department shall, in establishing by rule or otherwise
12 the requirements for public water systems with fewer than one hundred
13 connections, phase in such requirements in order to assure that (a)
14 an adequate number of certified operators are available to serve the
15 additional systems, (b) the systems have adequate notice and time to
16 plan for securing the services of a certified operator, (c) the
17 department has the additional data and other administrative capacity,
18 (d) adequate training is available to certify additional operators as
19 necessary, and (e) any additional requirements under federal law are
20 satisfied. The department shall require certified operators for all
21 group A systems as necessary to conform to federal law or
22 implementing rules or guidelines. Unless necessary to conform to
23 federal law, rules, or guidelines, the department shall not require a
24 certified operator for a system with fewer than one hundred
25 connections unless that system is determined by the department to be
26 in significant noncompliance with operational, monitoring, or water
27 quality standards that would put the public health at risk, as
28 defined by the department by rule, or has, or is required to have,
29 water treatment facilities other than simple disinfection.

30 **Sec. 1340.** RCW 70.119.050 and 1995 c 269 s 2905 are each amended
31 to read as follows:

32 The secretary shall adopt such rules and regulations as may be
33 necessary for the administration of this chapter and shall enforce
34 such rules and regulations. The rules and regulations shall include
35 provisions establishing minimum qualifications and procedures for the
36 certification of operators, criteria for determining the kind and
37 nature of continuing educational requirements for renewal of
38 certification under RCW 70.119.100(2) (as recodified by this act),

1 and provisions for classifying water purification plants and
2 distribution systems.

3 Rules and regulations adopted under the provisions of this
4 section shall be adopted in accordance with the provisions of chapter
5 34.05 RCW.

6 **Sec. 1341.** RCW 70.119.060 and 1991 c 305 s 4 are each amended to
7 read as follows:

8 The secretary shall further categorize all public water systems
9 with regard to the size, type, source of water, and other relevant
10 physical conditions affecting purification plants and distribution
11 systems to assist in identifying the skills, knowledge and experience
12 required for the certification of operators for each category of such
13 systems, to assure the protection of the public health and
14 conservation and protection of the state's water resources as
15 required under RCW 70.119.010 (as recodified by this act), and to
16 implement the provisions of the state safe drinking water act in
17 chapter 70.119A RCW (as recodified by this act). In categorizing all
18 public water systems for the purpose of implementing these provisions
19 of state law, the secretary shall take into consideration economic
20 impacts as well as the degree and nature of any public health risk.

21 **Sec. 1342.** RCW 70.119.070 and 1983 c 292 s 5 are each amended to
22 read as follows:

23 The secretary is authorized, when taking action pursuant to RCW
24 70.119.050 and 70.119.060 (as recodified by this act), to consider
25 generally applicable criteria and guidelines developed by a
26 nationally recognized association of certification authorities and
27 commonly accepted national guidelines and standards.

28 **Sec. 1343.** RCW 70.119.090 and 1991 c 305 s 5 are each amended to
29 read as follows:

30 Certificates shall be issued without examination under the
31 following conditions:

32 (1) Certificates shall be issued without application fee to
33 operators who, on January 1, 1978, hold certificates of competency
34 attained under the voluntary certification program sponsored jointly
35 by the state department of social and health services, health
36 services division, and the Pacific Northwest section of the American
37 water works association.

1 (2) Certification shall be issued to persons certified by a
2 governing body or owner of a public water system to have been the
3 operators of a purification plant or distribution system on January
4 1, 1978, but only to those who are required to be certified under RCW
5 70.119.030(1) (as recodified by this act). A certificate so issued
6 shall be valid for operating any plant or system of the same
7 classification and same type of water source.

8 (3) A nonrenewable certificate, temporary in nature, may be
9 issued to an operator for a period not to exceed twelve months to
10 fill a vacated position required to have a certified operator. Only
11 one such certificate may be issued subsequent to each instance of
12 vacation of any such position.

13 **Sec. 1344.** RCW 70.119.100 and 1993 c 306 s 1 are each amended to
14 read as follows:

15 The issuance and renewal of a certificate shall be subject to the
16 following conditions:

17 (1) Except as provided in RCW 70.119.090 (as recodified by this
18 act), a certificate shall be issued if the operator has
19 satisfactorily passed a written examination, has paid the department
20 an application fee as established by the department under RCW
21 70.119.160 (as recodified by this act), and has met the requirements
22 specified in the rules and regulations as authorized by this chapter.

23 (2) Every certificate shall be renewed annually upon the payment
24 of a fee as established by the department under RCW 70.119.160 (as
25 recodified by this act) and satisfactory evidence is presented to the
26 secretary that the operator has fulfilled the continuing education
27 requirements as prescribed by rule of the department.

28 (3) The secretary shall notify operators who fail to renew their
29 certificates before the end of the year that their certificates are
30 temporarily valid for two months following the end of the certificate
31 year. Certificates not renewed during the two month period shall be
32 invalid and the secretary shall so notify the holders of such
33 certificates.

34 (4) An operator who has failed to renew a certificate pursuant to
35 the provisions of this section, may reapply for certification and the
36 secretary may require the operator to meet the requirements
37 established for new applicants.

1 **Sec. 1345.** RCW 70.119.120 and 1993 c 306 s 2 are each amended to
2 read as follows:

3 To carry out the provisions and purposes of this chapter, the
4 secretary is authorized and empowered to:

5 (1) Receive financial and technical assistance from the federal
6 government and other public or private agencies.

7 (2) Participate in related programs of the federal government,
8 other state, interstate agencies, or other public or private agencies
9 or organizations.

10 (3) Assess fees determined pursuant to RCW 70.119.160 (as
11 recodified by this act) on public water systems to support the
12 waterworks operator certification program.

13 **Sec. 1346.** RCW 70.119.130 and 2009 c 221 s 6 are each amended to
14 read as follows:

15 Any person, including any operator or any firm, association,
16 corporation, municipal corporation, or other governmental subdivision
17 or agency who, after thirty days' written notice, operates a public
18 water system which is not in compliance with RCW 70.119.030(1) (as
19 recodified by this act), shall be guilty of a misdemeanor. Each month
20 of such operation out of compliance with RCW 70.119.030(1) (as
21 recodified by this act) shall constitute a separate offense. Upon
22 conviction, violators shall be fined an amount not exceeding one
23 hundred dollars for each offense. It shall be the duty of the
24 prosecuting attorney or the attorney general, as appropriate, to
25 secure injunctions of continuing violations of any provisions of this
26 chapter or the rules and regulations adopted under this chapter.

27 **Sec. 1347.** RCW 70.119.150 and 1993 c 306 s 3 are each amended to
28 read as follows:

29 The waterworks operator certification account is created in the
30 general fund of the state treasury. All fees paid pursuant to RCW
31 70.119.100 (as recodified by this act), 70.119.120(3) (as recodified
32 by this act), and any other receipts realized in the administration
33 of this chapter shall be deposited in the waterworks operator
34 certification account. Moneys in the account shall be spent only
35 after appropriation. Moneys from the account shall be used by the
36 department of health to carry out the purposes of the waterworks
37 operator certification program.

1 **Sec. 1348.** RCW 70.119.170 and 2009 c 221 s 3 are each amended to
2 read as follows:

3 (1) Backflow assembly testers and cross-connection control
4 specialists must hold a valid certificate and must be certified as
5 provided by rule as adopted under the authority of RCW 70.119.050 (as
6 recodified by this act).

7 (2) Backflow assembly testers who maintain or repair backflow
8 assemblies, devices, or air gaps inside a building are subject to
9 certification under chapter 18.106 RCW.

10 **Sec. 1349.** RCW 70.119A.020 and 2009 c 495 s 3 are each reenacted
11 and amended to read as follows:

12 Unless the context clearly requires otherwise, the following
13 definitions apply throughout this chapter:

14 (1) "Area-wide waivers" means a waiver granted by the department
15 as a result of a geographically based testing program meeting
16 required provisions of the federal safe drinking water act.

17 (2) "Department" means the department of health.

18 (3) "Federal safe drinking water act" means the federal safe
19 drinking water act, 42 U.S.C. Sec. 300f et seq., as now in effect or
20 hereafter amended.

21 (4) "Group A public water system" means a public water system
22 with fifteen or more service connections, regardless of the number of
23 people; or a system serving an average of twenty-five or more people
24 per day for sixty or more days within a calendar year, regardless of
25 the number of service connections; or a system serving one thousand
26 or more people for two or more consecutive days.

27 (5) "Group B public water system" means a public water system
28 that does not meet the definition of a group A public water system.

29 (6) "Local board of health" means the city, town, county, or
30 district board of health.

31 (7) "Local health jurisdiction" means an entity created under
32 chapter 70.05, 70.08, or 70.46 RCW which provides public health
33 services to persons within the area.

34 (8) "Local health officer" means the legally qualified physician
35 who has been appointed as the health officer for the city, town,
36 county, or district public health department.

37 (9) "Order" means a written direction to comply with a provision
38 of the regulations adopted under RCW 43.20.050(2) (a) and (b) or

1 70.119.050 (as recodified by this act) or to take an action or a
2 series of actions to comply with the regulations.

3 (10) "Person" includes, but is not limited to, natural persons,
4 municipal corporations, governmental agencies, firms, companies,
5 mutual or cooperative associations, institutions, and partnerships.
6 It also means the authorized agents of any such entities.

7 (11) "Public health emergency" means a declaration by an
8 authorized health official of a situation in which either illness, or
9 exposure known to cause illness, is occurring or is imminent.

10 (12) "Public water system" means any system, excluding a system
11 serving only one single-family residence and a system with four or
12 fewer connections all of which serve residences on the same farm,
13 providing water for human consumption through pipes or other
14 constructed conveyances, including any collection, treatment,
15 storage, or distribution facilities under control of the purveyor and
16 used primarily in connection with the system; and collection or
17 pretreatment storage facilities not under control of the purveyor but
18 primarily used in connection with the system, including:

19 (a) Any collection, treatment, storage, and distribution
20 facilities under control of the purveyor and used primarily in
21 connection with such system; and

22 (b) Any collection or pretreatment storage facilities not under
23 control of the purveyor which are primarily used in connection with
24 such system.

25 (13) "Purveyor" means any agency or subdivision of the state or
26 any municipal corporation, firm, company, mutual or cooperative
27 association, institution, partnership, or person or any other entity,
28 that owns or operates a public water system. It also means the
29 authorized agents of any such entities.

30 (14) "Regulations" means rules adopted to carry out the purposes
31 of this chapter.

32 (15) "Secretary" means the secretary of the department of health.

33 (16) "State board of health" is the board created by RCW
34 43.20.030.

35 **Sec. 1350.** RCW 70.119A.030 and 1993 c 305 s 1 are each amended
36 to read as follows:

37 (1) The secretary or his or her designee or the local health
38 officer may declare a public health emergency. As limited by RCW
39 70.119A.040 (as recodified by this act), the department may impose

1 penalties for violations of laws or regulations that are determined
2 to be a public health emergency.

3 (2) As limited by RCW 70.119A.040 (as recodified by this act),
4 the department may impose penalties for violation of laws or rules
5 regulating public water systems and administered by the department of
6 health.

7 **Sec. 1351.** RCW 70.119A.050 and 2009 c 495 s 4 are each amended
8 to read as follows:

9 Each local board of health that is enforcing the regulations
10 regarding public water systems is authorized to impose and collect
11 civil penalties for violations within the area of its responsibility
12 under the same limitations and requirements imposed upon the
13 department by RCW 70.119A.030 and 70.119A.040 (as recodified by this
14 act), except that judgment shall be entered in the name of the local
15 board and penalties shall be placed into the general fund of the
16 county, city, or town operating the local board of health.

17 **Sec. 1352.** RCW 70.119A.060 and 2009 c 495 s 5 are each amended
18 to read as follows:

19 (1) To assure safe and reliable public drinking water and to
20 protect the public health:

21 (a) Public water systems shall comply with all applicable
22 federal, state, and local rules; and

23 (b) Group A public water systems shall:

24 (i) Protect the water sources used for drinking water;

25 (ii) Provide treatment adequate to assure that the public health
26 is protected;

27 (iii) Provide and effectively operate and maintain public water
28 system facilities;

29 (iv) Plan for future growth and assure the availability of safe
30 and reliable drinking water;

31 (v) Provide the department with the current names, addresses, and
32 telephone numbers of the owners, operators, and emergency contact
33 persons for the system, including any changes to this information,
34 and provide to users the name and twenty-four hour telephone number
35 of an emergency contact person; and

36 (vi) Take whatever investigative or corrective action is
37 necessary to assure that a safe and reliable drinking water supply is
38 continuously available to users.

1 (2) No new public water system may be approved or created unless:
2 (a) It is owned or operated by a satellite system management agency
3 established under RCW 70.116.134 (as recodified by this act) and the
4 satellite system management system complies with financial viability
5 requirements of the department; or (b) a satellite management system
6 is not available and it is determined that the new system has
7 sufficient management and financial resources to provide safe and
8 reliable service. The approval of any new system that is not owned by
9 a satellite system management agency shall be conditioned upon future
10 management or ownership by a satellite system management agency, if
11 such management or ownership can be made with reasonable economy and
12 efficiency, or upon periodic review of the system's operational
13 history to determine its ability to meet the department's financial
14 viability and other operating requirements. The department and local
15 health jurisdictions shall enforce this requirement under authority
16 provided under this chapter, chapter 70.116 (as recodified by this
17 act), or 70.05 RCW, or other authority governing the approval of new
18 water systems by the department or a local jurisdiction.

19 (3) The department and local health jurisdictions shall carry out
20 the rules and regulations of the state board of health adopted
21 pursuant to RCW 43.20.050(2) (a) and (b) and other rules adopted by
22 the department relating to public water systems.

23 **Sec. 1353.** RCW 70.119A.110 and 2011 c 102 s 1 are each amended
24 to read as follows:

25 (1) No person may operate a group A public water system unless
26 the person first submits an application to the department and
27 receives an operating permit as provided in this section. A new
28 application must be submitted upon any change in ownership of the
29 system.

30 (2) The department may require that each application include the
31 information that is reasonable and necessary to determine that the
32 system complies with applicable standards and requirements of the
33 federal safe drinking water act, state law, and rules adopted by the
34 department or by the state board of health.

35 (3) Following its review of the application, its supporting
36 material, and any information received by the department in its
37 investigation of the application, the department shall issue or deny
38 the operating permit. The department shall act on initial permit
39 applications as expeditiously as possible, and shall in all cases

1 either grant or deny the application within one hundred twenty days
2 of receipt of the application or of any supplemental information
3 required to complete the application. The applicant for a permit
4 shall be entitled to file an appeal in accordance with chapter 34.05
5 RCW if the department denies the initial or subsequent applications
6 or imposes conditions or requirements upon the operator. Any operator
7 of a public water system that requests a hearing may continue to
8 operate the system until a decision is issued after the hearing.

9 (4) At the time of initial permit application or at the time of
10 permit renewal the department may impose such 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 provide a safe and reliable water supply to its users.

14 (5) Operating permits shall be issued for a term of one year, and
15 shall be renewed annually, unless the operator fails to apply for a
16 new permit or the department finds good cause to deny the application
17 for renewal.

18 (6) Each application shall be accompanied by an annual fee.

19 (7) The department shall adopt rules, in accordance with chapter
20 34.05 RCW, necessary to implement this section.

21 (8) The department shall establish by rule categories of annual
22 operating permit fees based on system size, complexity, and number of
23 service connections. Fees charged must be sufficient to cover, but
24 may not exceed, the costs to the department of administering a
25 program for safe and reliable drinking water. The department shall
26 use operating permit fees to monitor and enforce compliance by group
27 A public water systems with state and federal laws that govern
28 planning, water use efficiency, design, construction, operation,
29 maintenance, financing, management, and emergency response.

30 (9) The annual per-connection fee may not exceed one dollar and
31 fifty cents. The department shall phase-in implementation of any
32 annual fee increase greater than ten percent, and shall establish the
33 schedule for implementation by rule. Rules established by the
34 department prior to 2020 must limit the annual operating permit fee
35 for any public water system to no greater than one hundred thousand
36 dollars.

37 (10) The department shall notify existing public water systems of
38 the requirements of RCW 70.119A.030, 70.119A.060 (as recodified by
39 this act), and this section at least one hundred twenty days prior to
40 the date that an application for a permit is required pursuant to RCW

1 70.119A.030, 70.119A.060 (as recodified by this act), and this
2 section.

3 (11) The department shall issue one operating permit to any
4 approved satellite system management agency. Operating permit fees
5 for approved satellite system management agencies must be established
6 by the department by rule. Rules established by the department must
7 set a single fee based on the total number of connections for all
8 group A public water systems owned by a satellite management agency.

9 (12) For purposes of this section, "group A public water system"
10 and "system" mean those water systems with fifteen or more service
11 connections, regardless of the number of people; or a system serving
12 an average of twenty-five or more people per day for sixty or more
13 days within a calendar year, regardless of the number of service
14 connections.

15 **Sec. 1354.** RCW 70.119A.120 and 1991 c 304 s 6 are each amended
16 to read as follows:

17 The safe drinking water account is created in the general fund of
18 the state treasury. All receipts from the operating permit fees
19 required to be paid under RCW 70.119A.110 (as recodified by this act)
20 shall be deposited into the account. Moneys in the account may be
21 spent only after appropriation. Expenditures from the account may be
22 used by the department of health to carry out the purposes of chapter
23 304, Laws of 1991 and to carry out contracts with local governments
24 in accordance with this chapter.

25 **Sec. 1355.** RCW 70.119A.190 and 2008 c 214 s 2 are each amended
26 to read as follows:

27 Subject to the availability of amounts appropriated for this
28 specific purpose, the department shall provide financial assistance
29 through a water system acquisition and rehabilitation program, hereby
30 created. The program shall be jointly administered with the public
31 works board and the department of (~~community, trade, and economic~~
32 ~~development~~) commerce. The agencies shall adopt guidelines for the
33 program using as a model the procedures and criteria of the drinking
34 water revolving loan program authorized under RCW 70.119A.170 (as
35 recodified by this act). All financing provided through the program
36 must be in the form of grants that partially cover project costs. The
37 maximum grant to any eligible entity may not exceed twenty-five

1 percent of the funds allocated to the appropriation in any fiscal
2 year.

3 **Sec. 1356.** RCW 70.120.010 and 2011 c 171 s 108 are each amended
4 to read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Department" means the department of ecology.

8 (2) "Director" means the director of the department of ecology.

9 (3) "Fleet" means a group of fifteen or more motor vehicles
10 registered in the same name and whose owner has been assigned a fleet
11 identifier code by the department of licensing.

12 (4) "Motor vehicle" means any self-propelled vehicle required to
13 be licensed pursuant to chapter 46.16A RCW.

14 (5) "Motor vehicle dealer" means a motor vehicle dealer, as
15 defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70
16 RCW.

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

20 (7) The terms "air contaminant," "air pollution," "air quality
21 standard," "ambient air," "emission," and "emission standard" have
22 the meanings given them in RCW 70.94.030 (as recodified by this act).

23 **Sec. 1357.** RCW 70.120.070 and 1998 c 342 s 2 are each amended to
24 read as follows:

25 (1) Any person:

26 (a) Whose motor vehicle is tested pursuant to this chapter and
27 fails to comply with the emission standards established for the
28 vehicle; and

29 (b) Who, following such a test, expends more than one hundred
30 dollars on a 1980 or earlier model year motor vehicle or expends more
31 than one hundred fifty dollars on a 1981 or later model year motor
32 vehicle for repairs solely devoted to meeting the emission standards
33 and that are performed by a certified emission specialist authorized
34 by RCW 70.120.020(2) (a) (as recodified by this act); and

35 (c) Whose vehicle fails a retest, may be issued a certificate of
36 acceptance if (i) the vehicle has been in use for more than five
37 years or fifty thousand miles, and (ii) any component of the vehicle

1 installed by the manufacturer for the purpose of reducing emissions,
2 or its appropriate replacement, is installed and operative.

3 To receive the certificate, the person must document compliance
4 with (b) and (c) of this subsection to the satisfaction of the
5 department.

6 Should any provision of (b) of this subsection be disapproved by
7 the administrator of the United States environmental protection
8 agency, all vehicles shall be required to expend at least four
9 hundred fifty dollars to qualify for a certificate of acceptance.

10 (2) Persons who fail the initial tests shall be provided with:

11 (a) Information regarding the availability of federal warranties
12 and certified emission specialists;

13 (b) Information on the availability and procedure for acquiring
14 license trip-permits;

15 (c) Information on the availability and procedure for receiving a
16 certificate of acceptance; and

17 (d) The local phone number of the department's local vehicle
18 specialist.

19 **Sec. 1358.** RCW 70.120.080 and 1991 c 199 s 205 are each amended
20 to read as follows:

21 The director may authorize an owner or lessee of a fleet of motor
22 vehicles, or the owner's or lessee's agent, to inspect the vehicles
23 in the fleet and issue certificates of compliance for the vehicles in
24 the fleet if the director determines that: (1) The director's
25 inspection procedures will be complied with; and (2) certificates
26 will be issued only to vehicles in the fleet that meet emission and
27 equipment standards adopted under RCW 70.120.150 (as recodified by
28 this act) and only when appropriate.

29 In addition, the director may authorize an owner or lessee of one
30 or more diesel motor vehicles with a gross vehicle weight rating in
31 excess of eight thousand five hundred pounds, or the owner's or
32 lessee's agent, to inspect the vehicles and issue certificates of
33 compliance for the vehicles. The inspections shall be conducted in
34 compliance with inspection procedures adopted by the department and
35 certificates of compliance shall only be issued to vehicles that meet
36 emission and equipment standards adopted under RCW 70.120.150 (as
37 recodified by this act).

38 The director shall establish by rule the fee for fleet or diesel
39 inspections provided for in this section. The fee shall be set at an

1 amount necessary to offset the department's cost to administer the
2 fleet and diesel inspection program authorized by this section.

3 Owners, leaseholders, or their agents conducting inspections
4 under this section shall pay only the fee established in this section
5 and not be subject to fees under RCW 70.120.170(4) (as recodified by
6 this act).

7 **Sec. 1359.** RCW 70.120.120 and 1991 c 199 s 206 are each amended
8 to read as follows:

9 The director shall adopt rules implementing and enforcing this
10 chapter in accordance with chapter 34.05 RCW. The department shall
11 take into account when considering proposed modifications of emission
12 contributing boundaries, as provided for in RCW 70.120.150(6) (as
13 recodified by this act), alternative transportation control and motor
14 vehicle emission reduction measures that are required by local
15 municipal corporations for the purpose of satisfying federal emission
16 guidelines.

17 **Sec. 1360.** RCW 70.120.130 and 1979 ex.s. c 163 s 14 are each
18 amended to read as follows:

19 The authority granted by this chapter to the director and the
20 department for controlling vehicle emissions is supplementary to the
21 department's authority to control air pollution pursuant to chapter
22 70.94 RCW (as recodified by this act).

23 **Sec. 1361.** RCW 70.120.190 and 1991 c 199 s 210 are each amended
24 to read as follows:

25 (1) Motor vehicle dealers selling a used vehicle not under a new
26 vehicle warranty shall include a notice in each vehicle purchase
27 order form that reads as follows: "The owner of a vehicle may be
28 required to spend up to (a dollar amount established under RCW
29 70.120.070 (as recodified by this act)) for repairs if the vehicle
30 does not meet the vehicle emission standards under this chapter.
31 Unless expressly warranted by the motor vehicle dealer, the dealer is
32 not warranting that this vehicle will pass any emission tests
33 required by federal or state law."

34 (2) The signature of the purchaser on the notice required under
35 subsection (1) of this section shall constitute a valid disclaimer of
36 any implied warranty by the dealer as to a vehicle's compliance with
37 any emission standards.

1 (3) The disclosure requirement of subsection (1) of this section
2 applies to all motor vehicle dealers located in counties where state
3 emission inspections are required.

4 **Sec. 1362.** RCW 70.120A.010 and 2010 c 76 s 1 are each amended to
5 read as follows:

6 (1) Pursuant to the federal clean air act, the legislature adopts
7 the California motor vehicle emission standards in Title 13 of the
8 California Code of Regulations, effective January 1, 2005, except as
9 provided in this chapter. The department of ecology shall adopt rules
10 to implement the emission standards of the state of California for
11 passenger cars, light duty trucks, and medium duty passenger
12 vehicles, and shall amend the rules from time to time, to maintain
13 consistency with the California motor vehicle emission standards and
14 42 U.S.C. Sec. 7507 (section 177 of the federal clean air act).
15 Notwithstanding other provisions of this chapter, the department of
16 ecology shall not adopt the zero emission vehicle program regulations
17 contained in Title 13 section 1962 of the California Code of
18 Regulations effective January 1, 2005. During rule development, the
19 department of ecology shall convene an advisory group composed of
20 industry and consumer group representatives. Any proposed rules or
21 changes to rules shall be subject to review and comment by the
22 advisory group, prior to rule adoption. The order of adoption for the
23 rules required in this section shall include the signature of the
24 governor. The rules shall be effective only for those model years for
25 which the state of Oregon has adopted the California motor vehicle
26 emission standards. This section does not limit the department of
27 ecology's authority to regulate motor vehicle emissions for any other
28 class of vehicle.

29 (2) Motor vehicles with a model year equal to or later than the
30 first model year for which new vehicles sold to Washington state
31 residents are required to comply with California motor vehicle
32 emission standards are exempt from emission inspections under chapter
33 70.120 RCW (as recodified by this act).

34 (3) The provisions of this chapter do not apply with respect to
35 the use by a resident of this state of a motor vehicle acquired and
36 used while the resident is a member of the armed services and is
37 stationed outside this state pursuant to military orders.

1 **Sec. 1363.** RCW 70.120A.020 and 2005 c 295 s 3 are each amended
2 to read as follows:

3 (1) In recognition of the provisions of the federal clean air act
4 which require a minimum phase-in period of three model years for
5 adoption of California motor vehicle emission standards, the
6 implementing rules shall include a system of early credits and
7 banking for manufacturers for zero emission vehicles produced and
8 sold earlier than the implementation date for the standards in
9 Washington. Beginning with the model year in which the new standards
10 become effective, each manufacturer's fleet of passenger cars and
11 light duty trucks delivered for sale in the state of Washington shall
12 proportionately conform to the zero emission vehicle requirements of
13 Title 13 of the California Code of Regulations, including early
14 credit and banking provisions set forth in Title 13 of the Code of
15 California Regulations using Washington specific vehicle numbers. A
16 manufacturer shall be given early Washington zero emission vehicle
17 credits proportionally equivalent to the zero emission vehicle
18 credits possessed by the requesting manufacturer for use in the state
19 of California on January 1st of the model year the California
20 standards become effective in Washington.

21 (2) In addition, an alternative means of compliance with the
22 requirements of subsection (1) of this section shall be created in
23 the implementing rules provided for in RCW 70.120A.010 (as recodified
24 by this act). The alternative means of compliance shall allow a
25 manufacturer to earn Washington zero emission vehicle credits
26 beginning with the 2005 model year. The alternative means of
27 compliance shall be developed to be consistent in concept with the
28 alternative compliance systems developed for the states of
29 Connecticut, New York, and Maine as they adopted the zero emission
30 vehicle provisions of the California motor vehicle standards and
31 shall contain a Washington multiplier consistent with the multipliers
32 in those systems. The implementing rules shall require timely
33 notification by the manufacturer to the department of ecology of an
34 election to use the alternative means of compliance.

35 **Sec. 1364.** RCW 70.121.020 and 1991 c 3 s 372 are each amended to
36 read as follows:

37 Unless the context clearly requires a different meaning, the
38 definitions in this section apply throughout this chapter.

39 (1) "Department" means the department of health.

1 (2) "Secretary" means the secretary of health.

2 (3) "Site" means the restricted area as defined by the United
3 States nuclear regulatory commission.

4 (4) "Tailings" means the residue remaining after extraction of
5 uranium or thorium from the ore whether or not the residue is left in
6 piles, but shall not include ore bodies nor ore stock piles.

7 (5) "License" means a radioactive materials license issued under
8 chapter 70.98 RCW (as recodified by this act) and the rules adopted
9 under chapter 70.98 RCW (as recodified by this act).

10 (6) "Termination of license" means the cancellation of the
11 license after permanent cessation of operations. Temporary
12 interruptions or suspensions of production due to economic or other
13 conditions are not a permanent cessation of operations.

14 (7) "Milling" means grinding, cutting, working, or concentrating
15 ore which has been extracted from the earth by mechanical
16 (conventional) or chemical (in situ) processes.

17 (8) "Obligor-licensee" means any person who obtains a license to
18 operate a uranium or thorium mill in the state of Washington or any
19 person who owns the property on which the mill operates and who owes
20 money to the state for the licensing fee, for reclamation of the
21 site, for perpetual surveillance and maintenance of the site, or for
22 any other obligation owed the state under this chapter.

23 (9) "Statement of claim" means the document recorded or filed
24 pursuant to this chapter, which names an obligor-licensee, names the
25 state as obligee, describes the obligation owed to the state, and
26 describes property owned by the obligor-licensee on which a lien will
27 attach for the benefit of the state, and which creates the lien when
28 filed.

29 **Sec. 1365.** RCW 70.121.050 and 2012 c 187 s 8 are each amended to
30 read as follows:

31 On a quarterly basis on and after January 1, 1980, there shall be
32 levied and the department shall collect a charge of five cents per
33 pound on each pound of uranium or thorium compound milled out of the
34 raw ore. All moneys paid to the department from these charges shall
35 be deposited in a special security fund in the treasury of the state
36 of Washington to be known as the "radiation perpetual maintenance
37 fund." This security fund shall be used by the department when a
38 licensee has ceased to operate and the site may still contain, or
39 have associated with the site at which the licensed activity was

1 conducted in spite of full compliance with RCW 70.121.030 (as
2 recodified by this act), radioactive material which will require
3 further maintenance, surveillance, or other care. If, with respect to
4 a licensee, the department determines that the estimated total of
5 these charges will be less than or greater than that required to
6 defray the estimated cost of administration of this responsibility,
7 the department may prescribe such an increased or decreased charge as
8 is considered necessary for this purpose. If, at termination of the
9 license, the department determines that by the applicable standards
10 and practices then in effect, the charges which have been collected
11 from the licensee and earnings generated therefrom are in excess of
12 the amount required to defray the cost of this responsibility, the
13 department may refund the excess portion to the licensee. If, at
14 termination of the license or cessation of operation, the department
15 determines, by the applicable standards and practices then in effect,
16 that the charges which have been collected from the licensee and
17 earnings generated therefrom are together insufficient to defray the
18 cost of this responsibility, the department may collect the excess
19 portion from the licensee.

20 **Sec. 1366.** RCW 70.121.060 and 1979 ex.s. c 110 s 6 are each
21 amended to read as follows:

22 In order to provide for the proper care and surveillance of sites
23 under RCW 70.121.050 (as recodified by this act), the state may
24 acquire by gift or transfer from any government agency, corporation,
25 partnership, or person, all lands, buildings, and grounds necessary
26 to fulfill the purposes of this chapter. Any such gift or transfer
27 shall be subject to approval by the department. In exercising the
28 authority of this section, the department shall take into
29 consideration the status of the ownership of the land and interests
30 therein and the ability of the licensee to transfer title and custody
31 thereof to the state.

32 **Sec. 1367.** RCW 70.121.070 and 1979 ex.s. c 110 s 7 are each
33 amended to read as follows:

34 Recognizing the uncertainty of the existence of a person or
35 corporation in perpetuity, and recognizing that ultimate
36 responsibility to protect the public health and safety must be
37 reposed in a solvent government, without regard to the existence of
38 any particular agency or department thereof, all lands, buildings,

1 and grounds acquired by the state under RCW 70.121.060 (as recodified
2 by this act) shall be owned in fee simple by the state and dedicated
3 in perpetuity to the purposes stated in RCW 70.121.060 (as recodified
4 by this act). All radioactive material received at a site and located
5 therein at the time of acquisition of ownership by the state shall
6 become the property of the state.

7 **Sec. 1368.** RCW 70.121.080 and 1979 ex.s. c 110 s 8 are each
8 amended to read as follows:

9 If a person licensed by any governmental agency other than the
10 state or if any other governmental agency desires to transfer a site
11 to the state for the purpose of administering or providing perpetual
12 care, a lump sum payment shall be made to the radiation perpetual
13 maintenance fund. The amount of the deposit shall be determined by
14 the department taking into consideration the factors stated in RCW
15 70.121.050 (as recodified by this act).

16 **Sec. 1369.** RCW 70.121.110 and 1987 c 184 s 6 are each amended to
17 read as follows:

18 A bond shall be accepted by the department if it is a bond issued
19 by a fidelity or surety company admitted to do business in the state
20 of Washington and the fidelity or surety company is found by the
21 state finance commission to be financially secure at licensing and
22 licensing renewals, if it is a personal bond secured by such
23 collateral as the secretary deems satisfactory and in accordance with
24 RCW 70.121.100 (as recodified by this act), or if it is a cash bond.

25 **Sec. 1370.** RCW 70.138.010 and 1987 c 528 s 1 are each amended to
26 read as follows:

27 The legislature finds:

28 (1) Solid wastes generated in the state are to be managed in the
29 following order of descending priority: (a) Waste reduction; (b)
30 recycling; (c) treatment; (d) energy recovery or incineration; (e)
31 solidification/stabilization; and (f) landfill.

32 (2) Special incinerator ash residues from the incineration of
33 municipal solid waste that would otherwise be regulated as hazardous
34 wastes need a separate regulatory scheme in order to (a) ease the
35 permitting and reporting requirements of chapter 70.105 RCW (as
36 recodified by this act), the state hazardous waste management act,
37 and (b) supplement the environmental protection provisions of chapter

1 70.95 RCW (as recodified by this act), the state solid waste
2 management act.

3 (3) Raw garbage poses significant environmental and public health
4 risks. Municipal solid waste incineration constitutes a higher waste
5 management priority than the land disposal of untreated municipal
6 solid waste due to its reduction of waste volumes and environmental
7 health risks.

8 It is therefore the purpose of this chapter to establish
9 management requirements for special incinerator ash that otherwise
10 would be regulated as hazardous waste under chapter 70.105 RCW (as
11 recodified by this act), the hazardous waste management act.

12 **Sec. 1371.** RCW 70.138.020 and 1987 c 528 s 2 are each amended to
13 read as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

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) "Dispose" or "disposal" means the treatment, utilization,
20 processing, or final deposit of special incineration ash.

21 (4) "Generate" means any act or process which produces special
22 incinerator ash or which first causes special incinerator ash to
23 become subject to regulation.

24 (5) "Management" means the handling, storage, collection,
25 transportation, and disposal of special incinerator ash.

26 (6) "Person" means any person, firm, association, county, public
27 or municipal or private corporation, agency, or other entity
28 whatsoever.

29 (7) "Facility" means all structures, other appurtenances,
30 improvements, and land used for recycling, storing, treating, or
31 disposing of special incinerator ash.

32 (8) "Special incinerator ash" means ash residues resulting from
33 the operation of incinerator or energy recovery facilities managing
34 municipal solid waste, including solid waste from residential,
35 commercial, and industrial establishments, if the ash residues (a)
36 would otherwise be regulated as hazardous wastes under chapter 70.105
37 RCW (as recodified by this act); and (b) are not regulated as a
38 hazardous waste under the federal resource conservation and recovery
39 act, 42 U.S.C. Sec. 6901 et seq.

1 **Sec. 1372.** RCW 70.138.030 and 1987 c 528 s 3 are each amended to
2 read as follows:

3 (1) Prior to managing special incinerator ash, persons who
4 generate special incinerator ash shall develop plans for managing the
5 special incinerator ash. These plans shall:

6 (a) Identify procedures for all aspects relating to the
7 management of the special incinerator ash that are necessary to
8 protect employees, human health, and the environment;

9 (b) Identify alternatives for managing solid waste prior to
10 incineration for the purpose of (i) reducing the toxicity of the
11 special incinerator ash; and (ii) reducing the quantity of the
12 special incinerator ash;

13 (c) Establish a process for submittal of an annual report to the
14 department disclosing the results of a testing program to identify
15 the toxic properties of the special incinerator ash as necessary to
16 ensure that the procedures established in the plans submitted
17 pursuant to this chapter are adequate to protect employees, human
18 health, and the environment; and

19 (d) Comply with the rules established by the department in
20 accordance with this section.

21 (2) Prior to managing any special incinerator ash, any person
22 required to develop a plan pursuant to subsection (1) of this section
23 shall submit the plan to the department for review and approval.
24 Prior to approving a plan, the department shall find that the plan
25 complies with the provisions of this chapter, including any rules
26 adopted under this chapter. Approval may be conditioned upon
27 additional requirements necessary to protect employees, human health,
28 and the environment, including special management requirements, waste
29 segregation, or treatment techniques such as neutralization,
30 detoxification, and solidification/stabilization.

31 (3) The department shall give notice of receipt of a proposed
32 plan to interested persons and the public and shall accept public
33 comment for a minimum of thirty days. The department shall approve,
34 approve with conditions, or reject the plan submitted pursuant to
35 this section within ninety days of submittal.

36 (4) Prior to accepting any special incinerator ash for disposal,
37 persons owning or operating facilities for the disposal of the
38 incinerator ash shall apply to the department for a permit. The
39 department shall issue a permit if the disposal will provide adequate
40 protection of human health and the environment. Prior to issuance of

1 any permit, the department shall find that the facility meets the
2 requirements of chapter 70.95 RCW (as recodified by this act) and any
3 rules adopted under this chapter. The department may place conditions
4 on the permit to include additional requirements necessary to protect
5 employees, human health, and the environment, including special
6 management requirements, waste segregation, or treatment techniques
7 such as neutralization, detoxification, and solidification/
8 stabilization.

9 (5) The department shall give notice of its receipt of a permit
10 application to interested persons and the public and shall accept
11 public comment for a minimum of thirty days. The department shall
12 issue, issue with conditions, or deny the permit within ninety days
13 of submittal.

14 (6) The department shall adopt rules to implement the provisions
15 of this chapter. The rules shall (a) establish minimum requirements
16 for the management of special incinerator ash as necessary to protect
17 employees, human health, and the environment, (b) clearly define the
18 elements of the plans required by this chapter, and (c) require
19 special incinerator ash to be disposed at facilities that are
20 operating in compliance with this chapter.

21 **Sec. 1373.** RCW 70.142.050 and 1991 c 3 s 375 are each amended to
22 read as follows:

23 Public water supply systems as defined by RCW 70.119.020 (as
24 recodified by this act) that the state board of health or local
25 health department determines do not comply with the water quality
26 standards applicable to the system shall immediately initiate
27 preparation of a corrective plan designed to meet or exceed the
28 minimum standards for submission to the department of health. The
29 owner of such system shall within one year take any action required
30 to bring the water into full compliance with the standards. The
31 department of health may require compliance as promptly as necessary
32 to abate an immediate public health threat or may extend the period
33 of compliance if substantial new construction is required: PROVIDED
34 FURTHER, That the extension shall be granted only upon a
35 determination by the department, after a public hearing, that the
36 extension will not pose an imminent threat to public health. Each
37 such system shall include a notice identifying the water quality
38 standards exceeded, and the amount by which the water tested exceeded
39 the standards, in all customer bills mailed after such determination.

1 The notification shall continue until water quality tests conducted
2 in accordance with this chapter establish that the system meets or
3 exceeds the minimum standards.

4 **Sec. 1374.** RCW 70.146.030 and 2009 c 479 s 53 are each amended
5 to read as follows:

6 The department may make grants or loans to public bodies,
7 including grants to public bodies as cost-sharing moneys in any case
8 where federal, local, or other funds are made available on a cost-
9 sharing basis, for water pollution control facilities and activities,
10 or for purposes of assisting a public body to obtain an ownership
11 interest in water pollution control facilities and/or to defray a
12 part of the payments made by a public body to a service provider
13 under a service agreement entered into pursuant to RCW 70.150.060 (as
14 recodified by this act), within the purposes of this chapter and for
15 related administrative expenses. No more than three percent of the
16 moneys may be used by the department to pay for the administration of
17 the grant and loan program authorized by this chapter.

18 **Sec. 1375.** RCW 70.146.060 and 2009 c 479 s 55 are each amended
19 to read as follows:

20 Funds provided for facilities and activities under this chapter
21 may be used for payments to a service provider under a service
22 agreement pursuant to RCW 70.150.060 (as recodified by this act). If
23 funds are to be used for such payments, the department may make
24 periodic disbursements to a public body or may make a single lump sum
25 disbursement. Disbursements of funds with respect to a facility owned
26 or operated by a service provider shall be equivalent in value to
27 disbursements that would otherwise be made if that facility were
28 owned or operated by a public body. Payments under this chapter for
29 waste disposal and management facilities made to public bodies
30 entering into service agreements pursuant to RCW 70.150.060 (as
31 recodified by this act) shall not exceed amounts paid to public
32 bodies not entering into service agreements.

33 **Sec. 1376.** RCW 70.146.070 and 2013 c 275 s 4 are each amended to
34 read as follows:

35 (1) When making grants or loans for water pollution control
36 facilities, the department shall consider the following:

37 (a) The protection of water quality and public health;

1 (b) The cost to residential ratepayers if they had to finance
2 water pollution control facilities without state assistance;

3 (c) Actions required under federal and state permits and
4 compliance orders;

5 (d) The level of local fiscal effort by residential ratepayers
6 since 1972 in financing water pollution control facilities;

7 (e) Except as otherwise conditioned by RCW 70.146.110 (as
8 recodified by this act), whether the entity receiving assistance is a
9 Puget Sound partner, as defined in RCW 90.71.010;

10 (f) Whether the project is referenced in the action agenda
11 developed by the Puget Sound partnership under RCW 90.71.310;

12 (g) Except as otherwise provided in RCW 70.146.120 (as recodified
13 by this act), and effective one calendar year following the
14 development and statewide availability of model evergreen community
15 management plans and ordinances under RCW 35.105.050, whether the
16 project is sponsored by an entity that has been recognized, and what
17 gradation of recognition was received, in the evergreen community
18 recognition program created in RCW 35.105.030;

19 (h) The extent to which the applicant county or city, or if the
20 applicant is another public body, the extent to which the county or
21 city in which the applicant public body is located, has established
22 programs to mitigate nonpoint pollution of the surface or
23 subterranean water sought to be protected by the water pollution
24 control facility named in the application for state assistance; and

25 (i) The recommendations of the Puget Sound partnership, created
26 in RCW 90.71.210, and any other board, council, commission, or group
27 established by the legislature or a state agency to study water
28 pollution control issues in the state.

29 (2) Except where necessary to address a public health need or
30 substantial environmental degradation, a county, city, or town
31 planning under RCW 36.70A.040 may not receive a grant or loan for
32 water pollution control facilities unless it has adopted a
33 comprehensive plan, including a capital facilities plan element, and
34 development regulations as required by RCW 36.70A.040. A county,
35 city, or town that has adopted a comprehensive plan and development
36 regulations as provided in RCW 36.70A.040 may request a grant or loan
37 for water pollution control facilities. This subsection does not
38 require any county, city, or town planning under RCW 36.70A.040 to
39 adopt a comprehensive plan or development regulations before
40 requesting a grant or loan under this chapter if such request is made

1 before the expiration of the time periods specified in RCW
2 36.70A.040. A county, city, or town planning under RCW 36.70A.040
3 that has not adopted a comprehensive plan and development regulations
4 within the time periods specified in RCW 36.70A.040 is not prohibited
5 from receiving a grant or loan under this chapter if the
6 comprehensive plan and development regulations are adopted as
7 required by RCW 36.70A.040 before the department executes a
8 contractual agreement for the grant or loan.

9 (3) Whenever the department is considering awarding grants or
10 loans for public facilities to special districts requesting funding
11 for a proposed facility located in a county, city, or town planning
12 under RCW 36.70A.040, it shall consider whether the county, city, or
13 town planning under RCW 36.70A.040 in whose planning jurisdiction the
14 proposed facility is located has adopted a comprehensive plan and
15 development regulations as required by RCW 36.70A.040.

16 (4) After January 1, 2010, any project designed to address the
17 effects of water pollution on Puget Sound may be funded under this
18 chapter only if the project is not in conflict with the action agenda
19 developed by the Puget Sound partnership under RCW 90.71.310.

20 **Sec. 1377.** RCW 70.146.100 and 2010 1st sp.s. c 37 s 948 are each
21 amended to read as follows:

22 (1) The water quality capital account is created in the state
23 treasury. Moneys in the water quality capital account may be spent
24 only after appropriation.

25 (2) Expenditures from the water quality capital account may only
26 be used: (a) To make grants or loans to public bodies, including
27 grants to public bodies as cost-sharing moneys in any case where
28 federal, local, or other moneys are made available on a cost-sharing
29 basis, for the capital component of water pollution control
30 facilities and activities; (b) for purposes of assisting a public
31 body to obtain an ownership interest in water pollution control
32 facilities; or (c) to defray any part of the capital component of the
33 payments made by a public body to a service provider under a service
34 agreement entered into under RCW 70.150.060 (as recodified by this
35 act). During the 2009-2011 fiscal biennium, the legislature may
36 transfer from the water quality capital account to the state general
37 fund such amounts as reflect the excess fund balance of the account.

1 **Sec. 1378.** RCW 70.146.110 and 2007 c 341 s 27 are each amended
2 to read as follows:

3 When making grants or loans for water pollution control
4 facilities under RCW 70.146.070 (as recodified by this act), the
5 department shall give preference only to Puget Sound partners, as
6 defined in RCW 90.71.010, in comparison to other entities that are
7 eligible to be included in the definition of Puget Sound partner.
8 Entities that are not eligible to be a Puget Sound partner due to
9 geographic location, composition, exclusion from the scope of the
10 action agenda developed by the Puget Sound partnership under RCW
11 90.71.310, or for any other reason, shall not be given less
12 preferential treatment than Puget Sound partners.

13 **Sec. 1379.** RCW 70.148.020 and 2019 c 413 s 7034 are each amended
14 to read as follows:

15 (1) The pollution liability insurance program trust account is
16 established in the custody of the state treasurer. All funds
17 appropriated for this chapter and all premiums collected for
18 reinsurance shall be deposited in the account. Except as provided in
19 chapter 70.340 RCW (as recodified by this act), expenditures from the
20 account shall be used exclusively for the purposes of this chapter
21 including payment of costs of administering the pollution liability
22 insurance and underground storage tank community assistance programs.
23 Expenditures for payment of administrative and operating costs of the
24 agency are subject to the allotment procedures under chapter 43.88
25 RCW and may be made only after appropriation by statute. No
26 appropriation is required for other expenditures from the account.

27 (2) Each calendar quarter, the director shall report to the
28 insurance commissioner the loss and surplus reserves required for the
29 calendar quarter. The director shall notify the department of revenue
30 of this amount by the fifteenth day of each calendar quarter.

31 (3) During the 2019-2021 fiscal biennium, the legislature may
32 make appropriations from the pollution liability insurance program
33 trust account for the leaking tank model remedies activity.

34 (4) This section expires July 1, 2030.

35 **Sec. 1380.** RCW 70.148.025 and 1995 c 20 s 12 are each amended to
36 read as follows:

37 The director shall provide reinsurance through the pollution
38 liability insurance program trust account to the heating oil

1 pollution liability protection program under chapter 70.149 RCW (as
2 recodified by this act).

3 **Sec. 1381.** RCW 70.148.070 and 1990 c 64 s 8 are each amended to
4 read as follows:

5 (1) In selecting an insurer to provide pollution liability
6 insurance coverage to owners and operators of underground storage
7 tanks, the director shall evaluate bids based upon criteria
8 established by the director that shall include:

9 (a) The insurer's ability to underwrite pollution liability
10 insurance;

11 (b) The insurer's ability to settle pollution liability claims
12 quickly and efficiently;

13 (c) The insurer's estimate of underwriting and claims adjustment
14 expenses;

15 (d) The insurer's estimate of premium rates for providing
16 coverage;

17 (e) The insurer's ability to manage and invest premiums; and

18 (f) The insurer's ability to provide risk management guidance to
19 insureds.

20 The director shall select the bidder most qualified to provide
21 insurance consistent with this chapter and need not select the bidder
22 submitting the least expensive bid. The director may consider bids by
23 groups of insurers and management companies who propose to act in
24 concert in providing coverage and who otherwise meet the requirements
25 of this chapter.

26 (2) The successful bidder shall agree to provide liability
27 insurance coverage to owners and operators of underground storage
28 tanks for third party bodily injury and property damage and
29 corrective action consistent with the following minimum standards:

30 (a) The insurer shall provide coverage for defense costs.

31 (b) The insurer shall collect a deductible from the insured for
32 corrective action in an amount approved by the director.

33 (c) The insurer shall provide coverage for accidental releases in
34 the amount of five hundred thousand dollars per occurrence and one
35 million dollars annual aggregate but no more than one million dollars
36 per occurrence and two million dollars annual aggregate exclusive of
37 defense costs.

1 (d) The insurer shall require insurance applicants to meet at
2 least the following underwriting standards before issuing coverage to
3 the applicant:

4 (i) The applicant must be in compliance with statutes,
5 ordinances, rules, regulations, and orders governing the ownership
6 and operation of underground storage tanks as identified by the
7 director by rule; and

8 (ii) The applicant must exercise adequate underground storage
9 tank risk management as specified by the director by rule.

10 (e) The insurer may exclude coverage for losses arising before
11 the effective date of coverage, and the director may adopt rules
12 establishing standards for determining whether a loss was incurred
13 before the effective date of coverage.

14 (f) The insurer may exclude coverage for bodily injury, property
15 damage, and corrective action as permitted by the director by rule.

16 (g) The insurer shall use a variable rate schedule approved by
17 the director taking into account tank type, tank age, and other
18 factors specified by the director.

19 (3) The director shall adopt all rules necessary to implement
20 this section. In developing and adopting rules governing rates,
21 deductibles, underwriting standards, and coverage conditions,
22 limitations, and exclusions, the director shall balance the owner and
23 operator's need for coverage with the need to maintain the actuarial
24 integrity of the program, shall take into consideration the economic
25 impact of the discontinued use of a storage tank upon the affected
26 community, and shall consult with the standing technical advisory
27 committee established under RCW 70.148.030(3) (as recodified by this
28 act). In developing and adopting rules governing coverage exclusions
29 affecting corrective action, the director shall consult with the
30 Washington state department of ecology.

31 (4) Notwithstanding the definitions contained in RCW 70.148.010
32 (as recodified by this act), the director may permit an insurer to
33 use different words or phrases describing the coverage provided under
34 the program. In permitting such deviations from the definitions
35 contained in RCW 70.148.010 (as recodified by this act), the director
36 shall consider the regulations adopted by the United States
37 environmental protection agency requiring financial responsibility by
38 owners and operators of underground petroleum storage tanks.

39 (5) Owners and operators of underground storage tanks or sites
40 containing underground storage tanks where a preexisting release has

1 been identified or where the owner or operator knows of a preexisting
2 release are eligible for coverage under the program subject to the
3 following conditions:

4 (a) The owner or operator must have a plan for proceeding with
5 corrective action; and

6 (b) If the owner or operator files a claim with the insurer, the
7 owner or operator has the burden of proving that the claim is not
8 related to a preexisting release until the owner or operator
9 demonstrates to the satisfaction of the director that corrective
10 action has been completed.

11 (6) When a reinsurance contract has been entered into by the
12 agency and insurance companies, the director shall notify the
13 department of ecology of the letting of the contract. Within thirty
14 days of that notification, the department of ecology shall notify all
15 known owners and operators of petroleum underground storage tanks
16 that appropriate levels of financial responsibility must be
17 established by October 26, 1990, in accordance with federal
18 environmental protection agency requirements, and that insurance
19 under the program is available. All owners and operators of petroleum
20 underground storage tanks must also be notified that declaration of
21 method of financial responsibility or intent to seek to be insured
22 under the program must be made to the state by November 1, 1990. If
23 the declaration of method of financial responsibility is not made by
24 November 1, 1990, the department of ecology shall, pursuant to
25 chapter 90.76 RCW (as recodified by this act), prohibit the owner or
26 operator of an underground storage tank from obtaining a tank tag or
27 receiving petroleum products until such time as financial
28 responsibility has been established.

29 **Sec. 1382.** RCW 70.149.030 and 2017 c 23 s 3 are each amended to
30 read as follows:

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

33 (1) "Accidental release" means a sudden or nonsudden release of
34 heating oil, occurring after July 23, 1995, from operating a heating
35 oil tank that results in bodily injury, property damage, or a need
36 for corrective action, neither expected nor intended by the owner or
37 operator.

1 (2) "Bodily injury" means bodily injury, sickness, or disease
2 sustained by a person, including death at any time, resulting from
3 the injury, sickness, or disease.

4 (3) (a) "Corrective action" means those actions reasonably
5 required to be undertaken by the insured to remove, treat,
6 neutralize, contain, or clean up an accidental release in order to
7 comply with a statute, ordinance, rule, regulation, directive, order,
8 or similar legal requirement, in effect at the time of an accidental
9 release, of the United States, the state of Washington, or a
10 political subdivision of the United States or the state of
11 Washington. "Corrective action" includes, where agreed to in writing,
12 in advance by the insurer, action to remove, treat, neutralize,
13 contain, or clean up an accidental release to avert, reduce, or
14 eliminate the liability of the insured for corrective action, bodily
15 injury, or property damage. "Corrective action" also includes actions
16 reasonably necessary to monitor, assess, and evaluate an accidental
17 release.

18 (b) "Corrective action" does not include:

19 (i) Replacement or repair of heating oil tanks or other
20 receptacles; or

21 (ii) Replacement or repair of piping, connections, and valves of
22 tanks or other receptacles.

23 (4) "Defense costs" include the costs of legal representation,
24 expert fees, and related costs and expenses incurred in defending
25 against claims or actions brought by or on behalf of:

26 (a) The United States, the state of Washington, or a political
27 subdivision of the United States or state of Washington to require
28 corrective action or to recover costs of corrective action; or

29 (b) A third party for bodily injury or property damage caused by
30 an accidental release.

31 (5) "Director" means the director of the Washington state
32 pollution liability insurance agency or the director's appointed
33 representative.

34 (6) "Environmental covenant" has the same meaning as defined in
35 RCW 64.70.020.

36 (7) "Facility" has the same meaning as defined in RCW 70.105D.020
37 (as recodified by this act).

38 (8) "Heating oil" means any petroleum product used for space
39 heating in oil-fired furnaces, heaters, and boilers, including stove
40 oil, diesel fuel, or kerosene. "Heating oil" does not include

1 petroleum products used as fuels in motor vehicles, marine vessels,
2 trains, buses, aircraft, or any off-highway equipment not used for
3 space heating, or for industrial processing or the generation of
4 electrical energy.

5 (9) "Heating oil tank" means a tank and its connecting pipes,
6 whether above or below ground, or in a basement, with pipes connected
7 to the tank for space heating of human living or working space on the
8 premises where the tank is located. "Heating oil tank" does not
9 include a decommissioned or abandoned heating oil tank, or a tank
10 used solely for industrial process heating purposes or generation of
11 electrical energy.

12 (10) "Independent remedial action" has the same meaning as
13 defined in RCW 70.105D.020 (as recodified by this act).

14 (11) "Occurrence" means an accident, including continuous or
15 repeated exposure to conditions, that results in a release from a
16 heating oil tank.

17 (12) "Owner or operator" means a person in control of, or having
18 responsibility for, the daily operation of a petroleum storage tank
19 system.

20 (13) "Petroleum" means any petroleum-based substance including
21 crude oil or any fraction that is liquid at standard conditions of
22 temperature and pressure. The term "petroleum" includes, but is not
23 limited to, petroleum and petroleum-based substances comprised of a
24 complex blend of hydrocarbons, such as motor fuels, jet fuels,
25 distillate fuel oils, residual fuel oils, lubricants, petroleum
26 solvents, used oils, and heating oils. The term "petroleum" does not
27 include propane, asphalt, or any other petroleum product that is not
28 liquid at standard conditions of temperature and pressure. Standard
29 conditions of temperature and pressure are at sixty degrees
30 Fahrenheit and 14.7 pounds per square inch absolute.

31 (14) "Petroleum storage tank system" means a storage tank system
32 that contains petroleum or a mixture of petroleum with de minimis
33 quantities of other substances. The systems include those containing
34 motor fuels, jet fuels, distillate fuel oils, residual fuel oils,
35 lubricants, petroleum solvents, used oils, and heating oils.
36 "Petroleum storage tank system" does not include any storage tank
37 system regulated under chapter 70.105 RCW (as recodified by this
38 act).

39 (15) "Pollution liability insurance agency" means the Washington
40 state pollution liability insurance agency.

1 (16) "Property damage" means:

2 (a) Physical injury to, destruction of, or contamination of
3 tangible property, including the loss of use of the property
4 resulting from the injury, destruction, or contamination; or

5 (b) Loss of use of tangible property that has not been physically
6 injured, destroyed, or contaminated but has been evacuated, withdrawn
7 from use, or rendered inaccessible because of an accidental release.

8 (17) "Release" means a spill, leak, emission, escape, or leaching
9 into the environment.

10 (18) "Remedial action" has the same meaning as defined in RCW
11 70.105D.020 (as recodified by this act).

12 (19) "Remedial action costs" means reasonable costs that are
13 attributable to or associated with a remedial action.

14 (20) "Tank" means a stationary device, designed to contain an
15 accumulation of heating oil, that is constructed primarily of
16 nonearthen materials such as concrete, steel, fiberglass, or plastic
17 that provides structural support.

18 (21) "Third-party liability" means the liability of a heating oil
19 tank owner to another person due to property damage or personal
20 injury that results from a leak or spill.

21 **Sec. 1383.** RCW 70.149.040 and 2018 c 194 s 3 are each amended to
22 read as follows:

23 The director shall:

24 (1) Design a program, consistent with RCW 70.149.120 (as
25 recodified by this act), for providing pollution liability insurance
26 for heating oil tanks that provides up to sixty thousand dollars per
27 occurrence coverage and aggregate limits, not to exceed fifteen
28 million dollars each calendar year, and protects the state of
29 Washington from unwanted or unanticipated liability for accidental
30 release claims;

31 (2) Administer, implement, and enforce the provisions of this
32 chapter. To assist in administration of the program, the director is
33 authorized to appoint up to two employees who are exempt from the
34 civil service law, chapter 41.06 RCW, and who shall serve at the
35 pleasure of the director;

36 (3) Administer the heating oil pollution liability trust account,
37 as established under RCW 70.149.070 (as recodified by this act);

38 (4) Employ and discharge, at his or her discretion, agents,
39 attorneys, consultants, companies, organizations, and employees as

1 deemed necessary, and to prescribe their duties and powers, and fix
2 their compensation;

3 (5) Adopt rules under chapter 34.05 RCW as necessary to carry out
4 the provisions of this chapter;

5 (6) Design and from time to time revise a reinsurance contract
6 providing coverage to an insurer or insurers meeting the requirements
7 of this chapter. The director is authorized to provide reinsurance
8 through the pollution liability insurance program trust account;

9 (7) Solicit bids from insurers and select an insurer to provide
10 pollution liability insurance for third-party bodily injury and
11 property damage, and corrective action to owners and operators of
12 heating oil tanks;

13 (8) Register, and design a means of accounting for, operating
14 heating oil tanks;

15 (9) Implement a program to provide advice and technical
16 assistance on the administrative and technical requirements of this
17 chapter and chapter 70.105D RCW (as recodified by this act) to
18 persons who are conducting or otherwise interested in independent
19 remedial actions at facilities where there is a suspected or
20 confirmed release from the following petroleum storage tank systems:
21 A heating oil tank; a decommissioned heating oil tank; an abandoned
22 heating oil tank; or a petroleum storage tank system identified by
23 the department of ecology based on the relative risk posed by the
24 release to human health and the environment, as determined under
25 chapter 70.105D RCW (as recodified by this act), or other factors
26 identified by the department of ecology.

27 (a) Such advice or assistance is advisory only, and is not
28 binding on the pollution liability insurance agency or the department
29 of ecology. As part of this advice and assistance, the pollution
30 liability insurance agency may provide written opinions on whether
31 independent remedial actions or proposals for these actions meet the
32 substantive requirements of chapter 70.105D RCW (as recodified by
33 this act), or whether the pollution liability insurance agency
34 believes further remedial action is necessary at the facility. As
35 part of this advice and assistance, the pollution liability insurance
36 agency may also observe independent remedial actions.

37 (b) The agency is authorized to collect, from persons requesting
38 advice and assistance, the costs incurred by the agency in providing
39 such advice and assistance. The costs may include travel costs and
40 expenses associated with review of reports and preparation of written

1 opinions and conclusions. Funds from cost reimbursement must be
2 deposited in the heating oil pollution liability trust account.

3 (c) The state of Washington, the pollution liability insurance
4 agency, and its officers and employees are immune from all liability,
5 and no cause of action arises from any act or omission in providing,
6 or failing to provide, such advice, opinion, conclusion, or
7 assistance;

8 (10) Establish a public information program to provide
9 information regarding liability, technical, and environmental
10 requirements associated with active and abandoned heating oil tanks;

11 (11) Monitor agency expenditures and seek to minimize costs and
12 maximize benefits to ensure responsible financial stewardship;

13 (12) Study if appropriate user fees to supplement program funding
14 are necessary and develop recommendations for legislation to
15 authorize such fees;

16 (13) Establish requirements, including deadlines not to exceed
17 ninety days, for reporting to the pollution liability insurance
18 agency a suspected or confirmed release from a heating oil tank,
19 including a decommissioned or abandoned heating oil tank, that may
20 pose a threat to human health or the environment by the owner or
21 operator of the heating oil tank or the owner of the property where
22 the release occurred;

23 (14) Within ninety days of receiving information and having a
24 reasonable basis to believe that there may be a release from a
25 heating oil tank, including decommissioned or abandoned heating oil
26 tanks, that may pose a threat to human health or the environment,
27 perform an initial investigation to determine at a minimum whether
28 such a release has occurred and whether further remedial action is
29 necessary under chapter 70.105D RCW (as recodified by this act). The
30 initial investigation may include, but is not limited to, inspecting,
31 sampling, or testing. The director may retain contractors to perform
32 an initial investigation on the agency's behalf;

33 (15) For any written opinion issued under subsection (9) of this
34 section requiring an environmental covenant as part of the remedial
35 action, consult with, and seek comment from, a city or county
36 department with land use planning authority for real property subject
37 to the environmental covenant prior to the property owner recording
38 the environmental covenant; and

39 (16) For any property where an environmental covenant has been
40 established as part of the remedial action approved under subsection

1 (9) of this section, periodically review the environmental covenant
2 for effectiveness. The director shall perform a review at least once
3 every five years after an environmental covenant is recorded.

4 **Sec. 1384.** RCW 70.149.070 and 2017 c 23 s 5 are each amended to
5 read as follows:

6 (1) The heating oil pollution liability trust account is created
7 in the custody of the state treasurer. All receipts from the
8 pollution liability insurance fee collected under RCW 70.149.080 (as
9 recodified by this act) and reinsurance premiums shall be deposited
10 into the account. Expenditures from the account may be used only for
11 the purposes set out under this chapter. Only the director or the
12 director's designee may authorize expenditures from the account. The
13 account is subject to allotment procedures under chapter 43.88 RCW,
14 but no appropriation is required for expenditures.

15 (2) Money in the account may be used by the director for the
16 following purposes:

17 (a) Corrective action costs;

18 (b) Third-party liability claims;

19 (c) Costs associated with claims administration;

20 (d) Purchase of an insurance policy to cover all registered
21 heating oil tanks, and reinsurance of the policy; and

22 (e) Administrative expenses of the program, including personnel,
23 equipment, supplies, and providing advice and technical assistance.

24 **Sec. 1385.** RCW 70.149.120 and 2007 c 240 s 2 are each amended to
25 read as follows:

26 (1) The pollution liability insurance agency shall identify
27 design criteria for heating oil tanks that provide superior
28 protection against future leaks as compared to standard steel tank
29 designs. Any tank designs identified under this section must either
30 be constructed with fiberglass or offer at least an equivalent level
31 of protection against leaks as a standard fiberglass design.

32 (2) The pollution liability insurance agency shall reimburse any
33 owner or operator, who is participating in the program created in
34 this chapter and who has experienced an occurrence or remedial
35 action, for the difference in price between a standard steel heating
36 tank and a new heating oil tank that satisfies the design standards
37 identified under subsection (1) of this section, if the owner or

1 operator chooses or is required to replace his or her tank at the
2 time of the occurrence or remedial action.

3 (3) Any new heating oil tank reimbursement provided under this
4 section must be funded within the amount of per occurrence coverage
5 provided to the owner or operator under RCW 70.149.040 (as recodified
6 by this act).

7 **Sec. 1386.** RCW 70.150.030 and 1986 c 244 s 3 are each amended to
8 read as follows:

9 (1) Public bodies may enter into agreements with service
10 providers for the furnishing of service in connection with water
11 pollution control facilities pursuant to the process set forth in RCW
12 70.150.040 (as recodified by this act). The agreements may provide
13 that a public body pay a minimum periodic fee in consideration of the
14 service actually available without regard to the amount of service
15 actually used during all or any part of the contractual period.
16 Agreements may be for a term not to exceed forty years or the life of
17 the facility, whichever is longer, and may be renewable.

18 (2) The source of funds to meet periodic payment obligations
19 assumed by a public body pursuant to an agreement permitted under
20 this section may be paid from taxes, or solely from user fees,
21 charges, or other revenues pledged to the payment of the periodic
22 obligations, or any of these sources.

23 **Sec. 1387.** RCW 70.150.070 and 2007 c 494 s 505 are each amended
24 to read as follows:

25 RCW 70.150.030 through 70.150.060 (as recodified by this act)
26 shall be deemed to provide an additional method for the provision of
27 services from and in connection with facilities and shall be regarded
28 as supplemental and additional to powers conferred by other state
29 laws and by federal laws.

30 **Sec. 1388.** RCW 70.164.020 and 2015 c 50 s 2 are each amended to
31 read as follows:

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

34 (1) "Department" means the department of commerce.

35 (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 analysis of a dwelling unit to
6 determine the need for cost-effective energy conservation measures as
7 determined by the department.

8 (4) "Healthy housing improvements" means increasing the health
9 and safety of a home by integrating energy efficiency activities and
10 indoor environmental quality measures, consistent with the
11 weatherization plus health initiative of the federal department of
12 energy and the healthy housing principles adopted by the federal
13 department of housing and urban development.

14 (5) "Household" means an individual or group of individuals
15 living in a dwelling unit as defined by the department.

16 (6) "Low income" means household income as defined by the
17 department, provided that the definition may not exceed eighty
18 percent of median household income, adjusted for household size, for
19 the county in which the dwelling unit to be weatherized is located.

20 (7) "Nonutility sponsor" means any sponsor other than a public
21 service company, municipality, public utility district, mutual or
22 cooperative, furnishing gas or electricity used to heat low-income
23 residences.

24 (8) "Residence" means a dwelling unit as defined by the
25 department.

26 (9) "Sponsor" means any entity that submits a proposal under RCW
27 70.164.040 (as recodified by this act), including but not limited to
28 any local community action agency, tribal nation, community service
29 agency, or any other participating agency or any public service
30 company, municipality, public utility district, mutual or
31 cooperative, or any combination of such entities that jointly submits
32 a proposal.

33 (10) "Sponsor match" means the share of the cost of
34 weatherization to be paid by the sponsor.

35 (11) "Sustainable residential weatherization" or "weatherization"
36 means activities that use funds administered by the department for
37 one or more of the following: (a) Energy and resource conservation;
38 (b) energy efficiency improvements; (c) repairs, indoor air quality
39 improvements, and health and safety improvements; and (d) client
40 education. Funds administered by the department for activities

1 authorized under this subsection may only be used for the
2 preservation of a dwelling unit occupied by a low-income household
3 and must, to the extent feasible, be used to support and advance
4 sustainable technologies.

5 (12) "Weatherizing agency" means any approved department grantee,
6 tribal nation, or any public service company, municipality, public
7 utility district, mutual or cooperative, or other entity that bears
8 the responsibility for ensuring the performance of weatherization of
9 residences under this chapter and has been approved by the
10 department.

11 **Sec. 1389.** RCW 70.164.030 and 2010 c 287 s 3 are each amended to
12 read as follows:

13 (1) The low-income weatherization and structural rehabilitation
14 assistance account is created in the state treasury. All moneys from
15 the money distributed to the state pursuant to *Exxon v. United*
16 *States*, 561 F.Supp. 816 (1983), affirmed 773 F.2d 1240 (1985), or any
17 other oil overcharge settlements or judgments distributed by the
18 federal government, that are allocated to the low-income
19 weatherization and structural rehabilitation assistance account shall
20 be deposited in the account. The department may accept such gifts,
21 grants, and endowments from public or private sources as may be made
22 from time to time, in trust or otherwise, and shall deposit such
23 funds in the account. Any moneys received from sponsor match payments
24 shall be deposited in the account. The legislature may also
25 appropriate moneys to the account. Moneys in the account shall be
26 spent pursuant to appropriation and only for the purposes and in the
27 manner provided in RCW 70.164.040 (as recodified by this act). Any
28 moneys appropriated that are not spent by the department shall return
29 to the account.

30 (2) The purposes of the low-income weatherization and structural
31 rehabilitation assistance account are to:

32 (a) Maximize the number of energy efficient residential
33 structures in the state;

34 (b) Achieve the greatest possible expected monetary and energy
35 savings by low-income households and other energy consumers over the
36 longest period of time;

37 (c) Identify and correct, to the extent practicable, health and
38 safety problems for residents of low-income households, including
39 asbestos, lead, and mold hazards;

1 (d) Leverage the many available state and federal programs aimed
2 at increasing the quality and energy efficiency of low-income
3 residences in the state;

4 (e) Create family-wage jobs that may lead to careers in the
5 construction trades or in the energy efficiency sectors; and

6 (f) Leverage, to the extent feasible, sustainable technologies,
7 practices, and designs, including renewable energy systems.

8 **Sec. 1390.** RCW 70.220.020 and 2005 c 305 s 2 are each amended to
9 read as follows:

10 The Washington academy of sciences authorized to be formed under
11 RCW 70.220.030 (as recodified by this act) shall serve as a principal
12 source of scientific investigation, examination, and reporting on
13 scientific questions referred to the academy by the governor or the
14 legislature under the provisions of RCW 70.220.040 (as recodified by
15 this act). Nothing in this section or this chapter supersedes or
16 diminishes the responsibilities performed by scientists employed by
17 the state or its political subdivisions.

18 **Sec. 1391.** RCW 70.220.030 and 2005 c 305 s 3 are each amended to
19 read as follows:

20 (1) The presidents of the University of Washington and Washington
21 State University shall jointly form and serve as the cochairs of an
22 organizing committee for the purpose of creating the Washington
23 academy of sciences as an independent entity to carry out the
24 purposes of this chapter. The committee should be representative of
25 appropriate disciplines from the academic, private, governmental, and
26 research sectors.

27 (2) Staff from the University of Washington and Washington State
28 University, and from other available entities, shall provide support
29 to the organizing committee under the direction of the cochairs.

30 (3)(a) The committee shall investigate organizational structures
31 that will ensure the participation or membership in the academy of
32 scientists and experts with distinction in their fields, and that
33 will ensure broad participation among the several disciplines that
34 may be called upon in the investigation, examination, and reporting
35 upon questions referred to the academy by the governor or the
36 legislature.

37 (b) The organizational structure shall include a process by which
38 the academy responds to inquiries from the governor or the

1 legislature, including but not limited to the identification of
2 research projects, past or present, at Washington or other research
3 institutions and the findings of such research projects.

4 (4) The committee cochairs shall use their best efforts to form
5 the committee by January 1, 2006, and to complete the committee's
6 review by April 30, 2007. By April 30, 2007, the committee, or such
7 individuals as the committee selects, shall file articles of
8 incorporation to create the academy as a Washington independent
9 organizational entity. The articles shall expressly recognize the
10 power and responsibility of the academy to provide services as
11 described in RCW 70.220.040 (as recodified by this act) upon request
12 of the governor, the governor's designee, or the legislature. The
13 articles shall also provide for a board of directors of the academy
14 that includes distinguished scientists from the range of disciplines
15 that may be called upon to provide such services to the state and its
16 political subdivisions, and provide a balance of representation from
17 the academic, private, governmental, and research sectors.

18 (5) The articles shall provide for all such powers as may be
19 appropriate or necessary to carry out the academy's purposes under
20 this chapter, to the full extent allowable under the proposed
21 organizational structure.

22 **Sec. 1392.** RCW 70.220.050 and 2005 c 305 s 5 are each amended to
23 read as follows:

24 The academy may carry out functions or provide services to its
25 members and the public in addition to the services provided under RCW
26 70.220.040 (as recodified by this act), such as public education
27 programs, newsletters, web sites, science fairs, and research
28 assistance.

29 **Sec. 1393.** RCW 70.235.005 and 2008 c 14 s 1 are each amended to
30 read as follows:

31 (1) The legislature finds that Washington has long been a
32 national and international leader on energy conservation and
33 environmental stewardship, including air quality protection,
34 renewable energy development and generation, emission standards for
35 fossil-fuel based energy generation, energy efficiency programs,
36 natural resource conservation, vehicle emission standards, and the
37 use of biofuels. Washington is also unique among most states in that
38 in addition to its commitment to reduce emissions of greenhouse

1 gases, it has established goals to grow the clean energy sector and
2 reduce the state's expenditures on imported fuels.

3 (2) The legislature further finds that Washington should continue
4 its leadership on climate change policy by creating accountability
5 for achieving the emission reductions established in RCW 70.235.020
6 (as recodified by this act), participating in the design of a
7 regional multisector market-based system to help achieve those
8 emission reductions, assessing other market strategies to reduce
9 emissions of greenhouse gases, and ensuring the state has a well
10 trained workforce for our clean energy future.

11 (3) It is the intent of the legislature that the state will: (a)
12 Limit and reduce emissions of greenhouse gas consistent with the
13 emission reductions established in RCW 70.235.020 (as recodified by
14 this act); (b) minimize the potential to export pollution, jobs, and
15 economic opportunities; and (c) reduce emissions at the lowest cost
16 to Washington's economy, consumers, and businesses.

17 (4) In the event the state elects to participate in a regional
18 multisector market-based system, it is the intent of the legislature
19 that the system will become effective by January 1, 2012, after
20 authority is provided to the department for its implementation. By
21 acting now, Washington businesses and citizens will have adequate
22 time and opportunities to be well positioned to take advantage of the
23 low-carbon economy and to make necessary investments in low-carbon
24 technology.

25 (5) It is also the intent of the legislature that the regional
26 multisector market-based system recognize Washington's unique
27 emissions portfolio, including the state's hydroelectric system, the
28 opportunities presented by Washington's abundant forest resources and
29 agriculture land, and the state's leadership in energy efficiency and
30 the actions it has already taken that have reduced its generation of
31 greenhouse gas emissions and that entities receive appropriate credit
32 for early actions to reduce greenhouse gases.

33 (6) If any revenues that accrue to the state are created by a
34 market system, they must be used to further the state's efforts to
35 achieve the goals established in RCW 70.235.020 (as recodified by
36 this act), address the impacts of global warming on affected
37 habitats, species, and communities, and increase investment in the
38 clean energy economy particularly for communities and workers that
39 have suffered from heavy job losses and chronic unemployment and
40 underemployment.

1 **Sec. 1394.** RCW 70.235.020 and 2008 c 14 s 3 are each amended to
2 read as follows:

3 (1)(a) The state shall limit emissions of greenhouse gases to
4 achieve the following emission reductions for Washington state:

5 (i) By 2020, reduce overall emissions of greenhouse gases in the
6 state to 1990 levels;

7 (ii) By 2035, reduce overall emissions of greenhouse gases in the
8 state to twenty-five percent below 1990 levels;

9 (iii) By 2050, the state will do its part to reach global climate
10 stabilization levels by reducing overall emissions to fifty percent
11 below 1990 levels, or seventy percent below the state's expected
12 emissions that year.

13 (b) By December 1, 2008, the department shall submit a greenhouse
14 gas reduction plan for review and approval to the legislature,
15 describing those actions necessary to achieve the emission reductions
16 in (a) of this subsection by using existing statutory authority and
17 any additional authority granted by the legislature. Actions taken
18 using existing statutory authority may proceed prior to approval of
19 the greenhouse gas reduction plan.

20 (c) Except where explicitly stated otherwise, nothing in chapter
21 14, Laws of 2008 limits any state agency authorities as they existed
22 prior to June 12, 2008.

23 (d) Consistent with this directive, the department shall take the
24 following actions:

25 (i) Develop and implement a system for monitoring and reporting
26 emissions of greenhouse gases as required under RCW 70.94.151 (as
27 recodified by this act); and

28 (ii) Track progress toward meeting the emission reductions
29 established in this subsection, including the results from policies
30 currently in effect that have been previously adopted by the state
31 and policies adopted in the future, and report on that progress.

32 (2) By December 31st of each even-numbered year beginning in
33 2010, the department and the department of (~~community, trade, and~~
34 ~~economic development~~) commerce shall report to the governor and the
35 appropriate committees of the senate and house of representatives the
36 total emissions of greenhouse gases for the preceding two years, and
37 totals in each major source sector. The department shall ensure the
38 reporting rules adopted under RCW 70.94.151 (as recodified by this
39 act) allow it to develop a comprehensive inventory of emissions of

1 greenhouse gases from all significant sectors of the Washington
2 economy.

3 (3) Except for purposes of reporting, emissions of carbon dioxide
4 from industrial combustion of biomass in the form of fuel wood, wood
5 waste, wood by-products, and wood residuals shall not be considered a
6 greenhouse gas as long as the region's silvicultural sequestration
7 capacity is maintained or increased.

8 **Sec. 1395.** RCW 70.235.030 and 2008 c 14 s 4 are each amended to
9 read as follows:

10 (1)(a) The director shall develop, in coordination with the
11 western climate initiative, a design for a regional multisector
12 market-based system to limit and reduce emissions of greenhouse gas
13 consistent with the emission reductions established in RCW
14 70.235.020(1) (as recodified by this act).

15 (b) By December 1, 2008, the director and the director of the
16 department of (~~community, trade, and economic development~~) commerce
17 shall deliver to the legislature specific recommendations for
18 approval and request for authority to implement the preferred design
19 of a regional multisector market-based system in (a) of this
20 subsection. These recommendations must include:

21 (i) Proposed legislation, necessary funding, and the schedule
22 necessary to implement the preferred design by January 1, 2012;

23 (ii) Any changes determined necessary to the reporting
24 requirements established under RCW 70.94.151 (as recodified by this
25 act); and

26 (iii) Actions that the state should take to prevent manipulation
27 of the multisector market-based system designed under this section.

28 (2) In developing the design for the regional multisector market-
29 based system under subsection (1) of this section, the department
30 shall consult with the affected state agencies, and provide
31 opportunity for public review and comment.

32 (3) In addition to the information required under subsection
33 (1)(b) of this section, the director and the director of the
34 department of (~~community, trade, and economic development~~) commerce
35 shall submit the following to the legislature by December 1, 2008:

36 (a) Information on progress to date in achieving the requirements
37 of chapter 14, Laws of 2008;

38 (b) The final recommendations of the climate advisory team,
39 including recommended most promising actions to reduce emissions of

1 greenhouse gases or otherwise respond to climate change. These
2 recommendations must include strategies to reduce the quantity of
3 emissions of greenhouse gases per distance traveled in the
4 transportation sector;

5 (c) A request for additional resources and statutory authority
6 needed to limit and reduce emissions of greenhouse gas consistent
7 with chapter 14, Laws of 2008 including implementation of the most
8 promising recommendations of the climate advisory team;

9 (d) Recommendations on how projects funded by the green energy
10 incentive account in RCW 43.325.040 may be used to expand the
11 electrical transmission infrastructure into urban and rural areas of
12 the state for purposes of allowing the recharging of plug-in hybrid
13 electric vehicles;

14 (e) Recommendations on how local governments could participate in
15 the multisector market-based system designed under subsection (1) of
16 this section;

17 (f) Recommendations regarding the circumstances under which
18 generation of electricity or alternative fuel from landfill gas and
19 gas from anaerobic digesters may receive an offset or credit in the
20 regional multisector market-based system or other strategies
21 developed by the department; and

22 (g) Recommendations developed in consultation with the department
23 of natural resources and the department of agriculture with the
24 climate advisory team, the college of forest resources at the
25 University of Washington, and the Washington State University, and a
26 nonprofit consortium involved in research on renewable industrial
27 materials, regarding how forestry and agricultural lands and
28 practices may participate voluntarily as an offset or other credit
29 program in the regional multisector market-based system. The
30 recommendations must ensure that the baseline for this offset or
31 credit program does not disadvantage this state in relation to
32 another state or states. These recommendations shall address:

33 (i) Commercial and other working forests, including accounting
34 for site-class specific forest management practices;

35 (ii) Agricultural and forest products, including accounting for
36 substitution of wood for fossil intensive substitutes;

37 (iii) Agricultural land and practices;

38 (iv) Forest and agricultural lands set aside or managed for
39 conservation as of, or after, June 12, 2008; and

40 (v) Reforestation and afforestation projects.

1 **Sec. 1396.** RCW 70.235.040 and 2008 c 14 s 7 are each amended to
2 read as follows:

3 Within eighteen months of the next and each successive global or
4 national assessment of climate change science, the department shall
5 consult with the climate impacts group at the University of
6 Washington regarding the science on human-caused climate change and
7 provide a report to the legislature summarizing that science and make
8 recommendations regarding whether the greenhouse gas emissions
9 reductions required under RCW 70.235.020 (as recodified by this act)
10 need to be updated.

11 **Sec. 1397.** RCW 70.235.050 and 2015 c 225 s 110 are each amended
12 to read as follows:

13 (1) All state agencies shall meet the statewide greenhouse gas
14 emission limits established in RCW 70.235.020 (as recodified by this
15 act) to achieve the following, using the estimates and strategy
16 established in subsections (2) and (3) of this section:

17 (a) By July 1, 2020, reduce emissions by fifteen percent from
18 2005 emission levels;

19 (b) By 2035, reduce emissions to thirty-six percent below 2005
20 levels; and

21 (c) By 2050, reduce emissions to the greater reduction of fifty-
22 seven and one-half percent below 2005 levels, or seventy percent
23 below the expected state government emissions that year.

24 (2)(a) By June 30, 2010, all state agencies shall report
25 estimates of emissions for 2005 to the department, including 2009
26 levels of emissions, and projected emissions through 2035.

27 (b) State agencies required to report under RCW 70.94.151 (as
28 recodified by this act) must estimate emissions from methodologies
29 recommended by the department and must be based on actual operation
30 of those agencies. Agencies not required to report under RCW
31 70.94.151 (as recodified by this act) shall derive emissions
32 estimates using an emissions calculator provided by the department.

33 (3) By June 30, 2011, each state agency shall submit to the
34 department a strategy to meet the requirements in subsection (1) of
35 this section. The strategy must address employee travel activities,
36 teleconferencing alternatives, and include existing and proposed
37 actions, a timeline for reductions, and recommendations for budgetary
38 and other incentives to reduce emissions, especially from employee
39 business travel.

1 (4) By October 1st of each even-numbered year beginning in 2012,
2 each state agency shall report to the department the actions taken to
3 meet the emission reduction targets under the strategy for the
4 preceding fiscal biennium. The department may authorize the
5 department of enterprise services to report on behalf of any state
6 agency having fewer than five hundred full-time equivalent employees
7 at any time during the reporting period. The department shall
8 cooperate with the department of enterprise services and the
9 department of commerce to develop consolidated reporting
10 methodologies that incorporate emission reduction actions taken
11 across all or substantially all state agencies.

12 (5) All state agencies shall cooperate in providing information
13 to the department, the department of enterprise services, and the
14 department of commerce for the purposes of this section.

15 (6) The governor shall designate a person as the single point of
16 accountability for all energy and climate change initiatives within
17 state agencies. This position must be funded from current full-time
18 equivalent allocations without increasing budgets or staffing levels.
19 If duties must be shifted within an agency, they must be shifted
20 among current full-time equivalent allocations. All agencies,
21 councils, or work groups with energy or climate change initiatives
22 shall coordinate with this designee.

23 **Sec. 1398.** RCW 70.235.060 and 2009 c 519 s 5 are each amended to
24 read as follows:

25 (1) The department shall develop an emissions calculator to
26 assist state agencies in estimating aggregate emissions as well as in
27 estimating the relative emissions from different ways in carrying out
28 activities.

29 (2) The department may use data such as totals of building space
30 occupied, energy purchases and generation, motor vehicle fuel
31 purchases and total mileage driven, and other reasonable sources of
32 data to make these estimates. The estimates may be derived from a
33 single methodology using these or other factors, except that for the
34 top ten state agencies in occupied building space and vehicle miles
35 driven, the estimates must be based upon the actual and projected
36 operations of those agencies. The estimates may be adjusted, and
37 reasonable estimates derived, when agencies have been created since
38 1990 or functions reorganized among state agencies since 1990. The
39 estimates may incorporate projected emissions reductions that also

1 affect state agencies under the program authorized in RCW 70.235.020
2 (as recodified by this act) and other existing policies that will
3 result in emissions reductions.

4 (3) By December 31st of each even-numbered year beginning in
5 2010, the department shall report to the governor and to the
6 appropriate committees of the senate and house of representatives the
7 total state agencies' emissions of greenhouse gases for 2005 and the
8 preceding two years and actions taken to meet the emissions reduction
9 targets.

10 **Sec. 1399.** RCW 70.235.070 and 2009 c 519 s 9 are each amended to
11 read as follows:

12 Beginning in 2010, when distributing capital funds through
13 competitive programs for infrastructure and economic development
14 projects, all state agencies must consider whether the entity
15 receiving the funds has adopted policies to reduce greenhouse gas
16 emissions. Agencies also must consider whether the project is
17 consistent with:

18 (1) The state's limits on the emissions of greenhouse gases
19 established in RCW 70.235.020 (as recodified by this act);

20 (2) Statewide goals to reduce annual per capita vehicle miles
21 traveled by 2050, in accordance with RCW 47.01.440, except that the
22 agency shall consider whether project locations in rural counties, as
23 defined in RCW 43.160.020, will maximize the reduction of vehicle
24 miles traveled; and

25 (3) Applicable federal emissions reduction requirements.

26 **Sec. 1400.** RCW 70.235.080 and 2019 c 284 s 3 are each amended to
27 read as follows:

28 (1) A person may not offer any product or equipment for sale,
29 lease, or rent, or install or otherwise cause any equipment or
30 product to enter into commerce in Washington if that equipment or
31 product consists of, uses, or will use a substitute, as set forth in
32 appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on
33 January 3, 2017, for the applications or end uses restricted by
34 appendix U or V of the federal regulation, as those read on January
35 3, 2017, consistent with the deadlines established in subsection (2)
36 of this section. Except where existing equipment is retrofit, nothing
37 in this subsection requires a person that acquired a restricted
38 product or equipment prior to the effective date of the restrictions

1 in subsection (2) of this section to cease use of that product or
2 equipment. Products or equipment manufactured prior to the applicable
3 effective date of the restrictions specified in subsection (2) of
4 this section may be sold, imported, exported, distributed, installed,
5 and used after the specified effective date.

6 (2) The restrictions under subsection (1) of this section for the
7 following products and equipment identified in appendix U and V,
8 Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017,
9 take effect beginning:

10 (a) January 1, 2020, for:

11 (i) Propellants;

12 (ii) Rigid polyurethane applications and spray foam, flexible
13 polyurethane, integral skin polyurethane, flexible polyurethane foam,
14 polystyrene extruded sheet, polyolefin, phenolic insulation board,
15 and bunstock;

16 (iii) Supermarket systems, remote condensing units, stand-alone
17 units, and vending machines;

18 (b) January 1, 2021, for:

19 (i) Refrigerated food processing and dispensing equipment;

20 (ii) Compact residential consumer refrigeration products;

21 (iii) Polystyrene extruded boardstock and billet, and rigid
22 polyurethane low-pressure two component spray foam;

23 (c) January 1, 2022, for residential consumer refrigeration
24 products other than compact and built-in residential consumer
25 refrigeration products;

26 (d) January 1, 2023, for cold storage warehouses;

27 (e) January 1, 2023, for built-in residential consumer
28 refrigeration products;

29 (f) January 1, 2024, for centrifugal chillers and positive
30 displacement chillers; and

31 (g) On either January 1, 2020, or the effective date of the
32 restrictions identified in appendix U and V, Subpart G of 40 C.F.R.
33 Part 82, as those read on January 3, 2017, whichever comes later, for
34 all other applications and end uses for substitutes not covered by
35 the categories listed in (a) through (f) of this subsection.

36 (3) The department may by rule:

37 (a) Modify the effective date of a prohibition established in
38 subsection (2) of this section if the department determines that the
39 rule reduces the overall risk to human health or the environment and

1 reflects the earliest date that a substitute is currently or
2 potentially available;

3 (b) Prohibit the use of a substitute if the department determines
4 that the prohibition reduces the overall risk to human health or the
5 environment and that a lower risk substitute is currently or
6 potentially available;

7 (c)(i) Adopt a list of approved substitutes, use conditions, or
8 use limits, if any; and

9 (ii) Add or remove substitutes, use conditions, or use limits to
10 or from the list of approved substitutes if the department determines
11 those substitutes reduce the overall risk to human health and the
12 environment; and

13 (d) Designate acceptable uses of hydrofluorocarbons for medical
14 uses that are exempt from the requirements of subsection (2) of this
15 section.

16 (4)(a) Within twelve months of another state's enactment or
17 adoption of restrictions on substitutes applicable to new light duty
18 vehicles, the department may adopt restrictions applicable to the
19 sale, lease, rental, or other introduction into commerce by a
20 manufacturer of new light duty vehicles consistent with the
21 restrictions identified in appendix B, Subpart G of 40 C.F.R. Part
22 82, as it read on January 3, 2017. The department may not adopt
23 restrictions that take effect prior to the effective date of
24 restrictions adopted or enacted in at least one other state.

25 (b) If the United States environmental protection agency approves
26 a previously prohibited hydrofluorocarbon blend with a global warming
27 potential of seven hundred fifty or less for foam blowing of
28 polystyrene extruded boardstock and billet and rigid polyurethane
29 low-pressure two-component spray foam pursuant to the significant new
30 alternatives policy program under section 7671(k) of the federal
31 clean air act (42 U.S.C. Sec. 7401 et seq.), the department must
32 expeditiously propose a rule consistent with RCW 34.05.320 to conform
33 the requirements established under this section with that federal
34 action.

35 (5) A manufacturer must disclose the substitutes used in its
36 products or equipment. That disclosure must take the form of:

37 (a) A label on the equipment or product. The label must meet
38 requirements designated by the department by rule. To the extent
39 feasible, the department must recognize existing labeling that

1 provides sufficient disclosure of the use of substitutes in the
2 product or equipment.

3 (i) The department must consider labels required by state
4 building codes and other safety standards in its rule making; and

5 (ii) The department may not require labeling of aircraft and
6 aircraft components subject to certification requirements of the
7 federal aviation administration.

8 (b) Submitting information about the use of substitutes to the
9 department, upon request.

10 (i) By December 31, 2019, all manufacturers must notify the
11 department of the status of each product class utilizing
12 hydrofluorocarbons or other substitutes restricted under subsection
13 (1) of this section that the manufacturer sells, offers for sale,
14 leases, installs, or rents in Washington state. This status
15 notification must identify the substitutes used by products or
16 equipment in each product or equipment class in a manner determined
17 by rule by the department.

18 (ii) Within one hundred twenty days after the date of a
19 restriction put in place under this section, any manufacturer
20 affected by the restriction must provide an updated status
21 notification. This notification must indicate whether the
22 manufacturer has ceased the use of hydrofluorocarbons or substitutes
23 restricted under this section within each product class and, if not,
24 what hydrofluorocarbons or other restricted substitutes remain in
25 use.

26 (iii) After the effective date of a restriction put in place
27 under this section, any manufacturer must provide an updated status
28 notification when the manufacturer introduces a new or modified
29 product or piece of equipment that uses hydrofluorocarbons or changes
30 the type of hydrofluorocarbons utilized within a product class
31 affected by a restriction. Such a notification must occur within one
32 hundred twenty days of the introduction into commerce in Washington
33 of the product or equipment triggering this notification requirement.

34 (6) The department may adopt rules to administer, implement, and
35 enforce this section. If the department elects to adopt rules, the
36 department must seek, where feasible and appropriate, to adopt rules,
37 including rules under subsection (4) of this section, that are the
38 same or consistent with the regulatory standards, exemptions,
39 reporting obligations, disclosure requirements, and other compliance
40 requirements of other states or the federal government that have

1 adopted restrictions on the use of hydrofluorocarbons and other
2 substitutes. Prior to the adoption or update of a rule under this
3 section, the department must identify the sources of information it
4 relied upon, including peer-reviewed science.

5 (7) For the purposes of implementing the restrictions specified
6 in appendix U of Subpart G of 40 C.F.R. Part 82, as it read on
7 January 3, 2017, consistent with this section, the department must
8 interpret the term "aircraft maintenance" to mean activities to
9 support the production, fabrication, manufacture, rework, inspection,
10 maintenance, overhaul, or repair of commercial, civil, or military
11 aircraft, aircraft parts, aerospace vehicles, or aerospace
12 components.

13 (8) The authority granted by this section to the department for
14 restricting the use of substitutes is supplementary to the
15 department's authority to control air pollution pursuant to chapter
16 70.94 RCW (as recodified by this act). Nothing in this section limits
17 the authority of the department under chapter 70.94 RCW (as
18 recodified by this act).

19 (9) Except where existing equipment is retrofit, the restrictions
20 of this section do not apply to or limit any use of commercial
21 refrigeration equipment that was installed or in use prior to the
22 effective date of the restrictions established in this section.

23 **Sec. 1401.** RCW 70.240.010 and 2016 c 176 s 1 are each reenacted
24 and amended to read as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

27 (1) "Additive TBBPA" means the chemical tetrabromobisphenol A,
28 chemical abstracts service number 79-94-7, as of June 9, 2016, in a
29 form that has not undergone a reactive process and is not covalently
30 bonded to a polymer in a product or product component.

31 (2) "Children's cosmetics" means cosmetics that are made for,
32 marketed for use by, or marketed to children under the age of twelve.
33 "Children's cosmetics" includes cosmetics that meet any of the
34 following conditions:

35 (a) Represented in its packaging, display, or advertising as
36 appropriate for use by children;

37 (b) Sold in conjunction with, attached to, or packaged together
38 with other products that are packaged, displayed, or advertised as
39 appropriate for use by children; or

1 (c) Sold in any of the following:

2 (i) Retail store, catalogue, or online web site, in which a
3 person exclusively offers for sale products that are packaged,
4 displayed, or advertised as appropriate for use by children; or

5 (ii) A discrete portion of a retail store, catalogue, or online
6 web site, in which a person offers for sale products that are
7 packaged, displayed, or advertised as appropriate for use by
8 children.

9 (3) "Children's jewelry" means jewelry that is made for, marketed
10 for use by, or marketed to children under the age of twelve.
11 "Children's jewelry" includes jewelry that meets any of the following
12 conditions:

13 (a) Represented in its packaging, display, or advertising as
14 appropriate for use by children under the age of twelve;

15 (b) Sold in conjunction with, attached to, or packaged together
16 with other products that are packaged, displayed, or advertised as
17 appropriate for use by children;

18 (c) Sized for children and not intended for use by adults; or

19 (d) Sold in any of the following:

20 (i) A vending machine;

21 (ii) Retail store, catalogue, or online web site, in which a
22 person exclusively offers for sale products that are packaged,
23 displayed, or advertised as appropriate for use by children; or

24 (iii) A discrete portion of a retail store, catalogue, or online
25 web site, in which a person offers for sale products that are
26 packaged, displayed, or advertised as appropriate for use by
27 children.

28 (4) (a) "Children's product" includes any of the following:

29 (i) Toys;

30 (ii) Children's cosmetics;

31 (iii) Children's jewelry;

32 (iv) A product designed or intended by the manufacturer to help a
33 child with sucking or teething, to facilitate sleep, relaxation, or
34 the feeding of a child, or to be worn as clothing by children; or

35 (v) Portable infant or child safety seat designed to attach to an
36 automobile seat.

37 (b) "Children's product" does not include the following:

38 (i) Batteries;

39 (ii) Slings and catapults;

40 (iii) Sets of darts with metallic points;

1 (iv) Toy steam engines;
2 (v) Bicycles and tricycles;
3 (vi) Video toys that can be connected to a video screen and are
4 operated at a nominal voltage exceeding twenty-four volts;
5 (vii) Chemistry sets;
6 (viii) Consumer and children's electronic products, including but
7 not limited to personal computers, audio and video equipment,
8 calculators, wireless phones, game consoles, and handheld devices
9 incorporating a video screen, used to access interactive software and
10 their associated peripherals;
11 (ix) Interactive software, intended for leisure and
12 entertainment, such as computer games, and their storage media, such
13 as compact disks;
14 (x) BB guns, pellet guns, and air rifles;
15 (xi) Snow sporting equipment, including skis, poles, boots, snow
16 boards, sleds, and bindings;
17 (xii) Sporting equipment, including, but not limited to bats,
18 balls, gloves, sticks, pucks, and pads;
19 (xiii) Roller skates;
20 (xiv) Scooters;
21 (xv) Model rockets;
22 (xvi) Athletic shoes with cleats or spikes; and
23 (xvii) Pocket knives and multitools.
24 (5) "Cosmetics" includes articles intended to be rubbed, poured,
25 sprinkled, or sprayed on, introduced into, or otherwise applied to
26 the human body or any part thereof for cleansing, beautifying,
27 promoting attractiveness, or altering the appearance, and articles
28 intended for use as a component of such an article. "Cosmetics" does
29 not include soap, dietary supplements, or food and drugs approved by
30 the United States food and drug administration.
31 (6) "Decabromodiphenyl ether" means the chemical
32 decabromodiphenyl ether, chemical abstracts service number 1163-19-5,
33 as of June 9, 2016.
34 (7) "Department" means the department of ecology.
35 (8) "HBCD" means the chemical hexabromocyclododecane, chemical
36 abstracts service number 25637-99-4, as of June 9, 2016.
37 (9) "High priority chemical" means a chemical identified by a
38 state agency, federal agency, or accredited research university, or
39 other scientific evidence deemed authoritative by the department on

1 the basis of credible scientific evidence as known to do one or more
2 of the following:

3 (a) Harm the normal development of a fetus or child or cause
4 other developmental toxicity;

5 (b) Cause cancer, genetic damage, or reproductive harm;

6 (c) Disrupt the endocrine system;

7 (d) Damage the nervous system, immune system, or organs or cause
8 other systemic toxicity;

9 (e) Be persistent, bioaccumulative, and toxic; or

10 (f) Be very persistent and very bioaccumulative.

11 (10) "IPTPP" means the chemical isopropylated triphenyl
12 phosphate, chemical abstracts service number 68937-41-7, as of June
13 9, 2016.

14 (11) "Manufacturer" includes any person, firm, association,
15 partnership, corporation, governmental entity, organization, or joint
16 venture that produces residential upholstered furniture as defined in
17 RCW 70.76.010 (as recodified by this act) or children's product or an
18 importer or domestic distributor of residential upholstered furniture
19 as defined in RCW 70.76.010 (as recodified by this act) or children's
20 product. For the purposes of this subsection, "importer" means the
21 owner of the residential upholstered furniture as defined in RCW
22 70.76.010 (as recodified by this act) or children's product.

23 (12) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP),
24 dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), diisonoyl
25 phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl
26 phthalate (DnOP).

27 (13) "TBB" means the chemical (2-ethylhexyl)-2,3,4,5-
28 tetrabromobenzoate, chemical abstracts service number 183658-27-7, as
29 of June 9, 2016.

30 (14) "TBPH" means the chemical bis (2-ethylhexyl)-2,3,4,5-
31 tetrabromophthalate, chemical abstracts service number 26040-51-7, as
32 of June 9, 2016.

33 (15) "TCEP" means the chemical (tris(2-chloroethyl)phosphate);
34 chemical abstracts service number 115-96-8, as of June 9, 2016.

35 (16) "TCPP" means the chemical tris (1-chloro-2-propyl)
36 phosphate); chemical abstracts service number 13674-84-5, as of June
37 9, 2016.

38 (17) "TDCPP" means the chemical (tris(1,3-dichloro-2-
39 propyl)phosphate); chemical abstracts service number 13674-87-8, as
40 of June 9, 2016.

1 (18) "Toy" means a product designed or intended by the
2 manufacturer to be used by a child at play.

3 (19) "TPP" means the chemical triphenyl phosphate, chemical
4 abstracts service number 115-86-6, as of June 9, 2016.

5 (20) "Trade association" means a membership organization of
6 persons engaging in a similar or related line of commerce, organized
7 to promote and improve business conditions in that line of commerce
8 and not to engage in a regular business of a kind ordinarily carried
9 on for profit.

10 (21) "V6" means the chemical bis(chloromethyl) propane-1,3-
11 diyltetraakis (2-chloroethyl) bisphosphate, chemical abstracts service
12 number 385051-10-4, as of June 9, 2016.

13 (22) "Very bioaccumulative" means having a bioconcentration
14 factor or bioaccumulation factor greater than or equal to five
15 thousand, or if neither are available, having a log Kow greater than
16 5.0.

17 (23) "Very persistent" means having a half-life greater than or
18 equal to one of the following:

19 (a) A half-life in soil or sediment of greater than one hundred
20 eighty days;

21 (b) A half-life greater than or equal to sixty days in water or
22 evidence of long-range transport.

23 **Sec. 1402.** RCW 70.240.025 and 2016 c 176 s 2 are each amended to
24 read as follows:

25 Beginning July 1, 2017, no manufacturer, wholesaler, or retailer
26 may manufacture, knowingly sell, offer for sale, distribute for sale,
27 or distribute for use in this state children's products or
28 residential upholstered furniture, as defined in RCW 70.76.010 (as
29 recodified by this act), containing any of the following flame
30 retardants in amounts greater than one thousand parts per million in
31 any product component:

32 (1) TDCPP;

33 (2) TCEP;

34 (3) Decabromodiphenyl ether;

35 (4) HBCD; or

36 (5) Additive TBBPA.

37 **Sec. 1403.** RCW 70.240.035 and 2016 c 176 s 3 are each amended to
38 read as follows:

1 (1) The department shall consider whether the following flame
2 retardants meet the criteria of a chemical of high concern for
3 children:

- 4 (a) IPTPP;
- 5 (b) TBB;
- 6 (c) TBPH;
- 7 (d) TCPP;
- 8 (e) TPP;
- 9 (f) V6.

10 (2)(a) Within one year of the department adopting a rule that
11 identifies a flame retardant in subsection (1) of this section as a
12 chemical of high concern for children, the department of health, in
13 consultation with the department, must create a stakeholder advisory
14 committee for each flame retardant chemical to provide stakeholder
15 input, expertise, and additional information in the development of
16 recommendations as provided under subsection (4) of this section. All
17 advisory committee meetings must be open to the public.

18 (b) The advisory committee membership must include, but is not
19 limited to, representatives from: Large and small business sectors;
20 community, environmental, and public health advocacy groups; local
21 governments; affected and interested businesses; and public health
22 agencies.

23 (c) The department may request state agencies and technical
24 experts to participate. The department of health shall provide
25 technical expertise on human health impacts including: Early
26 childhood and fetal exposure, exposure reduction, and safer
27 substitutes.

28 (3) When developing policy options and recommendations consistent
29 with subsection (4) of this section, the department must rely on
30 credible scientific evidence and consider information relevant to the
31 hazards based on the quantitative extent of exposures to the chemical
32 under its intended or reasonably anticipated conditions of use. The
33 department of health, in consultation with the department, must
34 include the following:

- 35 (a) Chemical name, properties, uses, and manufacturers;
- 36 (b) An analysis of available information on the production,
37 unintentional production, uses, and disposal of the chemical;
- 38 (c) Quantitative estimates of the potential human and
39 environmental exposures associated with the use and release of the
40 chemical;

1 (d) An assessment of the potential impacts on human health and
2 the environment resulting from the quantitative exposure estimates
3 referred to in (c) of this subsection;

4 (e) An evaluation of:

5 (i) Environmental and human health benefits;

6 (ii) Economic and social impacts;

7 (iii) Feasibility;

8 (iv) Availability and effectiveness of safer substitutes for uses
9 of the chemical;

10 (v) Consistency with existing federal and state regulatory
11 requirements; and

12 (f) Recommendations for:

13 (i) Managing, reducing, and phasing out the different uses and
14 releases of the chemical;

15 (ii) Minimizing exposure to the chemical;

16 (iii) Using safer substitutes; and

17 (iv) Encouraging the development of safer alternatives.

18 (4) (a) The department of health must submit to the legislature
19 recommendations on policy options for reducing exposure, designating
20 and developing safer substitutes, and restricting or prohibiting the
21 use of the flame retardant chemicals identified in subsection (1) of
22 this section as a chemical of high concern for children.

23 (b) When the department of health, in consultation with the
24 department, determines that flame retardant chemicals identified in
25 subsection (1) of this section as a chemical of high concern for
26 children should be restricted or prohibited from use in children's
27 products, residential upholstered furniture as defined in RCW
28 70.76.010 (as recodified by this act), or other commercial products
29 or processes, the department of health must include citations of the
30 peer-reviewed science and other sources of information reviewed and
31 ultimately relied upon in support of the recommendation to restrict
32 or prohibit the chemical.

33 **Sec. 1404.** RCW 70.240.040 and 2019 c 292 s 9 are each amended to
34 read as follows:

35 A manufacturer of a children's product or a consumer product
36 containing a priority chemical subject to a rule adopted to implement
37 a determination made consistent with RCW 70.365.040(1)(b) (as
38 recodified by this act), or a trade organization on behalf of its
39 member manufacturers, shall provide notice to the department that the

1 manufacturer's product contains a high priority chemical or a
2 priority chemical identified under chapter 70.365 RCW (as recodified
3 by this act). The notice must be filed annually with the department
4 and must include the following information:

5 (1) The name of the chemical used or produced and its chemical
6 abstracts service registry number;

7 (2) A brief description of the product or product component
8 containing the substance;

9 (3) A description of the function of the chemical in the product;

10 (4) The amount of the chemical used in each unit of the product
11 or product component. The amount may be reported in ranges, rather
12 than the exact amount;

13 (5) The name and address of the manufacturer and the name,
14 address, and phone number of a contact person for the manufacturer;
15 and

16 (6) Any other information the manufacturer deems relevant to the
17 appropriate use of the product.

18 **Sec. 1405.** RCW 70.240.050 and 2019 c 422 s 407 are each amended
19 to read as follows:

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

24 (2) A manufacturer that produces, sells, or distributes a product
25 prohibited from manufacture, sale, or distribution in this state
26 under this chapter must recall the product and reimburse the retailer
27 or any other purchaser for the product.

28 (3) A manufacturer of products in violation of this chapter is
29 subject to a civil penalty not to exceed five thousand dollars for
30 each violation in the case of a first offense. Manufacturers who are
31 repeat violators are subject to a civil penalty not to exceed ten
32 thousand dollars for each repeat offense. Penalties collected under
33 this section must be deposited in the model toxics control operating
34 account created in RCW 70.105D.190 (as recodified by this act).

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

37 (5) The sale or purchase of any previously owned products
38 containing a chemical restricted under this chapter made in casual or

1 isolated sales as defined in RCW 82.04.040, or by a nonprofit
2 organization, is exempt from this chapter.

3 **Sec. 1406.** RCW 70.260.010 and 2009 c 379 s 101 are each amended
4 to read as follows:

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

7 (1) "Customers" means residents, businesses, and building owners.

8 (2) "Direct outreach" means:

9 (a) The use of door-to-door contact, community events, and other
10 methods of direct interaction with customers to inform them of energy
11 efficiency and weatherization opportunities; and

12 (b) The performance of energy audits.

13 (3) "Energy audit" means an assessment of building energy
14 efficiency opportunities, from measures that require very little
15 investment and without any disruption to building operation, normally
16 involving general building operational measures, to low or relatively
17 higher cost investment, such as installing timers to turn off
18 equipment, replacing light bulbs, installing insulation, replacing
19 equipment and appliances with higher efficiency equipment and
20 appliances, and similar measures. The term includes an assessment of
21 alternatives for generation of heat and power from renewable energy
22 resources, including installation of solar water heating and
23 equipment for photovoltaic electricity generation.

24 (4) "Energy efficiency and conservation block grant program"
25 means the federal program created under the energy independence and
26 security act of 2007 (P.L. 110-140).

27 (5) "Energy efficiency services" means energy audits,
28 weatherization, energy efficiency retrofits, energy management
29 systems as defined in RCW 39.35.030, and other activities to reduce a
30 customer's energy consumption, and includes assistance with
31 paperwork, arranging for financing, program design and development,
32 and other postenergy audit assistance and education to help customers
33 meet their energy savings goals.

34 (6) "Low-income individual" means an individual whose annual
35 household income does not exceed eighty percent of the area median
36 income for the metropolitan, micropolitan, or combined statistical
37 area in which that individual resides as determined annually by the
38 United States department of housing and urban development.

1 (7) "Sponsor" means any entity or group of entities that submits
2 a proposal under RCW 70.260.020 (as recodified by this act),
3 including but not limited to any nongovernmental nonprofit
4 organization, local community action agency, tribal nation, community
5 service agency, public service company, county, municipality,
6 publicly owned electric, or natural gas utility.

7 (8) "Sponsor match" means the share, if any, of the cost of
8 efficiency improvements to be paid by the sponsor.

9 (9) "Weatherization" means making energy and resource
10 conservation and energy efficiency improvements.

11 **Sec. 1407.** RCW 70.270.030 and 2009 c 243 s 3 are each amended to
12 read as follows:

13 (1) On and after January 1, 2011, a person who replaces or
14 balances motor vehicle tires must replace lead wheel weights with
15 environmentally preferred wheel weights on all vehicles when they
16 replace or balance tires in Washington. However, the person may use
17 alternatives to lead wheel weights that are determined by the
18 department to not qualify as environmentally preferred wheel weights
19 for up to two years following the date of that determination, but
20 must thereafter use environmentally preferred wheel weights.

21 (2) A person who is subject to the requirement in subsection (1)
22 of this section must recycle the lead wheel weights that they remove.

23 (3) A person who fails to comply with subsection (1) of this
24 section is subject to penalties prescribed in RCW 70.270.050 (as
25 recodified by this act). A violation of subsection (1) of this
26 section occurs with respect to each vehicle for which lead wheel
27 weights are not replaced in compliance with subsection (1) of this
28 section.

29 (4) An owner of a vehicle is not subject to any requirement in
30 this section.

31 **Sec. 1408.** RCW 70.270.040 and 2009 c 243 s 4 are each amended to
32 read as follows:

33 (1) The department shall achieve compliance with RCW 70.270.030
34 through the enforcement sequence specified in this section.

35 (2) To provide assistance in identifying environmentally
36 preferred wheel weights, the department shall, by October 1, 2010,
37 prepare and distribute information regarding this chapter to the
38 maximum extent practicable to:

1 (a) Persons that replace or balance motor vehicle tires in
2 Washington; and
3 (b) Persons generally in the motor vehicle tire and wheel weight
4 manufacturing, distribution, wholesale, and retail industries.
5 (3) The department shall issue a warning letter to a person who
6 fails to comply with RCW 70.270.030 (as recodified by this act) and
7 offer information or other appropriate assistance. If the person does
8 not comply with RCW 70.270.030(1) (as recodified by this act) within
9 one year of the department's issuance of the warning letter, the
10 department may assess civil penalties under RCW 70.270.050 (as
11 recodified by this act).

12 **Sec. 1409.** RCW 70.270.050 and 2019 c 422 s 408 are each amended
13 to read as follows:

14 (1) An initial violation of RCW 70.270.030(1) (as recodified by
15 this act) is punishable by a civil penalty not to exceed five hundred
16 dollars. Subsequent violations of RCW 70.270.030(1) (as recodified by
17 this act) are punishable by civil penalties not to exceed one
18 thousand dollars for each violation.

19 (2) Penalties collected under this section must be deposited in
20 the model toxics control operating account created in RCW 70.105D.190
21 (as recodified by this act).

22 **Sec. 1410.** RCW 70.275.020 and 2014 c 119 s 2 are each reenacted
23 and amended to read as follows:

24 The definitions in this section apply throughout this chapter
25 unless the context clearly requires otherwise.

26 (1) "Brand" means a name, symbol, word, or mark that identifies a
27 product, rather than its components, and attributes the product to
28 the owner of the brand as the producer.

29 (2) "Collection" or "collect" means, except for persons involved
30 in mail-back programs:

31 (a) The activity of accumulating any amount of mercury-containing
32 lights at a location other than the location where the lights are
33 used by covered entities, and includes curbside collection
34 activities, household hazardous waste facilities, and other
35 registered drop-off locations; and

36 (b) The activity of transporting mercury-containing lights in the
37 state, where the transporter is not a generator of unwanted mercury-
38 containing lights, to a location for purposes of accumulation.

1 (3) "Covered entities" means:

2 (a) A household generator or other person who purchases mercury-
3 containing lights at retail and delivers no more than ten mercury-
4 containing lights to registered collectors for a product stewardship
5 program on any given day; and

6 (b) A household generator or other person who purchases mercury-
7 containing lights at retail and utilizes a registered residential
8 curbside collection program or a mail-back program for collection of
9 mercury-containing lights and discards no more than fifteen mercury-
10 containing lights into those programs on any given day.

11 (4) "Department" means the department of ecology.

12 (5) "Environmental handling charge" or "charge" means the charge
13 approved by the department to be applied to each mercury-containing
14 light to be sold at retail in or into Washington state. The
15 environmental handling charge must cover all administrative and
16 operational costs associated with the product stewardship program,
17 including the fee for the department's administration and
18 enforcement.

19 (6) "Final disposition" means the point beyond which no further
20 processing takes place and materials from mercury-containing lights
21 have been transformed for direct use as a feedstock in producing new
22 products, or disposed of or managed in permitted facilities.

23 (7) "Hazardous substances" or "hazardous materials" means those
24 substances or materials identified by rules adopted under chapter
25 70.105 RCW (as recodified by this act).

26 (8) "Mail-back program" means the use of a prepaid postage
27 container with mercury vapor barrier packaging that is used for the
28 collection and recycling of mercury-containing lights from covered
29 entities as part of a product stewardship program and is transported
30 by the United States postal service or a common carrier.

31 (9) "Mercury-containing lights" means lamps, bulbs, tubes, or
32 other devices that contain mercury and provide functional
33 illumination in homes, businesses, and outdoor stationary fixtures.

34 (10) "Mercury vapor barrier packaging" means sealable containers
35 that are specifically designed for the storage, handling, and
36 transport of mercury-containing lights in order to prevent the escape
37 of mercury into the environment by volatilization or any other means,
38 and that meet the requirements for transporting by the United States
39 postal service or a common carrier.

1 (11) "Orphan product" means a mercury-containing light that lacks
2 a producer's brand, or for which the producer is no longer in
3 business and has no successor in interest, or that bears a brand for
4 which the department cannot identify an owner.

5 (12) "Person" means a sole proprietorship, partnership,
6 corporation, nonprofit corporation or organization, limited liability
7 company, firm, association, cooperative, or other legal entity
8 located within or outside Washington state.

9 (13) "Processing" means recovering materials from unwanted
10 products for use as feedstock in new products. Processing must occur
11 at permitted facilities.

12 (14) "Producer" means a person that:

13 (a) Has or had legal ownership of the brand, brand name, or
14 cobrand of a mercury-containing light sold in or into Washington
15 state, unless the brand owner is a retailer whose mercury-containing
16 light was supplied by another producer participating in a stewardship
17 program under this chapter;

18 (b) Imports or has imported mercury-containing lights branded by
19 a producer that meets the requirements of (a) of this subsection and
20 where that producer has no physical presence in the United States;

21 (c) If (a) and (b) of this subsection do not apply, makes or made
22 a mercury-containing light that is sold or has been sold in or into
23 Washington state; or

24 (d) (i) Sells or sold at wholesale or retail a mercury-containing
25 light; (ii) does not have legal ownership of the brand; and (iii)
26 elects to fulfill the responsibilities of the producer for that
27 product.

28 (15) "Product stewardship" means a requirement for a producer of
29 mercury-containing lights to manage and reduce adverse safety,
30 health, and environmental impacts of the product throughout its life
31 cycle, including financing and providing for the collection,
32 transporting, reusing, recycling, processing, and final disposition
33 of their products.

34 (16) "Product stewardship plan" or "plan" means a detailed plan
35 describing the manner in which a product stewardship program will be
36 implemented.

37 (17) "Product stewardship program" or "program" means the
38 methods, systems, and services financed in the manner provided for
39 under RCW 70.275.050 (as recodified by this act) and provided by
40 producers of mercury-containing lights generated by covered entities

1 that addresses product stewardship and includes arranging for the
2 collection, transportation, recycling, processing, and final
3 disposition of unwanted mercury-containing lights, including orphan
4 products.

5 (18) "Recovery" means the collection and transportation of
6 unwanted mercury-containing lights under this chapter.

7 (19)(a) "Recycling" means transforming or remanufacturing
8 unwanted products into usable or marketable materials for use other
9 than landfill disposal or incineration.

10 (b) "Recycling" does not include energy recovery or energy
11 generation by means of combusting unwanted products with or without
12 other waste.

13 (20) "Reporting period" means the period commencing January 1st
14 and ending December 31st in the same calendar year.

15 (21) "Residuals" means nonrecyclable materials left over from
16 processing an unwanted product.

17 (22) "Retailer" means a person who offers mercury-containing
18 lights for sale at retail through any means including, but not
19 limited to, remote offerings such as sales outlets, catalogs, or the
20 internet, but does not include a sale that is a wholesale transaction
21 with a distributor or a retailer.

22 (23)(a) "Reuse" means a change in ownership of a mercury-
23 containing light or its components, parts, packaging, or shipping
24 materials for use in the same manner and purpose for which it was
25 originally purchased, or for use again, as in shipping materials, by
26 the generator of the shipping materials.

27 (b) "Reuse" does not include dismantling of products for the
28 purpose of recycling.

29 (24) "Stakeholder" means a person who may have an interest in or
30 be affected by a product stewardship program.

31 (25) "Stewardship organization" means an organization designated
32 by a producer or group of producers to act as an agent on behalf of
33 each producer to operate a product stewardship program.

34 (26) "Unwanted product" means a mercury-containing light no
35 longer wanted by its owner or that has been abandoned, discarded, or
36 is intended to be discarded by its owner.

37 **Sec. 1411.** RCW 70.275.030 and 2014 c 119 s 3 are each amended to
38 read as follows:

1 (1) Every producer of mercury-containing lights sold in or into
2 Washington state for retail sale in Washington state must participate
3 in a product stewardship program for those products, operated by a
4 stewardship organization and financed in the manner provided by RCW
5 70.275.050 (as recodified by this act). Every such producer must
6 inform the department of the producer's participation in a product
7 stewardship program by including the producer's name in a plan
8 submitted to the department by a stewardship organization as required
9 by RCW 70.275.040 (as recodified by this act). Producers must satisfy
10 these participation obligations individually or may do so jointly
11 with other producers.

12 (2) A stewardship organization operating a product stewardship
13 program must pay all administrative and operational costs associated
14 with its program with revenues received from the environmental
15 handling charge described in RCW 70.275.050 (as recodified by this
16 act). The stewardship organization's administrative and operational
17 costs are not required to include a collection location's cost of
18 receiving, accumulating and storing, and packaging mercury-containing
19 lights. However, a stewardship organization may offer incentives or
20 payments to collectors. The stewardship organization's administrative
21 and operational costs do not include the collection costs associated
22 with curbside and mail-back collection programs. The stewardship
23 organization must arrange for collection service at locations
24 described in subsection (4) of this section, which may include
25 household hazardous waste facilities, charities, retailers,
26 government recycling sites, or other suitable private locations. No
27 such entity is required to provide collection services at their
28 location. For curbside and mail-back programs, a stewardship
29 organization must pay the costs of transporting mercury-containing
30 lights from accumulation points and for processing mercury-containing
31 lights collected by curbside and mail-back programs. For collection
32 locations, including household hazardous waste facilities, charities,
33 retailers, government recycling sites, or other suitable private
34 locations, a stewardship organization must pay the costs of packaging
35 and shipping materials as required under RCW 70.275.070 (as
36 recodified by this act) or must compensate collectors for the costs
37 of those materials, and must pay the costs of transportation and
38 processing of mercury-containing lights collected from the collection
39 locations.

1 (3) Product stewardship programs shall collect unwanted mercury-
2 containing lights delivered from covered entities for recycling,
3 processing, or final disposition, and not charge a fee when lights
4 are dropped off or delivered into the program.

5 (4) Product stewardship programs shall provide, at a minimum, no
6 cost services in all cities in the state with populations greater
7 than ten thousand and all counties of the state on an ongoing, year-
8 round basis.

9 (5) Product stewardship programs shall promote the safe handling
10 and recycling of mercury-containing lights to the public, including
11 producing and offering point-of-sale educational materials to
12 retailers of mercury-containing lights and point-of-return
13 educational materials to collection locations.

14 (6) All product stewardship programs operated under approved
15 plans must recover their fair share of unwanted covered products as
16 determined by the department.

17 (7) The department or its designee may inspect, audit, or review
18 audits of processing and disposal facilities used to fulfill the
19 requirements of a product stewardship program.

20 (8) No product stewardship program required under this chapter
21 may use federal or state prison labor for processing unwanted
22 products.

23 (9) Product stewardship programs for mercury-containing lights
24 must be fully implemented by January 1, 2015.

25 **Sec. 1412.** RCW 70.275.040 and 2017 c 254 s 2 are each amended to
26 read as follows:

27 (1) On June 1st of the year prior to implementation, each
28 producer must ensure that a stewardship organization submits a
29 proposed product stewardship plan on the producer's behalf to the
30 department for approval. Plans approved by the department must be
31 implemented by January 1st of the following calendar year.

32 (2) The department shall establish rules for plan content. Plans
33 must include but are not limited to:

34 (a) All necessary information to inform the department about the
35 plan operator and participating producers and their brands;

36 (b) The management and organization of the product stewardship
37 program that will oversee the collection, transportation, and
38 processing services;

1 (c) The identity of collection, transportation, and processing
2 service providers, including a description of the consideration given
3 to existing residential curbside collection infrastructure and mail-
4 back systems as an appropriate collection mechanism;

5 (d) How the product stewardship program will seek to use
6 businesses within the state, including transportation services,
7 retailers, collection sites and services, existing curbside
8 collection services, existing mail-back services, and processing
9 facilities;

10 (e) A description of how the public will be informed about the
11 product stewardship program, including how consumers will be provided
12 with information describing collection opportunities for unwanted
13 mercury-containing lights from covered entities and safe handling of
14 mercury-containing lights, waste prevention, and recycling. The
15 description must also include information to make consumers aware
16 that an environmental handling charge has been added to the purchase
17 price of mercury-containing lights sold at retail to fund the
18 mercury-containing light stewardship programs in the state. The
19 environmental handling charge may not be described as a department
20 recycling fee or charge at the point of retail sale;

21 (f) A description of the financing system required under RCW
22 70.275.050 (as recodified by this act);

23 (g) How mercury and other hazardous substances will be handled
24 for collection through final disposition;

25 (h) A public review and comment process; and

26 (i) Any other information deemed necessary by the department to
27 ensure an effective mercury light product stewardship program that is
28 in compliance with all applicable laws and rules.

29 (3) All plans submitted to the department must be made available
30 for public review on the department's web site and at the
31 department's headquarters.

32 (4) At least two years from the start of the product stewardship
33 program and once every four years thereafter, each stewardship
34 organization operating a product stewardship program must update its
35 product stewardship plan and submit the updated plan to the
36 department for review and approval according to rules adopted by the
37 department.

38 (5) By June 1, 2016, and each June 1st thereafter, each
39 stewardship organization must submit an annual report to the
40 department describing the results of implementing the stewardship

1 organization's plan for the prior calendar year, including an
2 independent financial audit once every two years. The department may
3 adopt rules for reporting requirements. Financial information
4 included in the annual report must include but is not limited to:

5 (a) The amount of the environmental handling charge assessed on
6 mercury-containing lights and the revenue generated;

7 (b) Identification of confidential information pursuant to RCW
8 43.21A.160 submitted in the annual report; and

9 (c) The cost of the mercury-containing lights product stewardship
10 program, including line item costs for:

11 (i) Program operations;

12 (ii) Communications, including media, printing and fulfillment,
13 public relations, and other education and outreach projects;

14 (iii) Administration, including administrative personnel costs,
15 travel, compliance and auditing, legal services, banking services,
16 insurance, and other administrative services and supplies, and
17 stewardship organization corporate expenses; and

18 (iv) Amount of unallocated reserve funds.

19 (6) Beginning in 2023 every stewardship organization must include
20 in its annual report an analysis of the percent of total sales of
21 lights sold at retail to covered entities in Washington that mercury-
22 containing lights constitute, the estimated number of mercury-
23 containing lights in use by covered entities in the state, and the
24 projected number of unwanted mercury-containing lights to be recycled
25 in future years.

26 (7) All plans and reports submitted to the department must be
27 made available for public review, excluding sections determined to be
28 confidential pursuant to RCW 43.21A.160, on the department's web site
29 and at the department's headquarters.

30 **Sec. 1413.** RCW 70.275.050 and 2017 c 254 s 1 are each amended to
31 read as follows:

32 (1) Each stewardship organization must recommend to the
33 department an environmental handling charge to be added to the price
34 of each mercury-containing light sold in or into the state of
35 Washington for sale at retail. The environmental handling charge must
36 be designed to provide revenue necessary and sufficient to cover all
37 administrative and operational costs associated with the stewardship
38 program described in the department-approved product stewardship plan
39 for that organization, including the department's annual fee required

1 by subsection (5) of this section, and a prudent reserve. The
2 stewardship organization must consult with collectors, retailers,
3 recyclers, and each of its participating producers in developing its
4 recommended environmental handling charge. The environmental handling
5 charge may, but is not required to, vary by the type of mercury-
6 containing light. In developing its recommended environmental
7 handling charge, the stewardship organization must take into
8 consideration and report to the department:

9 (a) The anticipated number of mercury-containing lights that will
10 be sold to covered entities in the state at retail during the
11 relevant period;

12 (b) The number of unwanted mercury-containing lights delivered
13 from covered entities expected to be recycled during the relevant
14 period;

15 (c) The operational costs of the stewardship organization as
16 described in RCW 70.275.030(2) (as recodified by this act);

17 (d) The administrative costs of the stewardship organization
18 including the department's annual fee, described in subsection (5) of
19 this section; and

20 (e) The cost of other stewardship program elements including
21 public outreach.

22 (2) The department must review, adjust if necessary, and approve
23 the stewardship organization's recommended environmental handling
24 charge within sixty days of submittal. In making its determination,
25 the department shall review the product stewardship plan and may
26 consult with the producers, the stewardship organization, retailers,
27 collectors, recyclers, and other entities.

28 (3) No sooner than January 1, 2015:

29 (a) The mercury-containing light environmental handling charge
30 must be added to the purchase price of all mercury-containing lights
31 sold to Washington retailers for sale at retail, and each Washington
32 retailer shall add the charge to the purchase price of all mercury-
33 containing lights sold at retail in this state, and the producer
34 shall remit the environmental handling charge to the stewardship
35 organization in the manner provided for in the stewardship plan; or

36 (b) Each Washington retailer must add the mercury-containing
37 light environmental handling charge to the purchase price of all
38 mercury-containing lights sold at retail in this state, where the
39 retailer, by voluntary binding agreement with the producer, arranges
40 to remit the environmental handling charge to the stewardship

1 organization on behalf of the producer in the manner provided for in
2 the stewardship plan. Producers may not require retailers to opt for
3 this provision via contract, marketing practice, or any other means.
4 The stewardship organization must allow retailers to retain a portion
5 of the environmental handling charge as reimbursement for any costs
6 associated with the collection and remittance of the charge.

7 (4) At any time, a stewardship organization may submit to the
8 department a recommendation for an adjusted environmental handling
9 charge for the department's review, adjustment, if necessary, and
10 approval under subsection (2) of this section to ensure that there is
11 sufficient revenue to fund the cost of the program, current deficits,
12 or projected needed reserves for the next year. The department must
13 review the stewardship organization's recommended environmental
14 handling charge and must adjust or approve the recommended charge
15 within thirty days of submittal if the department determines that the
16 charge is reasonably designed to meet the criteria described in
17 subsection (1) of this section.

18 (5) Beginning March 1, 2015, and each year thereafter, each
19 stewardship organization shall pay to the department an annual fee
20 equivalent to three thousand dollars for each participating producer
21 to cover the department's administrative and enforcement costs. The
22 amount paid under this section must be deposited into the product
23 stewardship programs account created in RCW 70.275.130 (as recodified
24 by this act).

25 **Sec. 1414.** RCW 70.275.160 and 2010 c 130 s 16 are each amended
26 to read as follows:

27 Nothing in this chapter changes the requirements of any entity
28 regulated under chapter 70.105 RCW (as recodified by this act) to
29 comply with the requirements under that chapter.

30 **Sec. 1415.** RCW 70.280.040 and 2010 c 140 s 4 are each amended to
31 read as follows:

32 (1) A manufacturer, wholesaler, or retailer that (~~manufacturers~~
33 ~~manufactures~~) manufactures, knowingly sells, or distributes
34 products in violation of this chapter is subject to a civil penalty
35 not to exceed five thousand dollars for each violation in the case of
36 a first offense. Manufacturers, wholesalers, or retailers who are
37 repeat violators are subject to a civil penalty not to exceed ten
38 thousand dollars for each repeat offense. Penalties collected under

1 this section must be deposited in the ((state)) model toxics control
2 operating account created in RCW ((70.105D.070)) 70.105D.190.

3 (2) Retailers who unknowingly sell products that are restricted
4 from sale under this chapter are not subject to the civil penalties
5 under this chapter.

6 **Sec. 1416.** RCW 70.280.050 and 2019 c 422 s 410 are each amended
7 to read as follows:

8 Expenses to cover the cost of administering this chapter must be
9 paid from the model toxics control operating account under RCW
10 70.105D.190 (as recodified by this act).

11 **Sec. 1417.** RCW 70.285.020 and 2011 c 171 s 111 are each amended
12 to read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Accredited laboratory" means a laboratory that is:

16 (a) Qualified and equipped for testing of products, materials,
17 equipment, and installations in accordance with national or
18 international standards; and

19 (b) Accredited by a third-party organization approved by the
20 department to accredit laboratories for purposes of this chapter.

21 (2) "Alternative brake friction material" means brake friction
22 material that:

23 (a) Does not contain:

24 (i) More than 0.5 percent copper or its compounds by weight;

25 (ii) The constituents identified in RCW 70.285.030 (as recodified
26 by this act) at or above the concentrations specified; and

27 (iii) Other materials determined by the department to be more
28 harmful to human health or the environment than existing brake
29 friction material;

30 (b) Enables motor vehicle brakes to meet applicable federal
31 safety standards, or if no federal safety standard exists, a widely
32 accepted industry standard;

33 (c) Is available at a cost and quantity that does not cause
34 significant financial hardship across the majority of brake friction
35 material and vehicle manufacturing industries; and

36 (d) Is available to enable brake friction material and vehicle
37 manufacturers to produce viable products meeting consumer
38 expectations regarding braking noise, shuddering, and durability.

1 (3) "Brake friction material" means that part of a motor vehicle
2 brake designed to retard or stop the movement of a motor vehicle
3 through friction against a rotor made of more durable material.

4 (4) "Committee" means the brake friction material advisory
5 committee.

6 (5) "Department" means the department of ecology.

7 (6) (a) "Motor vehicle" has the same meaning as defined in RCW
8 46.04.320 that are subject to registration requirements under RCW
9 (~~46.16A.030~~) 46.16A.080.

10 (b) "Motor vehicle" does not include:

11 (i) Motorcycles as defined in RCW 46.04.330;

12 (ii) Motor vehicles employing internal closed oil immersed motor
13 vehicle brakes or similar brake systems that are fully contained and
14 emit no debris or fluid under normal operating conditions;

15 (iii) Military combat vehicles;

16 (iv) Race cars, dual-sport vehicles, or track day vehicles, whose
17 primary use is for off-road purposes and are permitted under RCW
18 46.16A.320; or

19 (v) Collector vehicles, as defined in RCW 46.04.126.

20 (7) (a) "Motor vehicle brake" means an energy conversion mechanism
21 used to retard or stop the movement of a motor vehicle.

22 (b) "Motor vehicle brake" does not include brakes designed
23 primarily to hold motor vehicles stationary and not for use while
24 motor vehicles are in motion.

25 (8) "Original equipment service" means brake friction material
26 provided as service parts originally designed for and using the same
27 brake friction material formulation sold with a new motor vehicle.

28 (9) "Small volume motor vehicle manufacturer" means a
29 manufacturer of motor vehicles with Washington annual sales of less
30 than one thousand new passenger cars, light-duty trucks, medium-duty
31 vehicles, heavy-duty vehicles, and heavy-duty engines based on the
32 average number of vehicles sold for the three previous consecutive
33 model years.

34 **Sec. 1418.** RCW 70.285.040 and 2010 c 147 s 4 are each amended to
35 read as follows:

36 (1) By December 1, 2015, the department shall review risk
37 assessments, scientific studies, and other relevant analyses
38 regarding alternative brake friction material and determine whether

1 the material may be available. The department shall consider any new
2 science with regard to the bioavailability and toxicity of copper.

3 (2) If the department finds that alternative brake friction
4 material may be available, it shall convene a brake friction material
5 advisory committee. The committee shall include, but is not limited
6 to:

7 (a) A representative of the department, who will chair the
8 committee;

9 (b) The chief of the Washington state patrol, or the chief's
10 designee;

11 (c) A representative of manufacturers of brake friction material;

12 (d) A representative of manufacturers of motor vehicles;

13 (e) A representative of a nongovernmental organization concerned
14 with motor vehicle safety;

15 (f) A representative of the national highway traffic safety
16 administration; and

17 (g) A representative of a nongovernmental organization concerned
18 with the environment.

19 (3) If convened pursuant to subsection (2) of this section, the
20 committee shall separately assess alternative brake friction material
21 for passenger vehicles, light-duty vehicles, and heavy-duty vehicles.
22 The committee shall make different recommendations to the department
23 as to whether alternative brake friction material is available or
24 unavailable for passenger vehicles, light-duty vehicles, and
25 heavy-duty vehicles. For purposes of this section, "heavy-duty
26 vehicle" means a vehicle used for commercial purposes with a gross
27 vehicle weight rating above twenty-six thousand pounds. The committee
28 shall also consider appropriate exemptions including original
29 equipment service and brake friction material manufactured prior to
30 the dates specified in RCW 70.285.050 (as recodified by this act).
31 The department shall consider the committee's recommendations and
32 make a finding as to whether alternative brake friction material is
33 available or unavailable.

34 (4) If, pursuant to subsection (3) of this section, the
35 department finds that alternative brake friction material:

36 (a) Is available, it shall comply with RCW 70.285.050 (as
37 recodified by this act);

38 (b) Is not available, it shall periodically evaluate the finding
39 and, if it determines that alternative brake friction material may be
40 available, comply with subsections (2) and (3) of this section. If

1 the department finds that alternative brake friction material is
2 available, it shall comply with RCW 70.285.050 (as recodified by this
3 act).

4 **Sec. 1419.** RCW 70.285.050 and 2017 c 204 s 2 are each amended to
5 read as follows:

6 If, pursuant to RCW 70.285.040 (as recodified by this act), the
7 department finds that alternative brake friction material is
8 available:

9 (1) (a) By December 31st of the year in which the finding is made,
10 the department shall publish the information required by RCW
11 70.285.040 (as recodified by this act) in the Washington State
12 Register and present it in a report to the appropriate committees of
13 the legislature; and

14 (b) The report must include recommendations for exemptions on
15 original equipment service and brake friction material manufactured
16 prior to dates specified in this section and may include
17 recommendations for other exemptions.

18 (2) Beginning January 1, 2025, and consistent with RCW
19 70.285.030(3) (as recodified by this act), no manufacturer,
20 wholesaler, retailer, or distributor may sell or offer for sale brake
21 friction material in Washington state containing more than 0.5
22 percent copper and its compounds by weight, as specified in the
23 report in subsection (1) of this section.

24 **Sec. 1420.** RCW 70.285.090 and 2019 c 422 s 409 are each amended
25 to read as follows:

26 (1) The department must enforce this chapter. The department may
27 periodically purchase and test brake friction material sold or
28 offered for sale in Washington state to verify that the material
29 complies with this chapter.

30 (2) Enforcement of this chapter by the department must rely on
31 notification and information exchange between the department and
32 manufacturers, distributors, and retailers. The department must issue
33 one warning letter by certified mail to a manufacturer, distributor,
34 or retailer that sells or offers to sell brake friction material in
35 violation of this chapter, and offer information or other appropriate
36 assistance regarding compliance with this chapter. Once a warning
37 letter has been issued to a distributor or retailer for violations
38 under subsections (3) and (5) of this section, the department need

1 not provide warning letters for subsequent violations by that
2 distributor or retailer. For the purposes of subsection (6) of this
3 section, a warning letter serves as notice of the violation. If
4 compliance is not achieved, the department may assess penalties under
5 this section.

6 (3) A brake friction material distributor or retailer that
7 violates this chapter is subject to a civil penalty not to exceed ten
8 thousand dollars for each violation. Brake friction material
9 distributors or retailers that sell brake friction material that is
10 packaged consistent with RCW 70.285.080(2)(b) (as recodified by this
11 act) are not in violation of this chapter. However, if the department
12 conclusively proves that the brake friction material distributor or
13 retailer was aware that the brake friction material being sold
14 violates RCW 70.285.030 or 70.285.050 (as recodified by this act),
15 the brake friction material distributor or retailer is subject to
16 civil penalties according to this section.

17 (4) A brake friction material manufacturer that knowingly
18 violates this chapter must recall the brake friction material and
19 reimburse the brake friction distributor, retailer, or any other
20 purchaser for the material and any applicable shipping and handling
21 charges for returning the material. A brake friction material
22 manufacturer that violates this chapter is subject to a civil penalty
23 not to exceed ten thousand dollars for each violation.

24 (5) A motor vehicle distributor or retailer that violates this
25 chapter is subject to a civil penalty not to exceed ten thousand
26 dollars for each violation. A motor vehicle distributor or retailer
27 is not in violation of this chapter for selling a vehicle that was
28 previously sold at retail and that contains brake friction material
29 failing to meet the requirements of this chapter. However, if the
30 department conclusively proves that the motor vehicle distributor or
31 retailer installed brake friction material that violates RCW
32 70.285.030, 70.285.050, or 70.285.080(2)(b) (as recodified by this
33 act) on the vehicle being sold and was aware that the brake friction
34 material violates RCW 70.285.030, 70.285.050, or 70.285.080(2)(b) (as
35 recodified by this act), the motor vehicle distributor or retailer is
36 subject to civil penalties under this section.

37 (6) A motor vehicle manufacturer that violates this chapter must
38 notify the registered owner of the vehicle within six months of
39 knowledge of the violation and must replace at no cost to the owner
40 the noncompliant brake friction material with brake friction material

1 that complies with this chapter. A motor vehicle manufacturer that
2 fails to provide the required notification to registered owners of
3 the affected vehicles within six months of knowledge of the violation
4 is subject to a civil penalty not to exceed one hundred thousand
5 dollars. A motor vehicle manufacturer that fails to provide the
6 required notification to registered owners of the affected vehicles
7 after twelve months of knowledge of the violation is subject to a
8 civil penalty not to exceed ten thousand dollars per vehicle. For
9 purposes of this section, "motor vehicle manufacturer" does not
10 include a vehicle dealer defined under RCW 46.70.011 and required to
11 be licensed as a vehicle dealer under chapter 46.70 RCW.

12 (7) Before the effective date of the prohibitions in RCW
13 70.285.030 or 70.285.050 (as recodified by this act), the department
14 must prepare and distribute information about the prohibitions to
15 manufacturers, distributors, and retailers to the maximum extent
16 practicable.

17 (8) All penalties collected under this chapter must be deposited
18 in the model toxics control operating account created in RCW
19 70.105D.190 (as recodified by this act).

20 **Sec. 1421.** RCW 70.300.040 and 2019 c 422 s 411 are each amended
21 to read as follows:

22 (1) The department must enforce the requirements of this chapter.

23 (2)(a) A person or entity that violates this chapter is subject
24 to a civil penalty. The department may assess and collect a civil
25 penalty of up to ten thousand dollars per day per violation.

26 (b) All penalties collected by the department under this chapter
27 must be deposited in the model toxics control operating account
28 created in RCW 70.105D.190 (as recodified by this act).

29 **Sec. 1422.** RCW 70.310.030 and 2013 c 51 s 3 are each amended to
30 read as follows:

31 (1) Effective January 1, 2014, it is unlawful to manufacture,
32 wholesale, or distribute for sale an asbestos-containing building
33 material that is not labeled as required by RCW 70.310.040 (as
34 recodified by this act) or as required under federal law, 40 C.F.R.
35 part 763, subpart I, Sec. 173.171 (1994). The labeling requirement
36 also applies to stock-on-hand, meaning any asbestos-containing
37 building material in their possession or control after December 31,
38 2013, must be labeled. Retailers that do not manufacture, wholesale,

1 or distribute asbestos-containing building materials are exempt from
2 this chapter.

3 (2) (a) Subsection (1) of this section does not apply to asbestos-
4 containing building materials that have already been installed,
5 applied, or used by the consumer.

6 (b) Subsection (1) of this section does not apply to asbestos-
7 containing building materials used solely for United States military
8 purposes.

9 (3) Any manufacturer, wholesaler, or distributor may submit a
10 written request for an exemption from the labeling requirements of
11 this chapter, and the department may grant such an exemption if it
12 determines that the labeling requirements are technically infeasible
13 or create an undue economic hardship. Each exemption is in effect for
14 a period not to exceed three years from the date issued and is
15 subject to the terms and conditions prescribed by the department.

16 **Sec. 1423.** RCW 70.310.040 and 2013 c 51 s 4 are each amended to
17 read as follows:

18 (1) A label must be placed in a prominent location adjacent to
19 the product name or description on the exterior of the wrapping and
20 packaging in which the asbestos-containing building material is
21 placed for storage, shipment, and sale.

22 (2) A label must also be placed on the exterior surface of the
23 asbestos-containing building material itself unless it is sold as a
24 liquid or paste, is sand or gravel, or an exemption is granted
25 pursuant to RCW 70.310.030(3) (as recodified by this act).

26 (3) Asbestos-containing building materials must have a legible
27 label that clearly identifies it as containing asbestos. The
28 department may adopt rules regarding the implementation of this
29 chapter. At a minimum, the label must state the following:

30 CAUTION!

31 This product contains ASBESTOS which is known to cause cancer
32 and lung disease. Avoid creating dust. Intentionally removing
33 or tampering with this label is a violation of state law.

34 (4) It is unlawful for any person to remove, deface, cover, or
35 otherwise obscure or tamper with a label or sticker that has been
36 applied in compliance with this section, unless the asbestos-
37 containing building material is in the possession of the end user.

1 **Sec. 1424.** RCW 70.310.050 and 2013 c 51 s 5 are each amended to
2 read as follows:

3 (1) The provisions of this chapter may be enforced by the
4 department, local air authorities, or their designees.

5 (2) A person found in violation of this chapter is subject to the
6 penalties provided under RCW 70.94.431 (as recodified by this act).

7 **Sec. 1425.** RCW 70.315.010 and 2013 c 127 s 1 are each amended to
8 read as follows:

9 (1) The legislature finds that historically governmental and
10 nongovernmental water purveyors have played two key public service
11 roles: Providing safe drinking water and providing water for fire
12 protection. This dual function approach is a deeply embedded and
13 state-regulated feature of water system planning, engineering,
14 operation, and maintenance. This dual function enables purveyors to
15 provide these critical public services in a cost-effective way that
16 protects public health and safety, promotes economic development, and
17 supports appropriate land use planning.

18 (2) The legislature finds that the provision of integrated, dual
19 function water facilities and services benefits all customers of a
20 purveyor, similar to other benefits provided to water system
21 customers in response to regulation regarding safe drinking water
22 such as treatment and water quality monitoring.

23 (3) The legislature finds that water purveyors plan, construct,
24 acquire, operate, and maintain fire suppression water facilities in
25 response to regulatory requirements, including without limitation the
26 public water system coordination act, RCW 70.116.080 (as recodified
27 by this act), the design of public water systems and water system
28 operations requirements, chapter 246-290 WAC, Parts 3 and 5, the
29 state building code, chapter 19.27 RCW, and the international fire
30 code. The availability of infrastructure and water to fight fires
31 allows for the development and habitability of property, increases
32 property values, and benefits customers and property through lower
33 casualty insurance rates.

34 (4) The legislature finds that recent Washington supreme court
35 decisions, including *Lane v. City of Seattle*, 164 Wn.2d 875 (2008),
36 and *City of Tacoma v. City of Bonney Lake, et al.*, 173 Wn.2d 584
37 (2012), have created uncertainty and confusion as to the role,
38 responsibilities, cost allocation, and recovery authority of water
39 purveyors. If left unresolved, the absence of legal clarity will

1 adversely affect the availability and condition of fire suppression
2 infrastructure necessary to protect life and property.

3 (5) It is the legislature's intent to determine appropriate
4 methods of organizing public services and the authority of water
5 purveyors with respect to critical public services. The legislature
6 further intends this chapter to clarify the authority of water
7 purveyors to provide fire suppression water facilities and services
8 and to recover the costs for those facilities and services. The
9 legislature also intends to provide liability protections appropriate
10 for water purveyors engaged in this vital public service.

11 **Sec. 1426.** RCW 70.315.020 and 2013 c 127 s 2 are each amended to
12 read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Fire suppression water facilities" means water supply
16 transmission and distribution facilities, interties, pipes, valves,
17 control systems, lines, storage, pumps, fire hydrants, and other
18 facilities, or any part thereof, used or usable for the delivery of
19 water for fire suppression purposes.

20 (2) "Fire suppression water services" or "services" means
21 operation and maintenance of fire suppression water facilities and
22 the delivery of water for fire suppression purposes.

23 (3) "Municipal corporation" means any city, town, county, water-
24 sewer district, port district, public utility district, irrigation
25 district, and any other municipal corporation, quasi-municipal
26 corporation, or political subdivision of the state.

27 (4) "Purveyor" has the same meaning as set forth in RCW
28 70.116.030(4) (as recodified by this act).

29 **Sec. 1427.** RCW 70.315.050 and 2013 c 127 s 5 are each amended to
30 read as follows:

31 A county is not required to pay for fire suppression water
32 facilities or services except: (1) As a customer of a purveyor; (2)
33 in areas where a county is acting as a purveyor; or (3) where a
34 county has agreed to do so consistent with RCW 70.315.040 (as
35 recodified by this act).

36 **Sec. 1428.** RCW 70.325.020 and 2014 c 74 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) "Account" means the diesel idle reduction account created in
4 RCW 70.325.040 (as recodified by this act).

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

6 (3) "Loan recipient" means a state, local, or other governmental
7 entity that owns diesel vehicles or equipment.

8 **Sec. 1429.** RCW 70.325.040 and 2014 c 74 s 4 are each amended to
9 read as follows:

10 The diesel idle reduction account is created in the state
11 treasury. All receipts from remittances made by loan recipients
12 pursuant to RCW 70.325.030 (as recodified by this act) and any moneys
13 appropriated to the account by law must be deposited in the account.
14 Moneys in the account may be spent only after appropriation.
15 Expenditures from the account may be used only for the purposes of
16 this chapter, including the costs of program administration.

17 **Sec. 1430.** RCW 70.325.050 and 2014 c 74 s 7 are each amended to
18 read as follows:

19 The department may adopt rules necessary to implement this
20 chapter only after the legislature appropriates moneys to the account
21 created in RCW 70.325.040 (as recodified by this act).

22 **Sec. 1431.** RCW 70.340.020 and 2016 c 161 s 2 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) "Agency" means the Washington state pollution liability
27 insurance agency.

28 (2) "Local government" means any political subdivision of the
29 state, including a town, city, county, special purpose district, or
30 other municipal corporation.

31 (3) "Operator" means any person in control of, or having
32 responsibility for, the daily operation of a petroleum underground
33 storage tank system.

34 (4) "Owner" means any person who owns a petroleum underground
35 storage tank system.

36 (5) "Petroleum underground storage tank system" means an
37 underground storage tank system regulated under chapter 90.76 RCW (as

1 recodified by this act) or subtitle I of the solid waste disposal act
2 (42 U.S.C. chapter 82, subchapter IX) that is used for storing
3 petroleum.

4 (6) "Release" has the same meaning as defined in RCW 70.105D.020
5 (as recodified by this act).

6 (7) "Remedial action" has the same meaning as defined in RCW
7 70.105D.020 (as recodified by this act).

8 (8) "Underground storage tank facility" means the location where
9 one or more underground storage tank systems are installed. A
10 facility encompasses all contiguous real property under common
11 ownership associated with the operation of the underground storage
12 tank system or systems.

13 (9) "Underground storage tank system" means an underground
14 storage tank, connected underground piping, underground ancillary
15 equipment, and containment system, if any, and includes any
16 aboveground ancillary equipment connected to the underground storage
17 tank or piping, such as dispensers.

18 **Sec. 1432.** RCW 70.340.030 and 2016 c 161 s 3 are each amended to
19 read as follows:

20 (1) The agency shall establish an underground storage tank
21 revolving loan and grant program to provide loans or grants to owners
22 or operators to:

23 (a) Conduct remedial actions in accordance with chapter 70.105D
24 RCW (as recodified by this act), including investigations and
25 cleanups of any release or threatened release of a hazardous
26 substance at or affecting an underground storage tank facility,
27 provided that at least one of the releases or threatened releases
28 involves petroleum;

29 (b) Upgrade, replace, or permanently close a petroleum
30 underground storage tank system in accordance with chapter 90.76 RCW
31 (as recodified by this act) or subtitle I of the solid waste disposal
32 act (42 U.S.C., chapter 82, subchapter IX), as applicable;

33 (c) Install new infrastructure or retrofit existing
34 infrastructure at an underground storage tank facility for dispensing
35 renewable or alternative energy for motor vehicles, including
36 electric vehicle charging stations, when conducted in conjunction
37 with either (a) or (b) of this subsection; or

38 (d) Install and subsequently remove a temporary petroleum
39 aboveground storage tank system in compliance with applicable laws,

1 when conducted in conjunction with either (a) or (b) of this
2 subsection.

3 (2) The maximum amount that may be loaned or granted under this
4 program to an owner or operator for a single underground storage tank
5 facility is two million dollars.

6 **Sec. 1433.** RCW 70.340.040 and 2016 c 161 s 4 are each amended to
7 read as follows:

8 (1) A recipient of a loan or grant may not use these funds to
9 conduct remedial actions of a release or threatened release from a
10 petroleum underground storage tank system requiring financial
11 assurances under chapter 90.76 RCW (as recodified by this act) or
12 subtitle I of the solid waste disposal act (42 U.S.C., chapter 82,
13 subchapter IX) unless the owner or operator:

14 (a) Agrees to first expend all moneys available under the
15 required financial assurances;

16 (b) Demonstrates that all moneys available under the required
17 financial assurances have been expended; or

18 (c) Demonstrates that a claim has been made under the required
19 financial assurances and the claim has been rejected by the provider.

20 (2) A recipient must use a loan or grant for a project that
21 develops and acquires assets that have a useful life of at least
22 thirteen years.

23 **Sec. 1434.** RCW 70.340.050 and 2016 c 161 s 5 are each amended to
24 read as follows:

25 The agency shall partner and enter into a memorandum of agreement
26 with the department of health to implement the revolving loan and
27 grant program.

28 (1) The agency shall select loan and grant recipients and manage
29 the work conducted under RCW 70.340.030(1) (as recodified by this
30 act).

31 (2) The department of health shall administer the loans and
32 grants to qualified recipients as determined by the agency.

33 (3) The department of health may collect, from persons requesting
34 financial assistance, loan origination fees to cover costs incurred
35 by the department of health in operating the financial assistance
36 program.

1 (4) The agency may use the moneys in the pollution liability
2 insurance agency underground storage tank revolving account to fund
3 the department of health's operating costs for the program.

4 **Sec. 1435.** RCW 70.340.060 and 2016 c 161 s 6 are each amended to
5 read as follows:

6 (1) The agency may conduct remedial actions and investigate or
7 clean up a release or threatened release of a hazardous substance at
8 or affecting an underground storage tank facility if the following
9 conditions are met:

10 (a) The owner or operator received a loan or grant for the
11 underground storage tank facility under the revolving program created
12 in this chapter for two million dollars or less;

13 (b) The remedial actions are conducted in accordance with the
14 rules adopted under chapter 70.105D RCW (as recodified by this act);

15 (c) The owner of real property subject to the remedial actions
16 provides consent for the agency to:

17 (i) Recover the remedial action costs from the owner; and

18 (ii) Enter upon the real property to conduct remedial actions
19 limited to those authorized by the owner or operator. Remedial
20 actions must be focused on maintaining the economic vitality of the
21 property. The agency or the agency's authorized representatives shall
22 give reasonable notice before entering property unless an emergency
23 prevents the notice; and

24 (d) The owner of the underground storage tank facility consents
25 to the agency filing a lien on the underground storage tank facility
26 to recover the agency's remedial action costs.

27 (2) The agency may conduct the remedial actions authorized under
28 subsection (1) of this section using the moneys in the pollution
29 liability insurance agency underground storage tank revolving
30 account, as required under RCW 70.340.050 (as recodified by this
31 act). However, for any remedial action where the owner or operator
32 has received a loan or grant, the agency may not expend more than the
33 difference between the amount loaned or granted and two million
34 dollars.

35 (3) The agency may request informal advice and assistance and
36 written opinions on the sufficiency of remedial actions from the
37 department of ecology under RCW 70.105D.030(1)(i) (as recodified by
38 this act).

1 **Sec. 1436.** RCW 70.340.080 and 2016 c 161 s 8 are each amended to
2 read as follows:

3 (1) The pollution liability insurance agency underground storage
4 tank revolving account is created in the state treasury. All receipts
5 from sources identified under subsection (2) of this section must be
6 deposited into the account. Moneys in the account may be spent only
7 after appropriation. Expenditures from the account may be used only
8 for items identified under subsection (3) of this section.

9 (2) The following receipts must be deposited into the account:

10 (a) All moneys appropriated by the legislature to pay for the
11 agency's operating costs to carry out the purposes of this chapter;

12 (b) All moneys appropriated by the legislature to provide loans
13 and grants under RCW 70.340.030 (as recodified by this act);

14 (c) Any repayment of loans provided under RCW 70.340.030 (as
15 recodified by this act);

16 (d) All moneys appropriated by the legislature to conduct
17 remedial actions under RCW 70.340.060 (as recodified by this act);

18 (e) Any recovery of the costs of remedial actions conducted under
19 RCW 70.340.060 (as recodified by this act);

20 (f) Any grants provided by the federal government to the agency
21 to achieve the purposes of this chapter; and

22 (g) Any other deposits made from a public or private entity to
23 achieve the purposes of this chapter.

24 (3) Moneys in the account may be used by the agency only to carry
25 out the purposes of this chapter including, but not limited to:

26 (a) The costs of the agency and department of health to carry out
27 the purposes of this chapter;

28 (b) Loans and grants under RCW 70.340.030 (as recodified by this
29 act);

30 (c) Remedial actions under RCW 70.340.060 (as recodified by this
31 act); and

32 (d) State match requirements for grants provided to the agency by
33 the federal government.

34 **Sec. 1437.** RCW 70.340.090 and 2016 c 161 s 9 are each amended to
35 read as follows:

36 By September 1st of each even-numbered year, the agency must
37 provide the office of financial management and the appropriate
38 legislative committees a report on the agency's activities supported
39 by expenditures from the pollution liability insurance agency

1 underground storage tank revolving account. The report must at a
2 minimum include:

3 (1) The amount of money the legislature appropriated from the
4 pollution liability insurance agency underground storage tank
5 revolving account under RCW 70.340.080 (as recodified by this act)
6 during the last biennium;

7 (2) For the previous biennium, the total number of loans and
8 grants, the amounts loaned or granted, sites cleaned up, petroleum
9 underground storage tank systems upgraded, replaced, or permanently
10 closed, and jobs preserved;

11 (3) For each loan and grant awarded during the previous biennium,
12 the name of the recipient, the location of the underground storage
13 tank facility, a description of the project and its status, the
14 amount loaned, and the amount repaid;

15 (4) For each underground storage tank facility where the agency
16 conducted remedial actions under RCW 70.340.060 (as recodified by
17 this act) during the previous biennium, the name and location of the
18 site, the amount of money used to conduct the remedial actions, the
19 status of remedial actions, whether liens were filed against the
20 underground storage tank facility under RCW 70.340.070 (as recodified
21 by this act), and the amount of money recovered; and

22 (5) The operating costs of the agency and department of health to
23 carry out the purposes of this chapter during the last biennium.

24 **Sec. 1438.** RCW 70.340.100 and 2016 c 161 s 10 are each amended
25 to read as follows:

26 The agency must adopt rules under chapter 34.05 RCW necessary to
27 carry out the provisions of this chapter. To accelerate remedial
28 actions, the agency shall enter into a memorandum of agreement with
29 the department of health under RCW 70.340.050 (as recodified by this
30 act) within one year of July 1, 2016. To ensure the adoption of rules
31 will not delay the award of a loan or grant, the agency may implement
32 the underground storage tank revolving program through interpretative
33 guidance pending adoption of rules.

34 **Sec. 1439.** RCW 70.340.120 and 2016 c 161 s 12 are each amended
35 to read as follows:

36 Nothing in this chapter limits the authority of the department of
37 ecology under chapter 70.105D RCW (as recodified by this act).

1 **Sec. 1440.** RCW 70.340.130 and 2017 3rd sp.s. c 4 s 6015 are each
2 amended to read as follows:

3 (1) On July 1, 2016, if the cash balance amount in the pollution
4 liability insurance program trust account exceeds seven million five
5 hundred thousand dollars after excluding the reserves under RCW
6 70.148.020(2) (as recodified by this act), the state treasurer shall
7 transfer the amount exceeding seven million five hundred thousand
8 dollars, up to a transfer of ten million dollars, from the pollution
9 liability insurance program trust account into the pollution
10 liability insurance agency underground storage tank revolving
11 account. If ten million dollars is not available to be transferred on
12 July 1, 2016, then by the end of fiscal year 2017, if the cash
13 balance amount in the pollution liability insurance program trust
14 account exceeds seven million five hundred thousand dollars after
15 excluding the reserves under RCW 70.148.020(2) (as recodified by this
16 act), the state treasurer shall transfer the amount exceeding seven
17 million five hundred thousand dollars from the pollution liability
18 insurance program trust account into the pollution liability
19 insurance agency underground storage tank revolving account. The
20 total amount transferred in fiscal year 2017 from the pollution
21 liability insurance program trust account into the pollution
22 liability insurance agency underground storage tank revolving account
23 may not exceed ten million dollars.

24 (2) On July 1, 2017, and every two years thereafter at the start
25 of each successive biennium, if the cash balance amount in the
26 pollution liability insurance program trust account exceeds seven
27 million five hundred thousand dollars, the state treasurer shall
28 transfer the amount exceeding seven million five hundred thousand
29 dollars after excluding the reserves under RCW 70.148.020(2) (as
30 recodified by this act), up to a transfer of twenty million dollars,
31 from the pollution liability insurance program trust account into the
32 pollution liability insurance agency underground storage tank
33 revolving account. If twenty million dollars is not available to be
34 transferred at the beginning of the first fiscal year of the
35 biennium, by the end of the subsequent fiscal year, if the cash
36 balance amount in the pollution liability insurance program trust
37 account exceeds seven million five hundred thousand dollars after
38 excluding the reserves under RCW 70.148.020(2) (as recodified by this
39 act), the state treasurer shall transfer the amount exceeding seven
40 million five hundred thousand dollars from the pollution liability

1 insurance program trust account into the pollution liability
2 insurance agency underground storage tank revolving account. The
3 total amount transferred in a biennium from the pollution liability
4 insurance program trust account into the pollution liability
5 insurance agency underground storage tank revolving account may not
6 exceed twenty million dollars.

7 **Sec. 1441.** RCW 70.340.900 and 2016 c 161 s 13 are each amended
8 to read as follows:

9 (1) RCW 70.340.010 through 70.340.120 (as recodified by this act)
10 expire July 1, 2030.

11 (2) The expiration of RCW 70.340.010 through 70.340.120 (as
12 recodified by this act) does not terminate any of the following
13 rights, obligations, authorities or any provision necessary to carry
14 out:

15 (a) The repayment of loans due and payable to the lender or the
16 state of Washington;

17 (b) The resolution of any cost recovery action or the initiation
18 of any action or other collection process to recover defaulted loan
19 moneys due to the state of Washington; and

20 (c) The resolution of any action or the initiation of any action
21 to recover the agency's remedial actions costs under RCW 70.340.070
22 (as recodified by this act).

23 (3) On July 1, 2030, the pollution liability insurance agency
24 underground storage tank revolving account and all moneys due that
25 account revert to, and accrue to the benefit of, the department of
26 health.

27 **Sec. 1442.** RCW 70.360.060 and 2019 c 265 s 6 are each amended to
28 read as follows:

29 (1)(a) A manufacturer or supplier of food service products or
30 film products that meet ASTM standard specification D6400 or ASTM
31 standard specification D6868 must ensure that the items are readily
32 and easily identifiable from other plastic food service products or
33 plastic film products in a manner that is consistent with the federal
34 trade commission guides.

35 (b) Film bags are exempt from the requirements of this section,
36 and are instead subject to the requirements of RCW 70.360.050 (as
37 recodified by this act).

1 (2) For the purposes of this section, "readily and easily
2 identifiable" products must:

3 (a) Be labeled with a logo indicating the product has been
4 certified by a recognized third-party independent verification body
5 as meeting the ASTM standard specification;

6 (b) Be labeled with the word "compostable," where possible,
7 indicating the food packaging or film product has been tested by a
8 recognized third-party independent body and meets the ASTM standard
9 specification; and

10 (c) Meet industry standards for being distinguishable upon quick
11 inspection in both public sorting areas and in processing facilities.

12 (3) A compostable product described in subsection (1) of this
13 section must be considered compliant with the requirements of this
14 section if it:

15 (a) Has green or brown labeling;

16 (b) Is labeled as compostable; and

17 (c) Uses distinctive color schemes, green or brown color
18 striping, or other adopted symbols, colors, marks, or design patterns
19 that help differentiate compostable items from noncompostable
20 materials.

21 (4) It is encouraged that each product described in subsection
22 (1) of this section:

23 (a) Display labeling language via printing, embossing, or
24 compostable adhesive stickers using, when possible, either the colors
25 green or brown that contrast with background product color for easy
26 identification; or

27 (b) Be tinted green or brown.

28 (5) Graphic elements are encouraged to increase legibility of the
29 word "compostable" and overall product distinction that may include
30 text boxes, stripes, bands, or a green or brown tint of the product.

31 (6) A manufacturer or supplier is required to comply with this
32 section only to the extent that the labeling requirements do not
33 conflict with the federal trade commission guides.

34 **Sec. 1443.** RCW 70.360.070 and 2019 c 265 s 7 are each amended to
35 read as follows:

36 A manufacturer or supplier of film products or food service
37 products sold, offered for sale, or distributed for use in Washington
38 that does not meet the applicable ASTM standard specifications

1 provided in RCW 70.360.050 and 70.360.060 (as recodified by this act)
2 is:

3 (1) Prohibited from using tinting, labeling, and terms that are
4 required of products that meet the applicable ASTM standard
5 specifications under RCW 70.360.050 and 70.360.060 (as recodified by
6 this act);

7 (2) Discouraged from using coloration, labeling, images, and
8 terms that confuse consumers into believing that noncompostable bags
9 and food service packaging are compostable; and

10 (3) Encouraged to use coloration, labeling, images, and terms to
11 help consumers identify noncompostable bags and food service
12 packaging as either: (a) Suitable for recycling; or (b) necessary to
13 dispose as waste.

14 **Sec. 1444.** RCW 70.360.090 and 2019 c 265 s 9 are each amended to
15 read as follows:

16 (1) The state, acting through the attorney general, and cities
17 and counties have concurrent authority to enforce this chapter and to
18 collect civil penalties for a violation of this chapter, subject to
19 the conditions in this section. An enforcing government entity may
20 impose a civil penalty in the amount of up to two thousand dollars
21 for the first violation of this chapter, up to five thousand dollars
22 for the second violation of this chapter, and up to ten thousand
23 dollars for the third and any subsequent violation of this chapter.
24 If a manufacturer or supplier has paid a prior penalty for the same
25 violation to a different government entity with enforcement authority
26 under this subsection, the penalty imposed by a government entity is
27 reduced by the amount of the payment.

28 (2) Any civil penalties collected pursuant to this section must
29 be paid to the office of the city attorney, city prosecutor, district
30 attorney, or attorney general, whichever office brought the action.
31 Penalties collected by the attorney general on behalf of the state
32 must be deposited in the compostable products revolving account
33 created in RCW 70.360.110 (as recodified by this act).

34 (3) The remedies provided by this section are not exclusive and
35 are in addition to the remedies that may be available pursuant to
36 chapter 19.86 RCW or other consumer protection laws, if applicable.

37 (4) In addition to penalties recovered under this section, the
38 enforcing government entity may recover reasonable enforcement costs
39 and attorneys' fees from the liable manufacturer or supplier.

1 **Sec. 1445.** RCW 70.360.100 and 2019 c 265 s 10 are each amended
2 to read as follows:

3 Manufacturers and suppliers who violate the requirements of this
4 chapter are subject to civil penalties described in RCW 70.360.090
5 (as recodified by this act). A specific violation is deemed to have
6 occurred upon the sale of noncompliant product by stock-keeping unit
7 number or unique item number. The repeated sale of the same
8 noncompliant product by stock-keeping unit number or unique item
9 number is considered a single violation. A city, county, or the state
10 must send a written notice and a copy of the requirements to a
11 noncompliant manufacturer or supplier of an alleged violation, who
12 will have ninety days to become compliant. A city, county, or the
13 state may assess a first penalty if the manufacturer or supplier has
14 not met the requirements ninety days following the date the
15 notification was sent. A city, county, or the state may impose
16 second, third, and subsequent penalties on a manufacturer or supplier
17 that remains noncompliant with the requirements of this chapter for
18 every month of noncompliance.

19 **Sec. 1446.** RCW 70.360.110 and 2019 c 265 s 11 are each amended
20 to read as follows:

21 The compostable products revolving account is created in the
22 custody of the state treasurer. All receipts from civil penalties or
23 other amounts recovered by the state in enforcement actions under RCW
24 70.360.090 (as recodified by this act) must be deposited in the
25 account. Expenditures from the account must be used by the attorney
26 general for the payment of costs, expenses, and charges incurred in
27 the enforcement of this chapter. Only the attorney general or the
28 attorney general's designee may authorize expenditures from the
29 account. The account is subject to allotment procedures under chapter
30 43.88 RCW, but an appropriation is not required for expenditures.

31 **Sec. 1447.** RCW 70.365.010 and 2019 c 292 s 1 are each reenacted
32 and amended to read as follows:

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

35 (1) "Consumer product" means any item, including any component
36 parts and packaging, sold for residential or commercial use.

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

38 (3) "Director" means the director of the department.

1 (4) "Electronic product" includes personal computers, audio and
2 video equipment, calculators, wireless phones, game consoles, and
3 handheld devices incorporating a video screen that are used to access
4 interactive software, and the peripherals associated with such
5 products.

6 (5) "Inaccessible electronic component" means a part or component
7 of an electronic product that is located inside and entirely enclosed
8 within another material and is not capable of coming out of the
9 product or being accessed during any reasonably foreseeable use or
10 abuse of the product.

11 (6) "Manufacturer" means any person, firm, association,
12 partnership, corporation, governmental entity, organization, or joint
13 venture that produces a product or is an importer or domestic
14 distributor of a product sold or offered for sale in or into the
15 state.

16 (7) "Organohalogen" means a class of chemicals that includes any
17 chemical containing one or more halogen elements bonded to carbon.

18 (8) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS
19 chemicals" means a class of fluorinated organic chemicals containing
20 at least one fully fluorinated carbon atom.

21 (9) "Phenolic compounds" means alkylphenol ethoxylates and
22 bisphenols.

23 (10) "Phthalates" means synthetic chemical esters of phthalic
24 acid.

25 (11) "Polychlorinated biphenyls" or "PCBs" means chemical forms
26 that consist of two benzene rings joined together and containing one
27 to ten chlorine atoms attached to the benzene rings.

28 (12) "Priority chemical" means a chemical or chemical class used
29 as, used in, or put in a consumer product including:

30 (a) Perfluoroalkyl and polyfluoroalkyl substances;

31 (b) Phthalates;

32 (c) Organohalogen flame retardants;

33 (d) Flame retardants, as identified by the department under
34 chapter 70.240 RCW (as recodified by this act);

35 (e) Phenolic compounds;

36 (f) Polychlorinated biphenyls; or

37 (g) A chemical identified by the department as a priority
38 chemical under RCW 70.365.020 (as recodified by this act).

39 (13) "Safer alternative" means an alternative that is less
40 hazardous to humans or the environment than the existing chemical or

1 chemical process. A safer alternative to a particular chemical may
2 include a chemical substitute or a change in materials or design that
3 eliminates the need for a chemical alternative.

4 (14) "Sensitive population" means a category of people that is
5 identified by the department that may be or is disproportionately or
6 more severely affected by priority chemicals, such as:

- 7 (a) Men and women of childbearing age;
- 8 (b) Infants and children;
- 9 (c) Pregnant women;
- 10 (d) Communities that are highly impacted by toxic chemicals;
- 11 (e) Persons with occupational exposure; and
- 12 (f) The elderly.

13 (15) "Sensitive species" means a species or grouping of animals
14 that is identified by the department that may be or is
15 disproportionately or more severely affected by priority chemicals,
16 such as:

- 17 (a) Southern resident killer whales;
- 18 (b) Salmon; and
- 19 (c) Forage fish.

20 **Sec. 1448.** RCW 70.365.020 and 2019 c 292 s 2 are each amended to
21 read as follows:

22 Every five years, and consistent with the timeline established in
23 RCW 70.365.050 (as recodified by this act), the department, in
24 consultation with the department of health, must report to the
25 appropriate committees of the legislature its decision to designate
26 at least five priority chemicals that meet at least one of the
27 following:

28 (1) The chemical or a member of a class of chemicals are
29 identified by the department as a:

30 (a) High priority chemical of high concern for children under
31 chapter 70.240 RCW (as recodified by this act); or

32 (b) Persistent, bioaccumulative toxin under chapter 70.105 RCW
33 (as recodified by this act);

34 (2) The chemical or members of a class of chemicals are
35 regulated:

36 (a) In consumer products under chapter 70.240, 70.76, 70.95G,
37 70.280, 70.285, 70.95M, or 70.75A RCW (as recodified by this act); or

38 (b) As a hazardous substance under chapter 70.105 or 70.105D RCW
39 (as recodified by this act); or

1 (3) The department determines the chemical or members of a class
2 of chemicals are a concern for sensitive populations and sensitive
3 species after considering the following factors:

4 (a) A chemical's or members of a class of chemicals' hazard
5 traits or environmental or toxicological endpoints;

6 (b) A chemical's or members of a class of chemicals' aggregate
7 effects;

8 (c) A chemical's or members of a class of chemicals' cumulative
9 effects with other chemicals with the same or similar hazard traits
10 or environmental or toxicological endpoints;

11 (d) A chemical's or members of a class of chemicals'
12 environmental fate;

13 (e) The potential for a chemical or members of a class of
14 chemicals to degrade, form reaction products, or metabolize into
15 another chemical or a chemical that exhibits one or more hazard
16 traits or environmental or toxicological endpoints, or both;

17 (f) The potential for the chemical or class of chemicals to
18 contribute to or cause adverse health or environmental impacts;

19 (g) The chemical's or class of chemicals' potential impact on
20 sensitive populations, sensitive species, or environmentally
21 sensitive habitats;

22 (h) Potential exposures to the chemical or members of a class of
23 chemicals based on:

24 (i) Reliable information regarding potential exposures to the
25 chemical or members of a class of chemicals; and

26 (ii) Reliable information demonstrating occurrence, or potential
27 occurrence, of multiple exposures to the chemical or members of a
28 class of chemicals.

29 **Sec. 1449.** RCW 70.365.030 and 2019 c 292 s 3 are each amended to
30 read as follows:

31 (1) Every five years, and consistent with the timeline
32 established in RCW 70.365.050 (as recodified by this act), the
33 department, in consultation with the department of health, shall
34 identify priority consumer products that are a significant source of
35 or use of priority chemicals. The department must submit a report to
36 the appropriate committees of the legislature at the time that it
37 identifies a priority consumer product.

1 (2) When identifying priority consumer products under this
2 section, the department must consider, at a minimum, the following
3 criteria:

4 (a) The estimated volume of a priority chemical or priority
5 chemicals added to, used in, or present in the consumer product;

6 (b) The estimated volume or number of units of the consumer
7 product sold or present in the state;

8 (c) The potential for exposure to priority chemicals by sensitive
9 populations or sensitive species when the consumer product is used,
10 disposed of, or has decomposed;

11 (d) The potential for priority chemicals to be found in the
12 outdoor environment, with priority given to surface water,
13 groundwater, marine waters, sediments, and other ecologically
14 sensitive areas, when the consumer product is used, disposed of, or
15 has decomposed;

16 (e) If another state or nation has identified or taken regulatory
17 action to restrict or otherwise regulate the priority chemical in the
18 consumer product;

19 (f) The availability and feasibility of safer alternatives; and

20 (g) Whether the department has already identified the consumer
21 product in a chemical action plan completed under chapter 70.105 RCW
22 (as recodified by this act) as a source of a priority chemical or
23 other reports or information gathered under chapter 70.240, 70.76,
24 70.95G, 70.280, 70.285, 70.95M, or 70.75A RCW (as recodified by this
25 act).

26 (3) The department is not required to give equal weight to each
27 of the criteria in subsection (2)(a) through (g) of this section when
28 identifying priority consumer products that use or are a significant
29 source of priority chemicals.

30 (4) To assist with identifying priority consumer products under
31 this section and making determinations as authorized under RCW
32 70.365.040 (as recodified by this act), the department may request a
33 manufacturer to submit a notice to the department that contains the
34 information specified in RCW 70.240.040 (1) through (6) (as
35 recodified by this act) or other information relevant to subsection
36 (2)(a) through (d) of this section. The manufacturer must provide the
37 notice to the department no later than six months after receipt of
38 such a demand by the department.

1 (5) (a) Except as provided in (b) of this subsection, the
2 department may not identify the following as priority consumer
3 products under this section:

4 (i) Plastic shipping pallets manufactured prior to 2012;

5 (ii) Food or beverages;

6 (iii) Tobacco products;

7 (iv) Drug or biological products regulated by the United States
8 food and drug administration;

9 (v) Finished products certified or regulated by the federal
10 aviation administration or the department of defense, or both, when
11 used in a manner that was certified or regulated by such agencies,
12 including parts, materials, and processes when used to manufacture or
13 maintain such regulated or certified finished products;

14 (vi) Motorized vehicles, including on and off-highway vehicles,
15 such as all-terrain vehicles, motorcycles, side-by-side vehicles,
16 farm equipment, and personal assistive mobility devices; and

17 (vii) Chemical products used to produce an agricultural
18 commodity, as defined in RCW 17.21.020.

19 (b) The department may identify the packaging of products listed
20 in (a) of this subsection as priority consumer products.

21 (6) For an electronic product identified by the department as a
22 priority consumer product under this section, the department may not
23 make a regulatory determination under RCW 70.365.040 (as recodified
24 by this act) to restrict or require the disclosure of a priority
25 chemical in an inaccessible electronic component of the electronic
26 product.

27 **Sec. 1450.** RCW 70.365.040 and 2019 c 292 s 4 are each amended to
28 read as follows:

29 (1) Every five years, and consistent with the timeline
30 established in RCW 70.365.050 (as recodified by this act), the
31 department, in consultation with the department of health, must
32 determine regulatory actions to increase transparency and to reduce
33 the use of priority chemicals in priority consumer products. The
34 department must submit a report to the appropriate committees of the
35 legislature at the time that it determines regulatory actions. The
36 department may:

37 (a) Determine that no regulatory action is currently required;

1 (b) Require a manufacturer to provide notice of the use of a
2 priority chemical or class of priority chemicals consistent with RCW
3 70.240.040 (as recodified by this act); or

4 (c) Restrict or prohibit the manufacture, wholesale,
5 distribution, sale, retail sale, or use, or any combination thereof,
6 of a priority chemical or class of priority chemicals in a consumer
7 product.

8 (2) (a) The department may order a manufacturer to submit
9 information consistent with RCW 70.365.030(4) (as recodified by this
10 act).

11 (b) The department may require a manufacturer to provide:

12 (i) A list of products containing priority chemicals;

13 (ii) Product ingredients;

14 (iii) Information regarding exposure and chemical hazard; and

15 (iv) A description of the amount and the function of the high
16 priority chemical in the product.

17 (3) The department may restrict or prohibit a priority chemical
18 or members of a class of priority chemicals in a priority consumer
19 product when it determines:

20 (a) Safer alternatives are feasible and available; and

21 (b) (i) The restriction will reduce a significant source of or use
22 of a priority chemical; or

23 (ii) The restriction is necessary to protect the health of
24 sensitive populations or sensitive species.

25 (4) When determining regulatory actions under this section, the
26 department may consider, in addition to the criteria pertaining to
27 the selection of priority chemicals and priority consumer products
28 that are specified in RCW 70.365.020 and 70.365.030 (as recodified by
29 this act), whether:

30 (a) The priority chemical or members of a class of priority
31 chemicals are functionally necessary in the priority consumer
32 product; and

33 (b) A restriction would be consistent with regulatory actions
34 taken by another state or nation on a priority chemical or members of
35 a class of priority chemicals in a product.

36 (5) A restriction or prohibition on a priority chemical in a
37 consumer product may include exemptions or exceptions, including
38 exemptions to address existing stock of a product in commerce at the
39 time that a restriction takes effect.

1 **Sec. 1451.** RCW 70.365.050 and 2019 c 292 s 5 are each amended to
2 read as follows:

3 (1)(a) By June 1, 2020, and consistent with RCW 70.365.030 (as
4 recodified by this act), the department shall identify priority
5 consumer products that are a significant source of or use of priority
6 chemicals specified in RCW 70.365.010(12) (a) through (f) (as
7 recodified by this act).

8 (b) By June 1, 2022, and consistent with RCW 70.365.040 (as
9 recodified by this act), the department must determine regulatory
10 actions regarding the priority chemicals and priority consumer
11 products identified in (a) of this subsection.

12 (c) By June 1, 2023, the department must adopt rules to implement
13 regulatory actions determined under (b) of this subsection.

14 (2)(a) By June 1, 2024, and every five years thereafter, the
15 department shall select at least five priority chemicals specified in
16 RCW 70.365.010(12) (a) through (g) (as recodified by this act) that
17 are identified consistent with RCW 70.365.020 (as recodified by this
18 act).

19 (b) By June 1, 2025, and every five years thereafter, the
20 department must identify priority consumer products that contain any
21 new priority chemicals after notifying the appropriate committees of
22 the legislature, consistent with RCW 70.365.030 (as recodified by
23 this act).

24 (c) By June 1, 2027, and every five years thereafter, the
25 department must determine regulatory actions for any priority
26 chemicals in priority consumer products identified under (b) of this
27 subsection, consistent with RCW 70.365.040 (as recodified by this
28 act).

29 (d) By June 1, 2028, and every five years thereafter, the
30 department must adopt rules to implement regulatory actions
31 identified under (c) of this subsection.

32 (3)(a) The designation of priority chemicals by the department
33 does not take effect until the adjournment of the regular legislative
34 session immediately following the identification of chemicals, in
35 order to allow an opportunity for the legislature to add to, limit,
36 or otherwise amend the list of priority chemicals to be considered by
37 the department.

38 (b) The designation of priority consumer products by the
39 department does not take effect until the adjournment of the regular
40 legislative session immediately following the identification of

1 priority consumer products, in order to allow an opportunity for the
2 legislature to add to, limit, or otherwise amend the list of priority
3 consumer products to be considered by the department.

4 (c) The determination of regulatory actions by the department
5 does not take effect until the adjournment of the regular legislative
6 session immediately following the determination by the department, in
7 order to allow an opportunity for the legislature to add to, limit,
8 or otherwise amend the regulatory determinations by the department.

9 (d) Nothing in this subsection (3) limits the authority of the
10 department to:

11 (i) Begin to identify priority consumer products for a priority
12 chemical prior to the effective date of the designation of a priority
13 chemical;

14 (ii) Begin to consider possible regulatory actions prior to the
15 effective date of the designation of a priority consumer product; or

16 (iii) Initiate a rule-making process prior to the effective date
17 of a determination of a regulatory action.

18 (4)(a) When identifying priority chemicals and priority consumer
19 products under this chapter, the department must notify the public of
20 the selection, including the identification of the peer-reviewed
21 science and other sources of information that the department relied
22 upon, the basis for the selection, and a draft schedule for making
23 determinations. The notice must be published in the Washington State
24 Register. The department shall provide the public with an opportunity
25 for review and comment on the regulatory determinations.

26 (b)(i) By June 1, 2020, the department must create a stakeholder
27 advisory process to provide expertise, input, and a review of the
28 department's rationale for identifying priority chemicals and
29 priority consumer products and proposed regulatory determinations.
30 The input received from a stakeholder process must be considered and
31 addressed when adopting rules.

32 (ii) The stakeholder process must include, but is not limited to,
33 representatives from: Large and small business sectors; community,
34 environmental, and public health advocacy groups; local governments;
35 affected and interested businesses; an expert in scientific data
36 analysis; and public health agencies.

37 **Sec. 1452.** RCW 70.365.070 and 2019 c 292 s 7 are each amended to
38 read as follows:

1 (1) A manufacturer violating a requirement of this chapter, a
2 rule adopted under this chapter, or an order issued under this
3 chapter, is subject to a civil penalty not to exceed five thousand
4 dollars for each violation in the case of a first offense.
5 Manufacturers who are repeat violators are subject to a civil penalty
6 not to exceed ten thousand dollars for each repeat offense.

7 (2) Any penalty provided for in this section, and any order
8 issued by the department under this chapter, may be appealed to the
9 pollution control hearings board.

10 (3) All penalties collected under this chapter shall be deposited
11 in the ((state)) model toxics control operating account created in
12 RCW ((70.105D.070)) 70.105D.190.

13 **Sec. 1453.** RCW 70.365.080 and 2019 c 292 s 8 are each amended to
14 read as follows:

15 (1) The department may adopt rules as necessary for the purpose
16 of implementing, administering, and enforcing this chapter.

17 (2) (a) The department must adopt rules to implement the
18 determinations of regulatory actions specified in RCW 70.365.040(1)
19 (b) or (c) (as recodified by this act). When proposing or adopting
20 rules to implement regulatory determinations specified in this
21 subsection, the department must identify the expected costs and
22 benefits of the proposed or adopted rules to state agencies to
23 administer and enforce the rules and to private persons or
24 businesses, by category of type of person or business affected.

25 (b) A rule adopted to implement a regulatory determination
26 involving a restriction on the manufacture, wholesale, distribution,
27 sale, retail sale, or use of a priority consumer product containing a
28 priority chemical may take effect no sooner than three hundred sixty-
29 five days after the adoption of the rule.

30 (c) Each rule adopted to implement a determination of regulatory
31 action specified in RCW 70.365.040(1) (b) or (c) (as recodified by
32 this act) is a significant legislative rule for purposes of RCW
33 34.05.328. The department must prepare a small business economic
34 impact statement consistent with the requirements of RCW 19.85.040
35 for each rule to implement a determination of a regulatory action
36 specified in RCW 70.365.040(1) (b) or (c) (as recodified by this
37 act).

1 **Sec. 1454.** RCW 70.375.020 and 2019 c 344 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the content clearly requires otherwise.

5 (1)(a) "Architectural paint" or "paint" means interior and
6 exterior architectural coatings, sold in a container of five gallons
7 or less.

8 (b) "Architectural paint" or "paint" does not mean industrial
9 coatings, original equipment coatings, or specialty coatings.

10 (2) "Architectural paint stewardship assessment" or "assessment"
11 means the amount determined by a stewardship organization that must
12 be added to the purchase price of architectural paint sold in this
13 state to cover a stewardship organization's costs of administration,
14 education and outreach, collecting, transporting, and processing of
15 the leftover architectural paint managed through a statewide
16 architectural paint stewardship program.

17 (3) "Conditionally exempt small quantity generator" means a
18 dangerous waste generator whose dangerous wastes are not subject to
19 regulation under chapter 70.105 RCW (as recodified by this act),
20 hazardous waste management, solely because the waste is generated or
21 accumulated in quantities below the threshold for regulation and
22 meets the conditions prescribed in WAC ~~((173-303-070(8)(b)))~~
23 173-303-171(1), as it existed on July 28, 2019.

24 (4) "Conditionally exempt small quantity generator waste" means
25 dangerous waste generated by a conditionally exempt small quantity
26 generator.

27 (5) "Consumer" includes any household, nonprofit, small business,
28 or other entity whose leftover paint is eligible under applicable
29 laws and regulations.

30 (6) "Covered entity" means any: (a) Household; (b) conditionally
31 exempt small quantity generator of leftover oil-based and latex
32 architectural paint; or (c) generator of dangerous waste as defined
33 in RCW 70.105.010 (as recodified by this act) that brings leftover
34 architectural latex paint to a paint program collection site
35 operating under an approved Washington state paint stewardship plan.

36 (7) "Curbside service" means a waste collection, recycling, and
37 disposal service providing pickup of leftover architectural paint
38 from residential sources, such as single-family households and
39 multifamily housing, or other covered entities in quantities
40 generated from households or conditionally exempt small quantity

1 generators, provided by a solid waste collection company regulated
2 under chapter 81.77 RCW or under a contract for solid waste services
3 with any city or town.

4 (8) "Department" means the department of ecology.

5 (9) "Distributor" means a person that has a contractual
6 relationship with one or more manufacturers to market and sell
7 architectural paint to retailers in Washington.

8 (10) "End-of-life" or "end-of-life management" means activities
9 including, but not limited to, collection, transportation, reuse,
10 recycling, energy recovery, and disposal for leftover architectural
11 paint.

12 (11) "Energy recovery" means the recovery of energy in a useable
13 form from mass burning or refuse-derived fuel incineration,
14 pyrolysis, or any other means of using the heat of combustion of
15 solid waste that involves high temperature (above twelve hundred
16 degrees Fahrenheit) processing.

17 (12) "Environmentally sound management practices" means practices
18 that comply with all applicable laws and rules to protect workers,
19 public health, and the environment, provide for adequate
20 recordkeeping, tracking and documenting the fate of materials within
21 the state and beyond, and include environmental liability coverage
22 for the stewardship organization.

23 (13) "Final disposition" means the point beyond which no further
24 processing takes place and the paint has been transformed for direct
25 use as a feedstock in producing new products or is disposed of,
26 including for energy recovery, in permitted facilities.

27 (14) "Household hazardous waste" means waste that exhibits any of
28 the properties of dangerous waste that is exempt from regulation
29 under chapter 70.105 RCW (as recodified by this act) solely because
30 the waste is generated by households. Household hazardous waste may
31 also include other solid waste identified in the local hazardous
32 waste management plan prepared pursuant to chapter 70.105 RCW (as
33 recodified by this act).

34 (15) "Leftover paint" or "leftover architectural paint" means
35 architectural paint not used and no longer wanted by a consumer.

36 (16) "Moderate risk waste" means solid waste that is limited to
37 conditionally exempt small quantity generator waste and household
38 hazardous waste as defined in this chapter.

39 (17) "Paint retailer" means any person that offers architectural
40 paint for sale at retail in Washington.

1 (18) "Person" includes any individual, business, manufacturer,
2 transporter, collector, processor, retailer, charity, nonprofit
3 organization, or government agency.

4 (19) "Producer" means a manufacturer of architectural paint that
5 is sold, offered for sale, or distributed in Washington under the
6 producer's own name or other brand name.

7 (20) "Recycling" means transforming or remanufacturing waste
8 materials into usable or marketable materials for use other than
9 landfill disposal, energy recovery, or incineration. Recycling does
10 not include collection, compacting, repacking, and sorting for the
11 purpose of transport.

12 (21) "Reuse" means any operation by which an architectural paint
13 product changes ownership and is used for the same purpose for which
14 it was originally purchased.

15 (22) "Sell" or "sale" means any transfer of title for
16 consideration, including remote sales conducted through sales
17 outlets, catalogues, or the internet or any other similar electronic
18 means.

19 (23) "Stewardship organization" means a nonprofit organization
20 created by a producer or group of producers to implement a paint
21 stewardship program required under this chapter.

22 (24) "Urban cluster" means areas of population density of two
23 thousand five hundred to fifty thousand, as defined by the United
24 States census bureau.

25 (25) "Urbanized area" means areas of high population density with
26 populations of fifty thousand or greater, as defined by the United
27 States census bureau.

28 **Sec. 1455.** RCW 70.375.040 and 2019 c 344 s 4 are each amended to
29 read as follows:

30 (1) A stewardship organization representing producers shall
31 submit a plan for the implementation of a paint stewardship program
32 to the department for approval by May 30, 2020, or within one year of
33 July 28, 2019, whichever comes later. The plan must include the
34 following components:

35 (a) A description of how the program proposed under the plan will
36 collect, transport, recycle, and process leftover paint from covered
37 entities for end-of-life management, including reuse, recycling,
38 energy recovery, and disposal, using environmentally sound management
39 practices;

1 (b) Stewardship organization contact information and a list of
2 participating brands and producers under the program;

3 (c) A demonstration of sufficient funding for the architectural
4 paint stewardship program as described in the plan. The plan must
5 include a funding mechanism whereby each architectural paint producer
6 remits to the stewardship organization payment of an architectural
7 paint stewardship assessment for each container of architectural
8 paint the producer sells in this state, unless the distributor or
9 paint retailer has negotiated a voluntary agreement with the producer
10 and stewardship organization to remit the architectural paint
11 stewardship assessment directly to the stewardship organization on
12 behalf of the producer for the producer's architectural paint sold by
13 the distributor or paint retailer in the state. The plan must include
14 a proposed budget and a description of the process used to determine
15 the architectural paint stewardship assessment. The architectural
16 paint stewardship assessment must be added to the cost of all
17 architectural paint sold to Washington paint retailers and
18 distributors, unless the distributor or paint retailer has negotiated
19 an agreement voluntarily with the producer and stewardship
20 organization to remit the assessment directly to the stewardship
21 organization on behalf of the producer for the producer's
22 architectural paint sold by the distributor or paint retailer in the
23 state. Each Washington paint retailer or distributor must add the
24 assessment to the purchase price of all architectural paint sold in
25 this state. Manufacturers may not require retailers to opt to
26 participate in a voluntary remittance agreement;

27 (d) The establishment in the plan of a uniform architectural
28 paint stewardship assessment for all architectural paint sold in this
29 state, in order to ensure that the funding mechanism is equitable and
30 sustainable. For purposes of establishing the assessment, the plan
31 must categorize the sizes of paint containers sold at retail and
32 determine a uniform assessment amount that applies to each category
33 of container size. The architectural paint stewardship assessment
34 must be sufficient to recover the costs of the architectural paint
35 stewardship program. With the exception of the annual administration
36 costs paid to the department under RCW 70.375.060(4) (as recodified
37 by this act), the department may not control or have spending
38 authority related to the funds received by the stewardship
39 organization from the assessment. Funds received by the stewardship
40 organization are not state funds and are not eligible to be

1 transferred for other state purposes in an appropriations act. The
2 plan must require that any surplus funds generated from the funding
3 mechanism that exceed a reserve greater than the most recent year's
4 operating expenditures be put back into the program to either
5 increase and improve program services or reduce the cost of the
6 program and the architectural paint stewardship assessment, or both;

7 (e) A review by an independent financial auditor of the proposed
8 architectural paint stewardship assessment to ensure that any added
9 cost to paint sold in the state as a result of the paint stewardship
10 program does not exceed the costs of the program. In a report to the
11 department, the independent auditor must verify that the amount added
12 to each unit of paint will cover the costs of the paint stewardship
13 program;

14 (f) Assignment to the department of responsibility for the
15 approval of the architectural paint stewardship assessment based on
16 the information provided in the plan and the auditor's report;

17 (g) A description of the educational outreach strategy to reduce
18 the generation of leftover paint, to promote the reuse and recycling
19 of leftover paint, for the overall collection of leftover paint, and
20 for the proper end-of-life management of leftover paint. The
21 strategies may be revised by a stewardship organization based on the
22 information collected annually;

23 (h) A description of the reasonably convenient and available
24 statewide collection system, including:

25 (i) A description of how the program will provide for reasonably
26 convenient and available statewide collection of leftover paint from
27 covered entities in urban and rural areas of the state, including
28 island communities;

29 (ii) A description of how the program will incorporate existing
30 public and private waste collection services and facilities for
31 activities, which may include, but is not limited to:

32 (A) The reuse or processing of leftover architectural paint at
33 the permanent collection site; and

34 (B) The collection, transportation, and recycling or proper
35 disposal of leftover architectural paint;

36 (i) A description of how leftover paint will be managed using
37 environmentally sound management practices, including reasonably
38 following the paint waste management hierarchy of: Source reduction;
39 reuse; recycling; energy recovery; and disposal;

1 (j) A description of education and outreach efforts to promote
2 the paint stewardship program. The education and outreach efforts
3 must include strategies for reaching all sectors of the population
4 and describe how the paint stewardship program will evaluate the
5 effectiveness of its education and outreach;

6 (k) A description of collection site procedural manuals for
7 architectural paint products, including training procedures and
8 electronic copies of materials that will be provided to collection
9 sites; and

10 (l) A list of transporters that will be used to manage leftover
11 paint collected by the stewardship organization and a list of
12 potential processors to be used for final disposition.

13 (2) (a) To ensure adequate collection coverage, the plan must use
14 geographic information modeling and the information required under
15 subsection (1) (h) of this section to determine the number and
16 distribution of collection sites based on the following criteria: At
17 least ninety percent of Washington residents must have a permanent
18 collection site within a fifteen-mile radius; and unless otherwise
19 approved by the department, one additional permanent site must be
20 established for every thirty thousand residents of an urbanized area
21 and for every urban cluster of at least thirty thousand residents
22 distributed to provide convenient and reasonably equitable access for
23 residents within each.

24 (b) For the portion of the population that does not have a
25 permanent collection location within a fifteen-mile radius, the plan
26 must provide residents a reasonable opportunity to drop off leftover
27 paint at collection events. The stewardship organization, in
28 consultation with the department and the local community, will
29 determine a reasonable frequency and location of these collection
30 events, to be held in underserved areas. Special consideration is to
31 be made for providing opportunities to island and geographically
32 isolated populations.

33 (3) (a) Nothing in subsection (2) of this section prohibits a
34 program plan from identifying an available curbside service for a
35 specific area or population that provides convenient and reasonably
36 equitable access for Washington residents that is at least equivalent
37 to the level of convenience and access that would be provided by a
38 collection site.

39 (b) A fee may not be charged at the time the unwanted paint is
40 delivered or collected for management. However, this subsection

1 (3) (b) does not prohibit collectors providing curbside services from
2 charging customers a fee, as provided by city contract or by the
3 Washington utilities and transportation commission under the
4 authority of chapter 81.77 RCW, for the additional collection cost of
5 providing this service.

6 (4) The program plan must utilize the existing public and private
7 waste collection services and facilities where cost-effective and
8 mutually agreeable.

9 (5) The program must utilize existing paint retail stores as
10 collection sites where cost-effective and mutually agreeable.

11 (6) The plan must provide the collection site name and location
12 of each site statewide in Washington accepting architectural paint
13 under the program.

14 (7) A stewardship organization shall promote a paint stewardship
15 program and provide consumers, covered entities, and paint retailers
16 with educational and informational materials describing collection
17 opportunities for leftover paint statewide, the architectural paint
18 stewardship assessment used to finance the program, and promotion of
19 waste prevention, reuse, and recycling. These materials may include,
20 but are not limited to, the following:

21 (a) Signage that is prominently displayed and easily visible to
22 the consumer;

23 (b) Written materials and templates of materials for reproduction
24 by paint retailers to be provided to the consumer at the time of
25 purchase or delivery, or both;

26 (c) Advertising or other promotional materials, or both, that
27 include references to the architectural paint stewardship program;
28 and

29 (d) An explanation that the architectural paint stewardship
30 assessment has been added to the purchase price of architectural
31 paint to fund the paint stewardship program in the state. The
32 architectural paint stewardship assessment may not be described as a
33 department recycling fee at the point of retail.

34 (8) A stewardship organization must submit a new plan or plan
35 amendment to the department for approval when there is a change to
36 the amount of the assessment, if required by the department, or every
37 five years, if the department deems it necessary.

38 **Sec. 1456.** RCW 70.375.050 and 2019 c 344 s 5 are each amended to
39 read as follows:

1 (1) Each stewardship organization shall submit a paint
2 stewardship program plan in accordance with RCW 70.375.040 (as
3 recodified by this act).

4 (2) Each stewardship organization shall develop and distribute a
5 collection site procedural manual to collection sites to help ensure
6 proper management of architectural paints at collection locations.

7 (3) A stewardship organization shall implement the paint
8 stewardship program plan by November 30, 2020, or within six months
9 after approval of a paint stewardship program plan under RCW
10 70.375.040 (as recodified by this act), whichever is later.

11 (4) A stewardship organization shall submit an annual report by
12 October 15, 2020, or a later date agreed to by the department,
13 structured to be used as a basis for annual plan review by the
14 department. The report must be based on the requirements outlined in
15 RCW 70.375.080 (as recodified by this act).

16 (5) A stewardship organization shall work with producers,
17 distributors, paint retailers, and local governments to provide
18 consumers with educational and informational materials describing
19 collection opportunities for leftover paint statewide and promotion
20 of waste prevention, reuse, and recycling of leftover paint.

21 (6) A stewardship organization shall pay an annual administrative
22 fee, described in RCW 70.375.060 (as recodified by this act), in an
23 amount sufficient to cover only the department's cost of
24 administering and enforcing a paint stewardship program established
25 under this chapter.

26 **Sec. 1457.** RCW 70.375.060 and 2019 c 344 s 6 are each amended to
27 read as follows:

28 (1) The department shall review the plan within one hundred
29 twenty days of receipt, and make a determination as to whether or not
30 to approve the plan. The department shall provide a letter of
31 approval for the plan if it provides for the establishment of a paint
32 stewardship program that meets the requirements of RCW 70.375.040 and
33 70.375.050 (as recodified by this act). If a plan is rejected, the
34 department shall provide the reasons for rejecting the plan to the
35 stewardship organization. The stewardship organization must submit a
36 new plan within sixty days after receipt of the letter of
37 disapproval.

38 (2) When a plan or an amendment to an approved plan is submitted
39 under this section, the department shall make the proposed plan or

1 amendment available for public review and comment for at least thirty
2 days.

3 (3) The department shall provide oversight of a stewardship
4 organization in the determination and implementation of the
5 architectural paint stewardship assessment specified in RCW
6 70.375.040(1) (as recodified by this act).

7 (4) The department shall identify the costs it incurs under this
8 chapter. The department shall set the fee at an amount that, when
9 paid by every stewardship organization or producer that submits a
10 plan, is adequate to reimburse the department's full costs of
11 administering and enforcing this chapter. The total amount of annual
12 fees collected under this subsection must not exceed the amount
13 necessary to reimburse costs incurred by the department to enforce
14 and administer this chapter.

15 (5) A stewardship organization or producer subject to this
16 chapter must pay the department's administrative fee under this
17 subsection on or before June 30, 2020, and annually thereafter. The
18 annual administrative fee may not exceed five percent of the
19 aggregate assessment added to the cost of all architectural paint
20 sold by producers in the state for the preceding calendar year.

21 (6) The department shall enforce this chapter.

22 (a) The department may administratively impose a civil penalty on
23 any person who violates this chapter in an amount of up to one
24 thousand dollars per violation per day.

25 (b) The department may administratively impose a civil penalty of
26 up to ten thousand dollars per violation per day on any person who
27 intentionally, knowingly, or negligently violates this chapter.

28 (c) Any person who incurs a penalty under this section may appeal
29 the penalty to the pollution control hearings board established by
30 chapter 43.21B RCW.

31 (7) Upon the date the first plan is approved, the department
32 shall post on its web site a list of producers and their brands for
33 which the department has approved a plan pursuant to RCW 70.375.040
34 (as recodified by this act). The department shall update the list of
35 producers and brands participating under an approved program plan on
36 a monthly basis based on information provided to the department from
37 a stewardship organization.

38 (8) Upon a demonstration to the satisfaction of the department
39 that a previously unlisted producer is in compliance with this

1 chapter, within fourteen days the department must add the name of the
2 producer to its web site.

3 (9) The department shall review each annual report required
4 pursuant to RCW 70.375.080 (as recodified by this act) within ninety
5 days of its submission to ensure compliance with RCW 70.375.080(1)
6 (as recodified by this act).

7 (10) The department may adopt rules as necessary for the purpose
8 of implementing, administering, and enforcing this chapter.

9 **Sec. 1458.** RCW 70.375.080 and 2019 c 344 s 8 are each amended to
10 read as follows:

11 (1) By October 15, 2020, and annually thereafter, a stewardship
12 organization shall submit to the department a report describing the
13 paint stewardship program that the stewardship organization
14 implemented during the previous fiscal year. The report must include
15 all of the following:

16 (a) A description of the methods the stewardship organization
17 used to reduce, reuse, collect, transport, recycle, and process
18 leftover paint statewide in Washington;

19 (b) The volume of latex and oil-based architectural paint
20 collected by the stewardship organization in the preceding fiscal
21 year in Washington, including any increase in total volume of paint
22 collected each year, and the cost of the paint stewardship program
23 per gallon of paint collected;

24 (c) The volume of latex and oil-based architectural paint
25 collected by method of disposition, including reuse, recycling,
26 energy recovery, and disposal;

27 (d) An estimate of the total weight of all paint containers
28 recycled by the program;

29 (e) A list of all processors through final disposition that are
30 used to manage leftover paint collected by the stewardship
31 organization in the preceding year;

32 (f) A list of all the producers participating in the plan;

33 (g) The total volume of architectural paint sold in Washington
34 during the preceding year based on the architectural paint
35 stewardship assessment collected by the stewardship organization;

36 (h) An independent financial audit of the paint stewardship
37 program implemented by the stewardship organization, including a
38 breakdown of the program's expenses, such as collection, recycling,
39 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. 1459.** 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. 1460.** 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. 1461.** RCW 82.04.660 and 2015 c 185 s 2 are each amended to
15 read as follows:

16 (1) An exemption from the taxes imposed in this chapter is
17 provided for:

18 (a) Producers, with respect to environmental handling charges
19 added to the purchase price of mercury-containing lights either by
20 the producer or a retailer pursuant to an agreement with the
21 producer;

22 (b) Retailers, with respect to environmental handling charges
23 added to the purchase price of mercury-containing lights sold at
24 retail, including the portion of environmental handling charges
25 retained as reimbursement for any costs associated with the
26 collection and remittance of the charges; and

27 (c) Stewardship organizations, with respect to environmental
28 handling charges received from producers and retailers.

29 (2) This section is not subject to the requirements of RCW
30 82.32.805 and 82.32.808.

31 (3) For purposes of this section, the definitions in RCW
32 70.275.020 (as recodified by this act) apply.

33 **Sec. 1462.** RCW 82.04.755 and 2015 c 15 s 7 are each amended to
34 read as follows:

35 (1) This chapter does not apply to grants received by a nonprofit
36 organization from the matching fund competitive grant program
37 established in RCW 70.93.180(1)(b)(ii) (as recodified by this act).

1 (2) This section is not subject to the requirements of RCW
2 82.32.805 and 82.32.808, and is not subject to an expiration date.

3 **Sec. 1463.** RCW 82.04.765 and 2019 c 344 s 15 are each amended to
4 read as follows:

5 (1) This chapter does not apply to the receipts attributable to
6 the assessment on architectural paint imposed pursuant to chapter
7 70.375 RCW (as recodified by this act).

8 (2) This section is not subject to the requirements of RCW
9 82.32.805 and 82.32.808, and is not subject to an expiration date.

10 **Sec. 1464.** RCW 82.08.0287 and 2014 c 97 s 503 are each amended
11 to read as follows:

12 (1) The tax imposed by this chapter does not apply to sales of
13 passenger motor vehicles which are to be used primarily for commuter
14 ride sharing or ride sharing for persons with special transportation
15 needs, as defined in RCW 46.74.010, if the vehicles are used as ride-
16 sharing vehicles for thirty-six consecutive months beginning from the
17 date of purchase.

18 (2) To qualify for the tax exemption, those passenger motor
19 vehicles with five or six passengers, including the driver, used for
20 commuter ride sharing, must be operated either within the state's
21 eight largest counties that are required to develop commute trip
22 reduction plans as directed by chapter 70.94 RCW (as recodified by
23 this act) or in other counties, or cities and towns within those
24 counties, that elect to adopt and implement a commute trip reduction
25 plan. Additionally at least one of the following conditions must
26 apply: (a) The vehicle must be operated by a public transportation
27 agency for the general public; or (b) the vehicle must be used by a
28 major employer, as defined in RCW 70.94.524 (as recodified by this
29 act) as an element of its commute trip reduction program for their
30 employees; or (c) the vehicle must be owned and operated by
31 individual employees and must be registered either with the employer
32 as part of its commute trip reduction program or with a public
33 transportation agency serving the area where the employees live or
34 work. Individual employee owned and operated motor vehicles will
35 require certification that the vehicle is registered with a major
36 employer or a public transportation agency. Major employers who own
37 and operate motor vehicles for their employees must certify that the

1 commuter ride-sharing arrangement conforms to a carpool/vanpool
2 element contained within their commute trip reduction program.

3 **Sec. 1465.** RCW 82.08.810 and 1997 c 368 s 2 are each amended to
4 read as follows:

5 (1) For the purposes of this section, "air pollution control
6 facilities" mean any treatment works, control devices and disposal
7 systems, machinery, equipment, structures, property, property
8 improvements, and accessories, that are installed or acquired for the
9 primary purpose of reducing, controlling, or disposing of industrial
10 waste that, if released to the outdoor atmosphere, could cause air
11 pollution, or that are required to meet regulatory requirements
12 applicable to their construction, installation, or operation.

13 (2) The tax levied by RCW 82.08.020 does not apply to:

14 (a) Sales of tangible personal property to a light and power
15 business, as defined in RCW 82.16.010, for construction or
16 installation of air pollution control facilities at a thermal
17 electric generation facility; or

18 (b) Sales of, cost of, or charges made for labor and services
19 performed in respect to the construction or installation of air
20 pollution control facilities.

21 (3) The exemption provided under this section applies only to
22 sales, costs, or charges:

23 (a) Incurred for air pollution control facilities constructed or
24 installed after May 15, 1997, and used in a thermal electric
25 generation facility placed in operation after December 31, 1969, and
26 before July 1, 1975;

27 (b) If the air pollution control facilities are constructed or
28 installed to meet applicable regulatory requirements established
29 under state or federal law, including the Washington clean air act,
30 chapter 70.94 RCW (as recodified by this act); and

31 (c) For which the purchaser provides the seller with an exemption
32 certificate, signed by the purchaser or purchaser's agent, that
33 includes a description of items or services for which payment is
34 made, the amount of the payment, and such additional information as
35 the department reasonably may require.

36 (4) This section does not apply to sales of tangible personal
37 property purchased or to sales of, costs of, or charges made for
38 labor and services used for maintenance or repairs of pollution
39 control equipment.

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 as follows:

7		Portion of previously
8	Year event occurs	exempted tax due
9	2003	100%
10	2004	95%
11	2005	90%
12	2006	85%
13	2007	80%
14	2008	75%
15	2009	70%
16	2010	65%
17	2011	60%
18	2012	55%
19	2013	50%
20	2014	45%
21	2015	40%
22	2016	35%
23	2017	30%
24	2018	25%
25	2019	20%
26	2020	15%
27	2021	10%
28	2022	5%
29	2023	0%

30 (6) RCW 82.32.393 applies to this section.

31 **Sec. 1466.** RCW 82.08.811 and 1997 c 368 s 4 are each amended to
32 read as follows:

33 (1) For the purposes of this section:

34 (a) "Air pollution control facilities" means any treatment works,
35 control devices and disposal systems, machinery, equipment,

1 structure, property, property improvements, and accessories, that are
2 installed or acquired for the primary purpose of reducing,
3 controlling, or disposing of industrial waste that, if released to
4 the outdoor atmosphere, could cause air pollution, or that are
5 required to meet regulatory requirements applicable to their
6 construction, installation, or operation; and

7 (b) "Generation facility" means a coal-fired thermal electric
8 generation facility placed in operation after December 3, 1969, and
9 before July 1, 1975.

10 (2) Beginning January 1, 1999, the tax levied by RCW 82.08.020
11 does not apply to sales of coal used to generate electric power at a
12 generation facility operated by a business if the following
13 conditions are met:

14 (a) The owners must make an application to the department of
15 revenue for a tax exemption;

16 (b) The owners must make a demonstration to the department of
17 ecology that the owners have made reasonable initial progress to
18 install air pollution control facilities to meet applicable
19 regulatory requirements established under state or federal law,
20 including the Washington clean air act, chapter 70.94 RCW (as
21 recodified by this act);

22 (c) Continued progress must be made on the development of air
23 pollution control facilities to meet the requirements of the permit;
24 and

25 (d) The generation facility must emit no more than ten thousand
26 tons of sulfur dioxide during a previous consecutive twelve-month
27 period.

28 (3) During a consecutive twelve-month period, if the generation
29 facility is found to be in violation of excessive sulfur dioxide
30 emissions from a regional air pollution control authority or the
31 department of ecology, the department of ecology shall notify the
32 department of revenue and the owners of the generation facility shall
33 lose their tax exemption under this section. The owners of a
34 generation facility may reapply for the tax exemption when they have
35 once again met the conditions of subsection (2)(d) of this section.

36 (4) RCW 82.32.393 applies to this section.

37 **Sec. 1467.** RCW 82.08.036 and 1989 c 431 s 45 are each amended to
38 read as follows:

1 The tax levied by RCW 82.08.020 shall not apply to consideration:
2 (1) Received as core deposits or credits in a retail or wholesale
3 sale; or (2) received or collected upon the sale of a new replacement
4 vehicle tire as a fee imposed under RCW 70.95.510 (as recodified by
5 this act). For purposes of this section, the term "core deposits or
6 credits" means the amount representing the value of returnable
7 products such as batteries, starters, brakes, and other products with
8 returnable value added for the purpose of recycling or
9 remanufacturing.

10 **Sec. 1468.** RCW 82.08.998 and 2008 c 92 s 1 are each amended to
11 read as follows:

12 (1) The tax imposed by RCW 82.08.020 does not apply to sales of
13 tangible personal property used in the weatherization of a residence
14 under the weatherization assistance program under chapter 70.164 RCW
15 (as recodified by this act). The exemption only applies to tangible
16 personal property that becomes a component of the residence.

17 (2) The exemption is available only when the buyer provides the
18 seller with an exemption certificate in a form and manner prescribed
19 by the department. The seller must retain a copy of the certificate
20 for the seller's files.

21 (3) "Residence" and "weatherization" have the meanings provided
22 in RCW 70.164.020 (as recodified by this act).

23 **Sec. 1469.** RCW 82.12.0282 and 2014 c 97 s 504 are each amended
24 to read as follows:

25 (1) The tax imposed by this chapter does not apply with respect
26 to the use of passenger motor vehicles used primarily for commuter
27 ride sharing or ride sharing for persons with special transportation
28 needs, as defined in RCW 46.74.010, if the vehicles are used as ride-
29 sharing vehicles for thirty-six consecutive months beginning with the
30 date of first use.

31 (2) To qualify for the tax exemption, those passenger motor
32 vehicles with five or six passengers, including the driver, used for
33 commuter ride sharing, must be operated either within the state's
34 eight largest counties that are required to develop commute trip
35 reduction plans as directed by chapter 70.94 RCW (as recodified by
36 this act) or in other counties, or cities and towns within those
37 counties, that elect to adopt and implement a commute trip reduction
38 plan. Additionally at least one of the following conditions must

1 apply: (a) The vehicle must be operated by a public transportation
2 agency for the general public; or (b) the vehicle must be used by a
3 major employer, as defined in RCW 70.94.524 (as recodified by this
4 act) as an element of its commute trip reduction program for their
5 employees; or (c) the vehicle must be owned and operated by
6 individual employees and must be registered either with the employer
7 as part of its commute trip reduction program or with a public
8 transportation agency serving the area where the employees live or
9 work. Individual employee owned and operated motor vehicles will
10 require certification that the vehicle is registered with a major
11 employer or a public transportation agency. Major employers who own
12 and operate motor vehicles for their employees must certify that the
13 commuter ride-sharing arrangement conforms to a carpool/vanpool
14 element contained within their commute trip reduction program.

15 **Sec. 1470.** RCW 82.12.038 and 1989 c 431 s 46 are each amended to
16 read as follows:

17 The provisions of this chapter shall not apply: (1) To the value
18 of core deposits or credits in a retail or wholesale sale; or (2) to
19 the fees imposed under RCW 70.95.510 (as recodified by this act) upon
20 the sale of a new replacement vehicle tire. For purposes of this
21 section, the term "core deposits or credits" means the amount
22 representing the value of returnable products such as batteries,
23 starters, brakes, and other products with returnable value added for
24 the purpose of recycling or remanufacturing.

25 **Sec. 1471.** RCW 82.12.810 and 2003 c 5 s 12 are each amended to
26 read as follows:

27 (1) For the purposes of this section, "air pollution control
28 facilities" mean any treatment works, control devices and disposal
29 systems, machinery, equipment, structures, property, property
30 improvements, and accessories, that are installed or acquired for the
31 primary purpose of reducing, controlling, or disposing of industrial
32 waste that, if released to the outdoor atmosphere, could cause air
33 pollution, or that are required to meet regulatory requirements
34 applicable to their construction, installation, or operation.

35 (2) The provisions of this chapter do not apply in respect to:

36 (a) The use of air pollution control facilities installed and
37 used by a light and power business, as defined in RCW 82.16.010, in
38 generating electric power; or

1 (b) The use of labor and services performed in respect to the
2 installing of air pollution control facilities.

3 (3) The exemption provided under this section applies only to air
4 pollution control facilities that are:

5 (a) Constructed or installed after May 15, 1997, and used in a
6 thermal electric generation facility placed in operation after
7 December 31, 1969, and before July 1, 1975; and

8 (b) Constructed or installed to meet applicable regulatory
9 requirements established under state or federal law, including the
10 Washington clean air act, chapter 70.94 RCW (as recodified by this
11 act).

12 (4) This section does not apply to the use of tangible personal
13 property for maintenance or repairs of the pollution control
14 equipment or to labor and services performed in respect to such
15 maintenance or repairs.

16 (5) If production of electricity at a thermal electric generation
17 facility for any calendar year after 2002 and before 2023 falls below
18 a twenty percent annual capacity factor for the generation facility,
19 all or a portion of the tax previously exempted under this section in
20 respect to construction or installation of air pollution control
21 facilities at the generation facility shall be due according to the
22 schedule provided in RCW 82.08.810(5).

23 (6) RCW 82.32.393 applies to this section.

24 **Sec. 1472.** RCW 82.12.811 and 1997 c 368 s 6 are each amended to
25 read as follows:

26 (1) For the purposes of this section:

27 (a) "Air pollution control facilities" means any treatment works,
28 control devices and disposal systems, machinery, equipment,
29 structure, property, property improvements, and accessories, that are
30 installed or acquired for the primary purpose of reducing,
31 controlling, or disposing of industrial waste that, if released to
32 the outdoor atmosphere, could cause air pollution, or that are
33 required to meet regulatory requirements applicable to their
34 construction, installation, or operation; and

35 (b) "Generation facility" means a coal-fired thermal electric
36 generation facility placed in operation after December 3, 1969, and
37 before July 1, 1975.

38 (2) Beginning January 1, 1999, the provisions of this chapter do
39 not apply in respect to the use of coal to generate electric power at

1 a generation facility operated by a business if the following
2 conditions are met:

3 (a) The owners must make an application to the department of
4 revenue for a tax exemption;

5 (b) The owners must make a demonstration to the department of
6 ecology that the owners have made reasonable initial progress to
7 install air pollution control facilities to meet applicable
8 regulatory requirements established under state or federal law,
9 including the Washington clean air act, chapter 70.94 RCW (as
10 recodified by this act);

11 (c) Continued progress must be made on the development of air
12 pollution control facilities to meet the requirements of the permit;
13 and

14 (d) The generation facility must emit no more than ten thousand
15 tons of sulfur dioxide during a previous consecutive twelve-month
16 period.

17 (3) During a consecutive twelve-month period, if the generation
18 facility is found to be in violation of excessive sulfur dioxide
19 emissions from a regional air pollution control authority or the
20 department of ecology, the department of ecology shall notify the
21 department of revenue and the owners of the generation facility shall
22 lose their tax exemption under this section. The owners of a
23 generation facility may reapply for the tax exemption when they have
24 once again met the conditions of subsection (2)(d) of this section.

25 (4) RCW 82.32.393 applies to this section.

26 **Sec. 1473.** RCW 82.12.998 and 2008 c 92 s 2 are each amended to
27 read as follows:

28 (1) The provisions of this chapter do not apply to the use of
29 tangible personal property used in the weatherization of a residence
30 under the weatherization assistance program under chapter 70.164 RCW
31 (as recodified by this act). The exemption only applies to tangible
32 personal property that becomes a component of the residence.

33 (2) "Residence" and "weatherization" have the meanings provided
34 in RCW 70.164.020 (as recodified by this act).

35 **Sec. 1474.** RCW 82.19.040 and 2019 c 415 s 989 are each amended
36 to read as follows:

1 (1) To the extent applicable, all of the definitions of chapter
2 82.04 RCW and all of the provisions of chapter 82.32 RCW apply to the
3 tax imposed in this chapter.

4 (2) Beginning June 30, 2019, taxes collected under this chapter
5 shall be deposited in the waste reduction, recycling, and litter
6 control account under RCW 70.93.180 (as recodified by this act),
7 except that until June 30, 2021, one million two hundred fifty
8 thousand dollars per fiscal year must be deposited in equal monthly
9 amounts in the state parks renewal and stewardship account, with the
10 remainder deposited in the waste reduction, recycling, and litter
11 control account. It is the intent of the legislature to continue this
12 policy in the ensuing biennium.

13 **Sec. 1475.** RCW 82.23A.020 and 2016 c 161 s 18 are each amended
14 to read as follows:

15 (1) A tax is imposed on the privilege of possession of petroleum
16 products in this state. The rate of the tax shall be thirty one-
17 hundredths of one percent multiplied by the wholesale value of the
18 petroleum product. After July 1, 2021, the rate of tax is fifteen
19 one-hundredths of one percent multiplied by the wholesale value of
20 the petroleum product. For purposes of determining the tax imposed
21 under this section for petroleum products introduced at the rack, the
22 wholesale value is determined when the petroleum product is removed
23 at the rack unless the removal is to an exporter licensed under
24 chapter 82.38 RCW for direct delivery to a destination outside of the
25 state. For all other cases, the wholesale value is determined upon
26 the first nonbulk possession in the state.

27 (2) Except as identified in RCW 70.340.130 (as recodified by this
28 act), moneys collected under this chapter shall be deposited in the
29 pollution liability insurance program trust account under RCW
30 70.148.020 (as recodified by this act).

31 (3) Chapter 82.32 RCW applies to the tax imposed in this chapter.
32 The tax due dates, reporting periods, and return requirements
33 applicable to chapter 82.04 RCW apply equally to the tax imposed in
34 this chapter.

35 (4) Within thirty days after the end of each calendar quarter the
36 department shall determine the "quarterly balance," which shall be
37 the cash balance in the pollution liability insurance program trust
38 account as of the last day of that calendar quarter, after excluding
39 the reserves determined for that quarter under RCW 70.148.020(2) (as

1 recodified by this act). Balance determinations by the department
2 under this section are final and shall not be used to challenge the
3 validity of any tax imposed under this section. For each subsequent
4 calendar quarter, tax shall be imposed under this section during the
5 entire calendar quarter unless:

6 (a) Tax was imposed under this section during the immediately
7 preceding calendar quarter, and the most recent quarterly balance is
8 more than fifteen million dollars; or

9 (b) Tax was not imposed under this section during the immediately
10 preceding calendar quarter, and the most recent quarterly balance is
11 more than seven million five hundred thousand dollars.

12 **Sec. 1476.** RCW 82.23A.902 and 2016 c 161 s 19 are each amended
13 to read as follows:

14 This chapter expires July 1, 2030, coinciding with the expiration
15 of chapter 70.148 RCW (as recodified by this act).

16 **Sec. 1477.** RCW 82.34.030 and 1967 ex.s. c 139 s 3 are each
17 amended to read as follows:

18 A certificate shall be issued by the department within thirty
19 days after approval of the application by the appropriate control
20 agency. Such approval shall be given when it is determined that the
21 facility is designed and is operated or is intended to be operated
22 primarily for the control, capture and removal of pollutants from the
23 air or for the control and reduction of water pollution and that the
24 facility is suitable, reasonably adequate, and meets the intent and
25 purposes of chapter 70.94 RCW (as recodified by this act) or chapter
26 90.48 RCW, as the case may be, and it shall notify the department of
27 its findings within thirty days of the date on which the application
28 was submitted to it for approval. In making such determination, the
29 appropriate control agency shall afford to the applicant an
30 opportunity for a hearing: PROVIDED, That if the local or regional
31 air pollution control agency fails to act or if the applicant feels
32 aggrieved by the action of the local or regional air pollution
33 control agency, such applicant may appeal to the state air pollution
34 control board pursuant to rules and regulations established by that
35 board.

36 **Sec. 1478.** RCW 82.34.100 and 1998 c 9 s 1 are each amended to
37 read as follows:

1 (1) The department of ecology, after notice to the department and
2 the applicant and after affording the applicant an opportunity for a
3 hearing, shall, on its own initiative or on complaint of the local or
4 regional air pollution control agency in which an air pollution
5 control facility is located, or is expected to be located, revise the
6 prior findings of the appropriate control agency whenever any of the
7 following appears:

8 (a) The certificate or supplement thereto was obtained by fraud
9 or misrepresentation, or the holder of the certificate has failed
10 substantially without good cause to proceed with the construction,
11 reconstruction, installation or acquisition of a facility or without
12 good cause has failed substantially to operate the facility for the
13 purpose specified by the appropriate control agency in which case the
14 department shall modify or revoke the certificate. If the certificate
15 and/or supplement are revoked, all applicable taxes from which an
16 exemption has been secured under this chapter or against which the
17 credit provided for by this chapter has been claimed shall be
18 immediately due and payable with the maximum interest and penalties
19 prescribed by applicable law. No statute of limitations shall operate
20 in the event of fraud or misrepresentation.

21 (b) The facility covered by the certificate or supplement thereto
22 is no longer operated primarily for the purpose of the control or
23 reduction of water pollution or the control, capture, and removal of
24 pollutants from the air, as the case may be, or is no longer suitable
25 or reasonably adequate to meet the intent and purposes of chapter
26 70.94 RCW (as recodified by this act) or chapter 90.48 RCW, in which
27 case the certificate shall be modified or revoked.

28 (2) A certificate, or supplement thereto, issued pursuant to RCW
29 82.34.030 may not be revoked if:

30 (a) The facility is modified, but is still operated primarily for
31 the purpose of the control or reduction of water pollution or the
32 control, capture, and removal of pollutants from the air and is
33 reasonably adequate to meet the intent and purposes of chapter 70.94
34 (as recodified by this act) or 90.48 RCW;

35 (b) The facility is replaced by a new or different facility that
36 is still operated primarily for the purpose of the control or
37 reduction of water pollution or the control, capture, and removal of
38 pollutants from the air and is reasonably adequate to meet the intent
39 and purposes of chapter 70.94 (as recodified by this act) or 90.48
40 RCW;

1 (c) The facility is modified or removed as a result of an
2 alteration of the production process and the alteration results in
3 reasonably adequate compliance with the intent and purposes of
4 chapter 70.94 (as recodified by this act) or 90.48 RCW;

5 (d) The industrial, manufacturing, waste disposal, utility, or
6 other commercial establishment in which the facility was installed
7 ceases operations and the cessation of operation results in
8 reasonably adequate compliance with the intent and purposes of
9 chapter 70.94 (as recodified by this act) or 90.48 RCW;

10 (e) Part of an industrial, manufacturing, waste disposal,
11 utility, or other commercial establishment in which the facility was
12 installed ceases operations and the cessation of operation results in
13 reasonably adequate compliance with the intent and purposes of
14 chapter 70.94 (as recodified by this act) or 90.48 RCW; or

15 (f) The industrial, manufacturing, waste disposal, utility, or
16 other commercial establishment in which the facility was installed is
17 altered and the alteration results in reasonably adequate compliance
18 with the intent and purposes of chapter 70.94 (as recodified by this
19 act) or 90.48 RCW.

20 (3) Upon the date of mailing by certified mail to the certificate
21 holder of notice of the action of the department modifying or
22 revoking a certificate or supplement, the certificate or supplement
23 shall cease to be in force or shall remain in force only as modified.

24 **Sec. 1479.** RCW 82.44.015 and 2014 c 97 s 502 are each amended to
25 read as follows:

26 (1) Passenger motor vehicles used primarily for commuter ride
27 sharing and ride sharing for persons with special transportation
28 needs, as defined in RCW 46.74.010, are not subject to the motor
29 vehicle excise tax authorized under this chapter if the vehicles are
30 used as ride-sharing vehicles for thirty-six consecutive months
31 beginning from the date of purchase.

32 (2) To qualify for the motor vehicle excise tax exemption for
33 commuter ride-sharing vehicles, passenger motor vehicles must:

34 (a) Have a seating capacity of five or six passengers, including
35 the driver;

36 (b) Be used for commuter ride sharing;

37 (c) Be operated either within:

1 (i) The state's eight largest counties that are required to
2 develop commute trip reduction plans as directed by chapter 70.94 RCW
3 (as recodified by this act); or

4 (ii) In other counties, or cities and towns within those
5 counties, that elect to adopt and implement a commute trip reduction
6 plan; and

7 (d) Meet at least one of the following conditions:

8 (i) The vehicle must be operated by a public transportation
9 agency for the general public;

10 (ii) The vehicle must be used by a major employer, as defined in
11 RCW 70.94.524 (as recodified by this act) as an element of its
12 commute trip reduction program for their employees; or

13 (iii) The vehicle must be owned and operated by individual
14 employees and must be registered either with the employer as part of
15 its commute trip reduction program or with a public transportation
16 agency serving the area where the employees live or work. Individual
17 employee owned and operated motor vehicles will require certification
18 that the vehicle is registered with a major employer or a public
19 transportation agency. Major employers who own and operate motor
20 vehicles for their employees must certify that the commuter ride-
21 sharing arrangement conforms to a carpool/vanpool element contained
22 within their commute trip reduction program.

23 (3) The registered owner of a passenger motor vehicle described
24 in subsection (2) of this section:

25 (a) Shall notify the department upon the termination of the
26 primary use of the vehicle in commuter ride sharing or ride sharing
27 for persons with special transportation needs; and

28 (b) Is liable for the motor vehicle excise tax imposed under this
29 chapter, prorated on the remaining months for which the vehicle is
30 registered.

31 **Sec. 1480.** RCW 90.03.383 and 1991 c 350 s 1 are each amended to
32 read as follows:

33 (1) The legislature recognizes the value of interties for
34 improving the reliability of public water systems, enhancing their
35 management, and more efficiently utilizing the increasingly limited
36 resource. Given the continued growth in the most populous areas of
37 the state, the increased complexity of public water supply
38 management, and the trend toward regional planning and regional
39 solutions to resource issues, interconnections of public water

1 systems through interties provide a valuable tool to ensure reliable
2 public water supplies for the citizens of the state. Public water
3 systems have been encouraged in the past to utilize interties to
4 achieve public health and resource management objectives. The
5 legislature finds that it is in the public interest to recognize
6 interties existing and in use as of January 1, 1991, and to have
7 associated water rights modified by the department of ecology to
8 reflect current use of water through those interties, pursuant to
9 subsection (3) of this section. The legislature further finds it in
10 the public interest to develop a coordinated process to review
11 proposals for interties commencing use after January 1, 1991.

12 (2) For the purposes of this section, the following definitions
13 shall apply:

14 (a) "Interties" are interconnections between public water systems
15 permitting exchange or delivery of water between those systems for
16 other than emergency supply purposes, where such exchange or delivery
17 is within established instantaneous and annual withdrawal rates
18 specified in the systems' existing water right permits or
19 certificates, or contained in claims filed pursuant to chapter 90.14
20 RCW, and which results in better management of public water supply
21 consistent with existing rights and obligations. Interties include
22 interconnections between public water systems permitting exchange or
23 delivery of water to serve as primary or secondary sources of supply,
24 but do not include development of new sources of supply to meet
25 future demand.

26 (b) "Service area" is the area designated in a water system plan
27 or a coordinated water system plan pursuant to chapter 43.20 or
28 70.116 RCW (as recodified by this act) respectively. When a public
29 water system does not have a designated service area subject to the
30 approval process of those chapters, the service area shall be the
31 designated place of use contained in the water right permit or
32 certificate, or contained in the claim filed pursuant to chapter
33 90.14 RCW.

34 (3) Public water systems with interties existing and in use as of
35 January 1, 1991, or that have received written approval from the
36 department of health prior to that date, shall file written notice of
37 those interties with the department of health and the department of
38 ecology. The notice may be incorporated into the public water
39 system's five-year update of its water system plan, but shall be
40 filed no later than June 30, 1996. The notice shall identify the

1 location of the intertie; the dates of its first use; the purpose,
2 capacity, and current use; the intertie agreement of the parties and
3 the service areas assigned; and other information reasonably
4 necessary to modify the water right permit. Notwithstanding the
5 provisions of RCW 90.03.380 and 90.44.100, for public water systems
6 with interties existing and in use as of January 1, 1991, the
7 department of ecology, upon receipt of notice meeting the
8 requirements of this subsection, shall, as soon as practicable,
9 modify the place of use descriptions in the water right permits,
10 certificates, or claims to reflect the actual use through such
11 interties, provided that the place of use is within service area
12 designations established in a water system plan approved pursuant to
13 chapter 43.20 RCW, or a coordinated water system plan approved
14 pursuant to chapter 70.116 RCW (as recodified by this act), and
15 further provided that the water used is within the instantaneous and
16 annual withdrawal rates specified in the water right permit and that
17 no outstanding complaints of impairment to existing water rights have
18 been filed with the department of ecology prior to September 1, 1991.
19 Where such complaints of impairment have been received, the
20 department of ecology shall make all reasonable efforts to resolve
21 them in a timely manner through agreement of the parties or through
22 available administrative remedies.

23 (4) Notwithstanding the provisions of RCW 90.03.380 and
24 90.44.100, exchange or delivery of water through interties commencing
25 use after January 1, 1991, shall be permitted when the intertie
26 improves overall system reliability, enhances the manageability of
27 the systems, provides opportunities for conjunctive use, or delays or
28 avoids the need to develop new water sources, and otherwise meets the
29 requirements of this section, provided that each public water
30 system's water use shall not exceed the instantaneous or annual
31 withdrawal rate specified in its water right authorization, shall not
32 adversely affect existing water rights, and shall not be inconsistent
33 with state-approved plans such as water system plans or other plans
34 which include specific proposals for construction of interties.
35 Interties commencing use after January 1, 1991, shall not be
36 inconsistent with regional water resource plans developed pursuant to
37 chapter 90.54 RCW.

38 (5) For public water systems subject to the approval process of
39 chapter 43.20 RCW or chapter 70.116 RCW (as recodified by this act),
40 proposals for interties commencing use after January 1, 1991, shall

1 be incorporated into water system plans pursuant to chapter 43.20 RCW
2 or coordinated water system plans pursuant to chapter 70.116 RCW (as
3 recodified by this act) and submitted to the department of health and
4 the department of ecology for review and approval as provided for in
5 subsections (5) through (9) of this section. The plan shall state how
6 the proposed intertie will improve overall system reliability,
7 enhance the manageability of the systems, provide opportunities for
8 conjunctive use, or delay or avoid the need to develop new water
9 sources.

10 (6) The department of health shall be responsible for review and
11 approval of proposals for new interties. In its review the department
12 of health shall determine whether the intertie satisfies the criteria
13 of subsection (4) of this section, with the exception of water rights
14 considerations, which are the responsibility of the department of
15 ecology, and shall determine whether the intertie is necessary to
16 address emergent public health or safety concerns associated with
17 public water supply.

18 (7) If the intertie is determined by the department of health to
19 be necessary to address emergent public health or safety concerns
20 associated with public water supply, the public water system shall
21 amend its water system plan as required and shall file an application
22 with the department of ecology to change its existing water right to
23 reflect the proposed use of the water as described in the approved
24 water system plan. The department of ecology shall process the
25 application for change pursuant to RCW 90.03.380 or 90.44.100 as
26 appropriate, except that, notwithstanding the requirements of those
27 sections regarding notice and protest periods, applicants shall be
28 required to publish notice one time, and the comment period shall be
29 fifteen days from the date of publication of the notice. Within sixty
30 days of receiving the application, the department of ecology shall
31 issue findings and advise the department of health if existing water
32 rights are determined to be adversely affected. If no determination
33 is provided by the department of ecology within the sixty-day period,
34 the department of health shall proceed as if existing rights are not
35 adversely affected by the proposed intertie. The department of
36 ecology may obtain an extension of the sixty-day period by submitting
37 written notice to the department of health and to the applicant
38 indicating a definite date by which its determination will be made.
39 No additional extensions shall be granted, and in no event shall the

1 total review period for the department of ecology exceed one hundred
2 eighty days.

3 (8) If the department of health determines the proposed intertie
4 appears to meet the requirements of subsection (4) of this section
5 but is not necessary to address emergent public health or safety
6 concerns associated with public water supply, the department of
7 health shall instruct the applicant to submit to the department of
8 ecology an application for change to the underlying water right or
9 claim as necessary to reflect the new place of use. The department of
10 ecology shall consider the applications pursuant to the provisions of
11 RCW 90.03.380 and 90.44.100 as appropriate. If in its review of
12 proposed interties and associated water rights the department of
13 ecology determines that additional information is required to act on
14 the application, the department may request applicants to provide
15 information necessary for its decision, consistent with agency rules
16 and written guidelines. Parties disagreeing with the decision of the
17 department of ecology on the application for change in place of use
18 may appeal the decision to the pollution control hearings board.

19 (9) The department of health may approve plans containing
20 intertie proposals prior to the department of ecology's decision on
21 the water right application for change in place of use. However,
22 notwithstanding such approval, construction work on the intertie
23 shall not begin until the department of ecology issues the
24 appropriate water right document to the applicant consistent with the
25 approved plan.

26 **Sec. 1481.** RCW 90.03.386 and 2003 1st sp.s. c 5 s 5 are each
27 amended to read as follows:

28 (1) Within service areas established pursuant to chapter 43.20 or
29 70.116 RCW (as recodified by this act), the department of ecology and
30 the department of health shall coordinate approval procedures to
31 ensure compliance and consistency with the approved water system plan
32 or small water system management program.

33 (2) The effect of the department of health's approval of a
34 planning or engineering document that describes a municipal water
35 supplier's service area under chapter 43.20 RCW, or the local
36 legislative authority's approval of service area boundaries in
37 accordance with procedures adopted pursuant to chapter 70.116 RCW (as
38 recodified by this act), is that the place of use of a surface water
39 right or groundwater right used by the supplier includes any portion

1 of the approved service area that was not previously within the place
2 of use for the water right if the supplier is in compliance with the
3 terms of the water system plan or small water system management
4 program, including those regarding water conservation, and the
5 alteration of the place of use is not inconsistent, regarding an area
6 added to the place of use, with: Any comprehensive plans or
7 development regulations adopted under chapter 36.70A RCW; any other
8 applicable comprehensive plan, land use plan, or development
9 regulation adopted by a city, town, or county; or any watershed plan
10 approved under chapter 90.82 RCW, or a comprehensive watershed plan
11 adopted under RCW 90.54.040(1) after September 9, 2003, if such a
12 watershed plan has been approved for the area.

13 (3) A municipal water supplier must implement cost-effective
14 water conservation in accordance with the requirements of RCW
15 70.119A.180 (as recodified by this act) as part of its approved water
16 system plan or small water system management program. In preparing
17 its regular water system plan update, a municipal water supplier with
18 one thousand or more service connections must describe: (a) The
19 projects, technologies, and other cost-effective measures that
20 comprise its water conservation program; (b) improvements in the
21 efficiency of water system use resulting from implementation of its
22 conservation program over the previous six years; and (c) projected
23 effects of delaying the use of existing inchoate rights over the next
24 six years through the addition of further cost-effective water
25 conservation measures before it may divert or withdraw further
26 amounts of its inchoate right for beneficial use. When establishing
27 or extending a surface or ground water right construction schedule
28 under RCW 90.03.320, the department must take into consideration the
29 public water system's use of conserved water.

30 **Sec. 1482.** RCW 90.03.570 and 2003 1st sp.s. c 5 s 14 are each
31 amended to read as follows:

32 (1) An unperfected surface water right for municipal water supply
33 purposes or a portion thereof held by a municipal water supplier may
34 be changed or transferred in the same manner as provided by RCW
35 90.03.380 for any purpose if:

36 (a) The supplier is in compliance with the terms of an approved
37 water system plan or small water system management program under
38 chapter 43.20 or 70.116 RCW (as recodified by this act) that applies
39 to the supplier, including those regarding water conservation;

1 (b) Instream flows have been established by rule for the water
2 resource inventory area, as established in chapter 173-500 WAC as it
3 exists on September 9, 2003, that is the source of the water for the
4 transfer or change;

5 (c) A watershed plan has been approved for the water resource
6 inventory area referred to in (b) of this subsection under chapter
7 90.82 RCW and a detailed implementation plan has been completed that
8 satisfies the requirements of RCW 90.82.043 or a watershed plan has
9 been adopted after September 9, 2003, for that water resource
10 inventory area under RCW 90.54.040(1) and a detailed implementation
11 plan has been completed that satisfies the requirements of RCW
12 90.82.043; and

13 (d) Streamflows that satisfy the instream flows referred to in
14 (b) of this subsection are met or the milestones for satisfying those
15 instream flows required under (c) of this subsection are being met.

16 (2) If the criteria listed in subsection (1)(a) through (d) of
17 this section are not satisfied, an unperfected surface water right
18 for municipal water supply purposes or a portion thereof held by a
19 municipal water supplier may nonetheless be changed or transferred in
20 the same manner as provided by RCW 90.03.380 if the change or
21 transfer is:

22 (a) To provide water for an instream flow requirement that has
23 been established by the department by rule;

24 (b) Subject to streamflow protection or restoration requirements
25 contained in: A federally approved habitat conservation plan under
26 the federal endangered species act, 16 U.S.C. Sec. 1531 et seq., a
27 hydropower license of the federal energy regulatory commission, or a
28 watershed agreement established under RCW 90.03.590;

29 (c) For a water right that is subject to instream flow
30 requirements or agreements with the department and the change or
31 transfer is also subject to those instream flow requirements or
32 agreements; or

33 (d) For resolving or alleviating a public health or safety
34 emergency caused by a failing public water supply system currently
35 providing potable water to existing users, as such a system is
36 described in RCW 90.03.580, and if the change, transfer, or amendment
37 is for correcting the actual or anticipated cause or causes of the
38 public water system failure. Inadequate water rights for a public
39 water system to serve existing hookups or to accommodate future

1 population growth or other future uses do not constitute a public
2 health or safety emergency.

3 (3) If the recipient of water under a change or transfer
4 authorized by subsection (1) of this section is a water supply
5 system, the receiving system must also be in compliance with the
6 terms of an approved water system plan or small water system
7 management program under chapter 43.20 or 70.116 RCW (as recodified
8 by this act) that applies to the system, including those regarding
9 water conservation.

10 (4) The department must provide notice to affected tribes of any
11 transfer or change proposed under this section.

12 **Sec. 1483.** RCW 90.03.590 and 2003 1st sp.s. c 5 s 16 are each
13 amended to read as follows:

14 (1) On a pilot project basis, the department may enter into a
15 watershed agreement with one or more municipal water suppliers in
16 water resource inventory area number one to meet the objectives
17 established in a water resource management program approved or being
18 developed under chapter 90.82 RCW with the consent of the initiating
19 governments of the water resource inventory area. The term of an
20 agreement may not exceed ten years, but the agreement may be renewed
21 or amended upon agreement of the parties.

22 (2) A watershed agreement must be consistent with:

23 (a) Growth management plans developed under chapter 36.70A RCW
24 where these plans are adopted and in effect;

25 (b) Water supply plans and small water system management programs
26 approved under chapter 43.20 or 70.116 RCW (as recodified by this
27 act);

28 (c) Coordinated water supply plans approved under chapter 70.116
29 RCW (as recodified by this act); and

30 (d) Water use efficiency and conservation requirements and
31 standards established by the state department of health or such
32 requirements and standards as are provided in an approved watershed
33 plan, whichever are the more stringent.

34 (3) A watershed agreement must:

35 (a) Require the public water system operated by the participating
36 municipal water supplier to meet obligations under the watershed
37 plan;

38 (b) Establish performance measures and timelines for measures to
39 be completed;

1 (c) Provide for monitoring of streamflows and metering of water
2 use as needed to ensure that the terms of the agreement are met; and

3 (d) Require annual reports from the water users regarding
4 performance under the agreement.

5 (4) As needed to implement watershed agreement activities, the
6 department may provide or receive funding, or both, under its
7 existing authorities.

8 (5) The department must provide opportunity for public review of
9 a proposed agreement before it is executed. The department must make
10 proposed and executed watershed agreements and annual reports
11 available on the department's internet web site.

12 (6) The department must consult with affected local governments
13 and the state departments of health and fish and wildlife before
14 executing an agreement.

15 (7) Before executing a watershed agreement, the department must
16 conduct a government-to-government consultation with affected tribal
17 governments. The municipal water suppliers operating the public water
18 systems that are proposing to enter into the agreements must be
19 invited to participate in the consultations. During these
20 consultations, the department and the municipal water suppliers shall
21 explore the potential interest of the tribal governments or
22 governments in participating in the agreement.

23 (8) Any person aggrieved by the department's failure to satisfy
24 the requirements in subsection (3) of this section as embodied in the
25 department's decision to enter into a watershed agreement under this
26 section may, within thirty days of the execution of such an
27 agreement, appeal the department's decision to the pollution control
28 hearings board under chapter 43.21B RCW.

29 (9) Any projects implemented by a municipal water system under
30 the terms of an agreement reached under this section may be continued
31 and maintained by the municipal water system after the agreement
32 expires or is terminated as long as the conditions of the agreement
33 under which they were implemented continue to be met.

34 (10) Before December 31, 2003, and December 31, 2004, the
35 department must report to the appropriate committees of the
36 legislature the results of the pilot project provided for in this
37 section. Based on the experience of the pilot project, the department
38 must offer any suggested changes in law that would improve,
39 facilitate, and maximize the implementation of watershed plans
40 adopted under this chapter.

1 **Sec. 1484.** RCW 90.48.039 and 1994 c 257 s 19 are each amended to
2 read as follows:

3 The procedural requirements of this chapter shall not apply to
4 any person conducting a remedial action at a facility pursuant to a
5 consent decree, order, or agreed order issued pursuant to chapter
6 70.105D RCW (as recodified by this act), or to the department of
7 ecology when it conducts a remedial action under chapter 70.105D RCW
8 (as recodified by this act). The department of ecology shall ensure
9 compliance with the substantive requirements of this chapter through
10 the consent decree, order, or agreed order issued pursuant to chapter
11 70.105D RCW (as recodified by this act), or during the department-
12 conducted remedial action, through the procedures developed by the
13 department pursuant to RCW 70.105D.090 (as recodified by this act).

14 **Sec. 1485.** RCW 90.48.110 and 2007 c 343 s 13 are each amended to
15 read as follows:

16 (1) Except under subsection (2) of this section, all engineering
17 reports, plans, and specifications for the construction of new
18 sewerage systems, sewage treatment or disposal plants or systems, or
19 for improvements or extensions to existing sewerage systems or sewage
20 treatment or disposal plants, and the proposed method of future
21 operation and maintenance of said facility or facilities, shall be
22 submitted to and be approved by the department, before construction
23 thereof may begin. No approval shall be given until the department is
24 satisfied that said plans and specifications and the methods of
25 operation and maintenance submitted are adequate to protect the
26 quality of the state's waters as provided for in this chapter.
27 Approval under this chapter is not required for large on-site sewage
28 systems permitted by the department of health under chapter 70.118B
29 RCW (as recodified by this act) or for on-site sewage systems
30 regulated by local health jurisdictions under rules of the state
31 board of health.

32 (2) To promote efficiency in service delivery and
33 intergovernmental cooperation in protecting the quality of the
34 state's waters, the department may delegate the authority for review
35 and approval of engineering reports, plans, and specifications for
36 the construction of new sewerage systems, sewage treatment or
37 disposal plants or systems, or for improvements or extensions to
38 existing sewerage system or sewage treatment or disposal plants, and
39 the proposed method of future operations and maintenance of said

1 facility or facilities and industrial pretreatment systems, to local
2 units of government requesting such delegation and meeting criteria
3 established by the department.

4 (3) For any new or revised general sewer plan submitted for
5 review under this section, the department shall review and either
6 approve, conditionally approve, reject, or request amendments within
7 ninety days of the receipt of the submission of the plan. The
8 department may extend this ninety-day time limitation for new
9 submittals by up to an additional ninety days if insufficient time
10 exists to adequately review the general sewer plan. For rejections of
11 plans or extensions of the timeline, the department shall provide in
12 writing to the local government entity the reason for such action. In
13 addition, the governing body of the local government entity and the
14 department may mutually agree to an extension of the deadlines
15 contained in this section.

16 **Sec. 1486.** RCW 90.48.162 and 2007 c 343 s 12 are each amended to
17 read as follows:

18 Any county or any municipal or public corporation operating or
19 proposing to operate a sewerage system, including any system which
20 collects only domestic sewerage, which results in the disposal of
21 waste material into the waters of the state shall procure a permit
22 from the department of ecology before so disposing of such materials.
23 This section is intended to extend the permit system of RCW 90.48.160
24 to counties and municipal or public corporations and the provisions
25 of RCW 90.48.170 through 90.48.200 and 90.52.040 shall be applicable
26 to the permit requirement imposed under this section. A permit under
27 this chapter is not required for large on-site sewage systems
28 permitted by the department of health under chapter 70.118B RCW (as
29 recodified by this act) or for on-site sewage systems permitted by
30 local health jurisdictions under rules of the state board of health.

31 **Sec. 1487.** RCW 90.48.285 and 2005 c 469 s 4 are each amended to
32 read as follows:

33 The department is authorized to enter into contracts with any
34 municipal or public corporation or political subdivision within the
35 state for the purpose of assisting such agencies to finance the
36 design and construction of water pollution control projects, whether
37 procured through chapter 39.10 or 70.150 RCW (as recodified by this
38 act), or otherwise, that are necessary to prevent the discharge of

1 untreated or inadequately treated sewage or other waste into the
2 waters of the state, including but not limited to, systems for the
3 control of storm or surface waters which will provide for the removal
4 of waste or polluting materials in a manner conforming to the
5 comprehensive plan of water pollution control and abatement proposed
6 by the agencies and approved by the department. Any such contract may
7 provide for:

8 The payment by the department to a municipal or public
9 corporation or political subdivision on a monthly, quarterly, or
10 annual basis of varying amounts of moneys as advances which shall be
11 repayable by said municipal or public corporation, or political
12 subdivision under conditions determined by the department.

13 Contracts made by the department shall be subject to the
14 following limitations:

15 (1) No contract shall be made unless the department shall find
16 that the project cannot be financed at reasonable cost or within
17 statutory limitations by the borrower without the making of such
18 contract.

19 (2) No contract shall be made with any public or municipal
20 corporation or political subdivision to assist in the financing of
21 any project located within a sewage drainage basin for which the
22 department shall have previously adopted a comprehensive water
23 pollution control and abatement plan unless the project is found by
24 the department to conform with the basin comprehensive plan.

25 (3) The department shall determine the interest rate, not to
26 exceed ten percent per annum, which such advances shall bear.

27 (4) The department shall provide such reasonable terms and
28 conditions of repayment of advances as it may determine.

29 (5) The total outstanding amount which the department may at any
30 time be obligated to pay under all outstanding contracts made
31 pursuant to this section shall not exceed the moneys available for
32 such payment.

33 (6) Municipal or public corporations or political subdivisions
34 shall meet such qualifications and follow such procedures in applying
35 for contract assistance as shall be established by the department.

36 In making such contracts the department shall give priority to
37 projects which will provide relief from actual or potential public
38 health hazards or water pollution conditions and which provide
39 substantial capacity beyond present requirements to meet anticipated
40 future demand.

1 **Sec. 1488.** RCW 90.48.530 and 2003 c 210 s 1 are each amended to
2 read as follows:

3 (1) In order to ensure that construction projects involving the
4 use of fill material do not pose a threat to water quality, the
5 department may require that the suitability of potential fill
6 material be evaluated using a leaching test included in the soil
7 clean-up rules adopted by the department under chapter 70.105D RCW
8 (as recodified by this act) in any water quality certification issued
9 under section 401 of the federal clean water act and in any
10 administrative order issued under this chapter, where such
11 certification or administrative order authorizes the placement of
12 fill material, some or all of which will be placed in waters of the
13 state. Any such requirement imposed by the department in a water
14 quality certification or administrative order issued prior to May 9,
15 2003, is ratified and approved by the legislature as a valid and
16 reliable method for determining concentrations of chemical
17 constituents that can be present in fill material without posing an
18 unacceptable risk of violating water quality standards, and shall be
19 in effect as imposed by the department for all work not completed by
20 June 1, 2003.

21 (2) Nothing in this section limits, in any way, the department's
22 authority under this chapter.

23 **Sec. 1489.** RCW 90.48.531 and 2003 c 210 s 2 are each amended to
24 read as follows:

25 The department shall identify the leaching tests utilized for
26 evaluating the potential impacts to water quality in situations where
27 fill material is imported. The tests may include those identified in
28 the soil clean-up rules adopted by the department under chapter
29 70.105D RCW (as recodified by this act). Within existing resources,
30 the department shall assess whether this list of leaching tests
31 provides appropriate methods for analyzing water quality impacts for
32 all types of projects and in all circumstances where fill material is
33 imported. The department shall also identify any gaps in leaching
34 test methodology. The department shall report both the leaching test
35 list and the list of test methodology gaps to the appropriate
36 committees of the legislature by December 31, 2003.

37 **Sec. 1490.** RCW 90.52.030 and 1971 ex.s. c 160 s 3 are each
38 amended to read as follows:

1 Operation of an industrial or commercial operation in violation
2 of RCW 90.52.010 may be enjoined on petition of the attorney general
3 to the superior court of Thurston county or of the county in which
4 the operation is located.

5 Operation of an industrial or commercial operation in violation
6 of this chapter shall provide the basis of a civil penalty under RCW
7 90.48.144 or 70.94.431 (as recodified by this act) as now or are
8 hereafter amended. No person may discharge wastes into the waters or
9 air of the state who fails to satisfy the requirements of RCW
10 90.52.010 and 90.52.040.

11 **Sec. 1491.** RCW 90.56.010 and 2015 c 274 s 3 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) "Best achievable protection" means the highest level of
16 protection that can be achieved through the use of the best
17 achievable technology and those staffing levels, training procedures,
18 and operational methods that provide the greatest degree of
19 protection achievable. The director's determination of best
20 achievable protection shall be guided by the critical need to protect
21 the state's natural resources and waters, while considering (a) the
22 additional protection provided by the measures; (b) the technological
23 achievability of the measures; and (c) the cost of the measures.

24 (2) "Best achievable technology" means the technology that
25 provides the greatest degree of protection taking into consideration
26 (a) processes that are being developed, or could feasibly be
27 developed, given overall reasonable expenditures on research and
28 development, and (b) processes that are currently in use. In
29 determining what is best achievable technology, the director shall
30 consider the effectiveness, engineering feasibility, and commercial
31 availability of the technology.

32 (3) "Board" means the pollution control hearings board.

33 (4) "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 (5) "Cargo vessel" means a self-propelled ship in commerce, other
37 than a tank vessel or a passenger vessel, three hundred or more gross
38 tons, including but not limited to, commercial fish processing
39 vessels and freighters.

1 (6) "Committee" means the preassessment screening committee
2 established under RCW 90.48.368.

3 (7) "Covered vessel" means a tank vessel, cargo vessel, or
4 passenger vessel.

5 (8) "Crude oil" means any naturally occurring hydrocarbons coming
6 from the earth that are liquid at twenty-five degrees Celsius and one
7 atmosphere of pressure including, but not limited to, crude oil,
8 bitumen and diluted bitumen, synthetic crude oil, and natural gas
9 well condensate.

10 (9) "Department" means the department of ecology.

11 (10) "Director" means the director of the department of ecology.

12 (11) "Discharge" means any spilling, leaking, pumping, pouring,
13 emitting, emptying, or dumping.

14 (12)(a) "Facility" means any structure, group of structures,
15 equipment, pipeline, or device, other than a vessel, located on or
16 near the navigable waters of the state that transfers oil in bulk to
17 or from a tank vessel or pipeline, that is used for producing,
18 storing, handling, transferring, processing, or transporting oil in
19 bulk.

20 (b) For the purposes of oil spill contingency planning in RCW
21 90.56.210, facility also means a railroad that is not owned by the
22 state that transports oil as bulk cargo.

23 (c) Except as provided in (b) of this subsection, a facility does
24 not include any: (i) Railroad car, motor vehicle, or other rolling
25 stock while transporting oil over the highways or rail lines of this
26 state; (ii) underground storage tank regulated by the department or a
27 local government under chapter 90.76 RCW (as recodified by this act);
28 (iii) motor vehicle motor fuel outlet; (iv) facility that is operated
29 as part of an exempt agricultural activity as provided in RCW
30 82.04.330; or (v) marine fuel outlet that does not dispense more than
31 three thousand gallons of fuel to a ship that is not a covered
32 vessel, in a single transaction.

33 (13) "Fund" means the state coastal protection fund as provided
34 in RCW 90.48.390 and 90.48.400.

35 (14) "Having control over oil" shall include but not be limited
36 to any person using, storing, or transporting oil immediately prior
37 to entry of such oil into the waters of the state, and shall
38 specifically include carriers and bailees of such oil.

1 (15) "Marine facility" means any facility used for tank vessel
2 wharfage or anchorage, including any equipment used for the purpose
3 of handling or transferring oil in bulk to or from a tank vessel.

4 (16) "Navigable waters of the state" means those waters of the
5 state, and their adjoining shorelines, that are subject to the ebb
6 and flow of the tide and/or are presently used, have been used in the
7 past, or may be susceptible for use to transport intrastate,
8 interstate, or foreign commerce.

9 (17) "Necessary expenses" means the expenses incurred by the
10 department and assisting state agencies for (a) investigating the
11 source of the discharge; (b) investigating the extent of the
12 environmental damage caused by the discharge; (c) conducting actions
13 necessary to clean up the discharge; (d) conducting predamage and
14 damage assessment studies; and (e) enforcing the provisions of this
15 chapter and collecting for damages caused by a discharge.

16 (18) "Offshore facility" means any facility located in, on, or
17 under any of the navigable waters of the state, but does not include
18 a facility any part of which is located in, on, or under any land of
19 the state, other than submerged land.

20 (19) "Oil" or "oils" means oil of any kind that is liquid at
21 twenty-five degrees Celsius and one atmosphere of pressure and any
22 fractionation thereof, including, but not limited to, crude oil,
23 bitumen, synthetic crude oil, natural gas well condensate, petroleum,
24 gasoline, fuel oil, diesel oil, biological oils and blends, oil
25 sludge, oil refuse, and oil mixed with wastes other than dredged
26 spoil. Oil does not include any substance listed in Table 302.4 of 40
27 C.F.R. Part 302 adopted August 14, 1989, under section 102(a) of the
28 federal comprehensive environmental response, compensation, and
29 liability act of 1980, as amended by P.L. 99-499.

30 (20) "Onshore facility" means any facility any part of which is
31 located in, on, or under any land of the state, other than submerged
32 land, that because of its location, could reasonably be expected to
33 cause substantial harm to the environment by discharging oil into or
34 on the navigable waters of the state or the adjoining shorelines.

35 (21)(a) "Owner or operator" means (i) in the case of a vessel,
36 any person owning, operating, or chartering by demise, the vessel;
37 (ii) in the case of an onshore or offshore facility, any person
38 owning or operating the facility; and (iii) in the case of an
39 abandoned vessel or onshore or offshore facility, the person who

1 owned or operated the vessel or facility immediately before its
2 abandonment.

3 (b) "Operator" does not include any person who owns the land
4 underlying a facility if the person is not involved in the operations
5 of the facility.

6 (22) "Passenger vessel" means a ship of three hundred or more
7 gross tons with a fuel capacity of at least six thousand gallons
8 carrying passengers for compensation.

9 (23) "Person" means any political subdivision, government agency,
10 municipality, industry, public or private corporation, copartnership,
11 association, firm, individual, or any other entity whatsoever.

12 (24) "Ship" means any boat, ship, vessel, barge, or other
13 floating craft of any kind.

14 (25) "Spill" means an unauthorized discharge of oil or hazardous
15 substances into the waters of the state.

16 (26) "Tank vessel" means a ship that is constructed or adapted to
17 carry, or that carries, oil in bulk as cargo or cargo residue, and
18 that:

19 (a) Operates on the waters of the state; or

20 (b) Transfers oil in a port or place subject to the jurisdiction
21 of this state.

22 (27) "Waters of the state" includes lakes, rivers, ponds,
23 streams, inland waters, underground water, salt waters, estuaries,
24 tidal flats, beaches and lands adjoining the seacoast of the state,
25 sewers, and all other surface waters and watercourses within the
26 jurisdiction of the state of Washington.

27 (28) "Worst case spill" means: (a) In the case of a vessel, a
28 spill of the entire cargo and fuel of the vessel complicated by
29 adverse weather conditions; and (b) in the case of an onshore or
30 offshore facility, the largest foreseeable spill in adverse weather
31 conditions.

32 **Sec. 1492.** RCW 90.58.355 and 2015 3rd sp.s. c 15 s 9 are each
33 amended to read as follows:

34 Requirements to obtain a substantial development permit,
35 conditional use permit, variance, letter of exemption, or other
36 review conducted by a local government to implement this chapter do
37 not apply to:

38 (1) Any person conducting a remedial action at a facility
39 pursuant to a consent decree, order, or agreed order issued pursuant

1 to chapter 70.105D RCW (as recodified by this act), or to the
2 department of ecology when it conducts a remedial action under
3 chapter 70.105D RCW (as recodified by this act). The department must
4 ensure compliance with the substantive requirements of this chapter
5 through the consent decree, order, or agreed order issued pursuant to
6 chapter 70.105D RCW (as recodified by this act), or during the
7 department-conducted remedial action, through the procedures
8 developed by the department pursuant to RCW 70.105D.090 (as
9 recodified by this act);

10 (2) Any person installing site improvements for stormwater
11 treatment in an existing boatyard facility to meet requirements of a
12 national pollutant discharge elimination system stormwater general
13 permit. The department must ensure compliance with the substantive
14 requirements of this chapter through the review of engineering
15 reports, site plans, and other documents related to the installation
16 of boatyard stormwater treatment facilities; or

17 (3) The department of transportation projects and activities that
18 meet the conditions of RCW 90.58.356.

19 **Sec. 1493.** RCW 90.71.270 and 2007 c 341 s 9 are each amended to
20 read as follows:

21 (1) The council shall appoint a nine-member Puget Sound science
22 panel to provide independent, nonrepresentational scientific advice
23 to the council and expertise in identifying environmental indicators
24 and benchmarks for incorporation into the action agenda.

25 (2) In establishing the panel, the council shall request the
26 Washington academy of sciences, created in chapter 70.220 RCW (as
27 recodified by this act), to nominate fifteen scientists with
28 recognized expertise in fields of science essential to the recovery
29 of Puget Sound. Nominees should reflect the full range of scientific
30 and engineering disciplines involved in Puget Sound recovery. At a
31 minimum, the Washington academy of sciences shall consider making
32 nominations from scientists associated with federal, state, and local
33 agencies, tribes, the business and environmental communities, members
34 of the K-12, college, and university communities, and members of the
35 board. The solicitation should be to all sectors, and candidates may
36 be from all public and private sectors. Persons nominated by the
37 Washington academy of sciences must disclose any potential conflicts
38 of interest, and any financial relationship with any leadership

1 councilmember, and disclose sources of current financial support and
2 contracts relating to Puget Sound recovery.

3 (3) The panel shall select a chair and a vice chair. Panel
4 members shall serve four-year terms, except that the council shall
5 determine initial terms of two, three, and four years to provide for
6 staggered terms. The council shall determine reappointments and
7 select replacements or additional members of the panel. No panel
8 member may serve longer than twelve years.

9 (4) The executive director shall designate a lead staff scientist
10 to coordinate panel actions, and administrative staff to support
11 panel activities. The legislature intends to provide ongoing funding
12 for staffing of the panel to ensure that it has sufficient capacity
13 to provide independent scientific advice.

14 (5) The executive director of the partnership and the science
15 panel shall explore a shared state and federal responsibility for the
16 staffing and administration of the panel. In the event that a
17 federally sponsored Puget Sound recovery office is created, the
18 council may propose that such office provide for staffing and
19 administration of the panel.

20 (6) The panel shall assist the council in developing and revising
21 the action agenda, making recommendations to the action agenda, and
22 making recommendations to the council for updates or revisions.

23 (7) Members of the panel shall be reimbursed for travel expenses
24 under RCW 43.03.050 and 43.03.060, and based upon the availability of
25 funds, the council may contract with members of the panel for
26 compensation for their services under chapter 39.29 RCW. If
27 appointees to the panel are employed by the federal, state, tribal,
28 or local governments, the council may enter into interagency
29 personnel agreements.

30 **Sec. 1494.** RCW 90.71.340 and 2007 c 341 s 16 are each amended to
31 read as follows:

32 (1) The legislature intends that fiscal incentives and
33 disincentives be used as accountability measures designed to achieve
34 consistency with the action agenda by:

35 (a) Ensuring that projects and activities in conflict with the
36 action agenda are not funded;

37 (b) Aligning environmental investments with strategic priorities
38 of the action agenda; and

1 (c) Using state grant and loan programs to encourage consistency
2 with the action agenda.

3 (2) The council shall adopt measures to ensure that funds
4 appropriated for implementation of the action agenda and identified
5 by proviso or specifically referenced in the omnibus appropriations
6 act pursuant to RCW 43.88.030(1)(g) are expended in a manner that
7 will achieve the intended results. In developing such performance
8 measures, the council shall establish criteria for the expenditure of
9 the funds consistent with the responsibilities and timelines under
10 the action agenda, and require reporting and tracking of funds
11 expended. The council may adopt other measures, such as requiring
12 interagency agreements regarding the expenditure of provided or
13 specifically referenced Puget Sound funds.

14 (3) The partnership shall work with other state agencies
15 providing grant and loan funds or other financial assistance for
16 projects and activities that impact the health of the Puget Sound
17 ecosystem under chapters 43.155, 70.105D (as recodified by this act),
18 70.146 (as recodified by this act), 77.85, 79.105, 79A.15, 89.08, and
19 90.50A RCW to, within the authorities of the programs, develop
20 consistent funding criteria that prohibits funding projects and
21 activities that are in conflict with the action agenda.

22 (4) The partnership shall develop a process and criteria by which
23 entities that consistently achieve outstanding progress in
24 implementing the action agenda are designated as Puget Sound
25 partners. State agencies shall work with the partnership to revise
26 their grant, loan, or other financial assistance allocation criteria
27 to create a preference for entities designated as Puget Sound
28 partners for funds allocated to the Puget Sound basin, pursuant to
29 RCW 43.155.070, (~~(70.105D.070,)~~) 70.146.070 (as recodified by this
30 act), 77.85.130, 79.105.150, 79A.15.040, 89.08.520, and 90.50A.040.
31 This process shall be developed on a timeline that takes into
32 consideration state grant and loan funding cycles.

33 (5) Any entity that receives state funds to implement actions
34 required in the action agenda shall report biennially to the council
35 on progress in completing the action and whether expected results
36 have been achieved within the time frames specified in the action
37 agenda.

38 **Sec. 1495.** RCW 90.71.370 and 2019 c 422 s 412 are each amended
39 to read as follows:

1 (1) By December 1, 2008, and by September 1st of each even-
2 numbered year beginning in 2010, the council must provide to the
3 governor and the appropriate fiscal committees of the senate and
4 house of representatives its recommendations for the funding
5 necessary to implement the action agenda in the succeeding biennium.
6 The recommendations must:

7 (a) Identify the funding needed by action agenda element;

8 (b) Address funding responsibilities among local, state, and
9 federal governments, as well as nongovernmental funding; and

10 (c) Address funding needed to support the work of the
11 partnership, the panel, the ecosystem work group, and entities
12 assisting in coordinating local efforts to implement the plan.

13 (2) In the 2008 report required under subsection (1) of this
14 section, the council must include recommendations for projected
15 funding needed through 2020 to implement the action agenda; funding
16 needs for science panel staff; identify methods to secure stable and
17 sufficient funding to meet these needs; and include proposals for new
18 sources of funding to be dedicated to Puget Sound protection and
19 recovery. In preparing the science panel staffing proposal, the
20 council must consult with the panel.

21 (3) By November 1st of each odd-numbered year beginning in 2009,
22 the council must produce a state of the Sound report that includes,
23 at a minimum:

24 (a) An assessment of progress by state and nonstate entities in
25 implementing the action agenda, including accomplishments in the use
26 of state funds for action agenda implementation;

27 (b) A description of actions by implementing entities that are
28 inconsistent with the action agenda and steps taken to remedy the
29 inconsistency;

30 (c) The comments by the panel on progress in implementing the
31 plan, as well as findings arising from the assessment and monitoring
32 program;

33 (d) A review of citizen concerns provided to the partnership and
34 the disposition of those concerns;

35 (e) A review of the expenditures of funds to state agencies for
36 the implementation of programs affecting the protection and recovery
37 of Puget Sound, and an assessment of whether the use of the funds is
38 consistent with the action agenda; and

39 (f) An identification of all funds provided to the partnership,
40 and recommendations as to how future state expenditures for all

1 entities, including the partnership, could better match the
2 priorities of the action agenda.

3 (4) (a) The council must review state programs that fund
4 facilities and activities that may contribute to action agenda
5 implementation. By November 1, 2009, the council must provide initial
6 recommendations regarding program changes to the governor and
7 appropriate fiscal and policy committees of the senate and house of
8 representatives. By November 1, 2010, the council must provide final
9 recommendations regarding program changes, including proposed
10 legislation to implement the recommendation, to the governor and
11 appropriate fiscal and policy committees of the senate and house of
12 representatives.

13 (b) The review in this subsection must be conducted with the
14 active assistance and collaboration of the agencies administering
15 these programs, and in consultation with local governments and other
16 entities receiving funding from these programs:

17 (i) Water pollution control facilities financing, chapter 70.146
18 RCW (as recodified by this act);

19 (ii) The water pollution control revolving fund, chapter 90.50A
20 RCW;

21 (iii) The public works assistance account, chapter 43.155 RCW;

22 (iv) The aquatic lands enhancement account, RCW 79.105.150;

23 (v) The model toxics control operating, capital, and stormwater
24 accounts and clean-up program, chapter 70.105D RCW (as recodified by
25 this act);

26 (vi) The acquisition of habitat conservation and outdoor
27 recreation land, chapter 79A.15 RCW;

28 (vii) The salmon recovery funding board, RCW 77.85.110 through
29 77.85.150;

30 (viii) The community economic revitalization board, chapter
31 43.160 RCW;

32 (ix) Other state financial assistance to water quality-related
33 projects and activities; and

34 (x) Water quality financial assistance from federal programs
35 administered through state programs or provided directly to local
36 governments in the Puget Sound basin.

37 (c) The council's review must include but not be limited to:

38 (i) Determining the level of funding and types of projects and
39 activities funded through the programs that contribute to
40 implementation of the action agenda;

1 (ii) Evaluating the procedures and criteria in each program for
2 determining which projects and activities to fund, and their
3 relationship to the goals and priorities of the action agenda;

4 (iii) Assessing methods for ensuring that the goals and
5 priorities of the action agenda are given priority when program
6 funding decisions are made regarding water quality-related projects
7 and activities in the Puget Sound basin and habitat-related projects
8 and activities in the Puget Sound basin;

9 (iv) Modifying funding criteria so that projects, programs, and
10 activities that are inconsistent with the action agenda are
11 ineligible for funding;

12 (v) Assessing ways to incorporate a strategic funding approach
13 for the action agenda within the outcome-focused performance measures
14 required by RCW 43.41.270 in administering natural resource-related
15 and environmentally based grant and loan programs.

16 (5) During the 2009-2011 fiscal biennium, the council's review
17 must result in a ranking of projects affecting the protection and
18 recovery of the Puget Sound basin that are proposed in the governor's
19 capital budget submitted under RCW 43.88.060. The ranking must
20 include recommendations for reallocation of total requested funds for
21 Puget Sound basin projects to achieve the greatest positive outcomes
22 for protection and recovery of Puget Sound and must be submitted to
23 the appropriate fiscal committees of the legislature no later than
24 February 1, 2011.

25 (6) During the 2011-2013 fiscal biennium, the council must by
26 November 1, 2012, produce the state of the Sound report as defined in
27 subsection (3) of this section.

28 **Sec. 1496.** RCW 90.76.040 and 1998 c 155 s 3 are each amended to
29 read as follows:

30 (1) A city, town, or county may apply to the department to have
31 an area within its jurisdictional boundaries designated an
32 environmentally sensitive area. A city, town, or county may submit a
33 joint application with any other city, town, or county for joint
34 administration under chapter 39.34 RCW of a single environmentally
35 sensitive area located in both jurisdictions.

36 (2) A city, town, or county may adopt proposed ordinances or
37 resolutions establishing requirements for underground storage tanks
38 located within an environmentally sensitive area that are more
39 stringent than the statewide standards established under RCW

1 90.76.020 (as recodified by this act). Proposed local ordinances and
2 resolutions shall only apply to new underground storage tank
3 installations. The local government adopting the ordinances and
4 resolutions shall submit them to the department for approval.
5 Disapproved ordinances and resolutions may be modified and
6 resubmitted to the department for approval. Proposed local ordinances
7 and resolutions become effective when approved by the department.

8 (3) The department shall approve or disapprove each proposed
9 local ordinance or resolution based on the following criteria:

10 (a) The area to be regulated is found to be an environmentally
11 sensitive area based on rules adopted by the department; and

12 (b) The proposed local regulations are reasonably consistent with
13 previously approved local regulations for similar environmentally
14 sensitive areas.

15 (4) A city, town, or county for which a proposed local ordinance
16 or resolution establishing more stringent requirements is approved by
17 the department may establish local tank fees that meet the
18 requirements of RCW 90.76.090 (as recodified by this act), if such
19 fees are necessary for enhanced program administration or
20 enforcement.

21 **Sec. 1497.** RCW 90.76.050 and 2007 c 147 s 4 are each amended to
22 read as follows:

23 (1) A person delivering regulated substances to underground
24 storage tanks shall not deliver or deposit regulated substances to
25 underground storage tanks or facilities that do not have a facility
26 compliance tag displayed as required in RCW 90.76.020(5)(a) (as
27 recodified by this act). Additionally, a person delivering regulated
28 substances to underground storage tanks shall not deliver or deposit
29 regulated substances to an individual underground storage tank on
30 which the department has placed a red tag under RCW 90.76.020(6) (as
31 recodified by this act).

32 (2) An owner or operator of an underground storage tank system or
33 facility shall not accept delivery or deposit of regulated substances
34 to that underground storage tank system or facility, if the system
35 does not have a facility compliance tag displayed as required in RCW
36 90.76.020(5)(a) (as recodified by this act). Additionally, an owner
37 or operator of an underground storage tank system or facility shall
38 not accept delivery or deposit of regulated substances to an

1 individual underground storage tank on which the department has
2 placed a red tag under RCW 90.76.020(6) (as recodified by this act).

3 (3) A supplier shall not refuse to deliver regulated substances
4 to an underground storage tank regulated under this chapter on the
5 basis of its potential to leak contents where the facility displays a
6 valid facility compliance tag as required in this chapter, and the
7 department has not placed a red tag on the underground storage tank.
8 This section does not apply to a supplier who does not directly
9 transfer a regulated substance into an underground storage tank.

10 **Sec. 1498.** RCW 90.76.070 and 2007 c 147 s 5 are each amended to
11 read as follows:

12 The director may seek appropriate injunctive or other judicial
13 relief by filing an action in Thurston county superior court or issue
14 such order as the director deems appropriate to:

15 (1) Enjoin any threatened or continuing violation of this chapter
16 or rules adopted under this chapter;

17 (2) Restrain immediately and effectively a person from engaging
18 in unauthorized activity that results in a violation of any
19 requirement of this chapter or rules adopted under this chapter and
20 is endangering or causing damage to public health or the environment;

21 (3) Require compliance with requests for information, access,
22 testing, or monitoring under RCW 90.76.060 (as recodified by this
23 act); or

24 (4) Assess and recover civil penalties authorized under RCW
25 90.76.080 (as recodified by this act).

26 **Sec. 1499.** RCW 90.76.090 and 2007 c 147 s 7 are each amended to
27 read as follows:

28 (1) An annual tank fee of one hundred twenty dollars per tank is
29 effective July 1, 2007, to June 30, 2008. An annual tank fee of one
30 hundred forty dollars per tank is effective from July 1, 2008, to
31 June 30, 2009. Effective July 1, 2009, the annual tank fee will
32 increase up to one hundred sixty dollars per tank unless the
33 department has received sufficient additional federal grant funding
34 to offset the increased cost of implementation of the underground
35 storage tank compliance act of 2005 (Title XV, Subtitle B of the
36 energy policy act of 2005). Annually, beginning on July 1, 2010, and
37 upon a finding by the department that a fee increase is necessary,
38 the previous tank fee amount may be increased up to the fiscal growth

1 factor for the next year. The fiscal growth factor is calculated by
2 the office of financial management under RCW 43.135.025 for the
3 upcoming biennium. The department shall use the fiscal growth factor
4 to calculate the fee for the next year and shall publish the new fee
5 by March 1st before the year for which the new fee is effective. The
6 new tank fee is effective from July 1st to June 30th of every year.
7 The tank fee shall be paid by every person who:

8 (a) Owns an underground storage tank located in this state; and

9 (b) Was required to provide notification to the department under
10 the federal act.

11 This fee is not required of persons who have (i) permanently
12 closed their tanks, and (ii) if required, have completed corrective
13 action in accordance with the rules adopted under this chapter.

14 (2) The department may authorize the imposition of additional
15 annual local tank fees in environmentally sensitive areas designated
16 under RCW 90.76.040 (as recodified by this act). Annual local tank
17 fees may not exceed fifty percent of the annual state tank fee.

18 (3) State and local tank fees collected under this section shall
19 be deposited in the account established under RCW 90.76.100 (as
20 recodified by this act).

21 (4) Other than the annual local tank fee authorized for
22 environmentally sensitive areas, no local government may levy an
23 annual tank fee on the ownership or operation of an underground
24 storage tank.

25 **Sec. 1500.** RCW 90.76.100 and 1991 sp.s. c 13 s 72 are each
26 amended to read as follows:

27 The underground storage tank account is created in the state
28 treasury. Money in the account may only be spent, subject to
29 legislative appropriation, for the administration and enforcement of
30 the underground storage tank program established under this chapter.
31 The account shall contain:

32 (1) All fees collected under RCW 90.76.090 (as recodified by this
33 act); and

34 (2) All fines or penalties collected under RCW 90.76.080 (as
35 recodified by this act).

36 **Sec. 1501.** RCW 90.76.110 and 2007 c 147 s 8 are each amended to
37 read as follows:

1 (1) Except as provided in RCW 90.76.040 (as recodified by this
2 act) and subsections (2), (3), (4), and (5) of this section, the
3 rules adopted under this chapter supersede and preempt any state or
4 local underground storage tank law, ordinance, or resolution
5 governing any aspect of regulation covered by the rules adopted under
6 this chapter.

7 (2) Provisions of the international fire code adopted under
8 chapter 19.27 RCW, which are not more stringent than, and do not
9 directly conflict with, rules adopted under this chapter are not
10 superseded or preempted.

11 (3) Local laws, ordinances, and resolutions pertaining to local
12 authority to take immediate action in response to a release of a
13 regulated substance are not superseded or preempted.

14 (4) City, town, or county underground storage tank ordinances
15 that are more stringent than the federal regulations and the uniform
16 codes adopted under chapter 19.27 RCW and that were in effect on or
17 before November 1, 1988, are not superseded or preempted.

18 (5) Local laws, ordinances, and resolutions pertaining to permits
19 and fees for the use of underground storage tanks in street right-of-
20 ways that were in existence prior to July 1, 1990, are not superseded
21 or preempted.

22 **Sec. 1502.** RCW 90.76.902 and 1989 c 346 s 18 are each amended to
23 read as follows:

24 (1) Except as provided in subsection (2) of this section, RCW
25 90.76.050 (as recodified by this act), 90.76.110 (as recodified by
26 this act), and 19.27.080 take effect on July 1, 1990.

27 (2) This section shall apply only if this act becomes effective
28 as provided under section 20(2) of this act.

29 NEW SECTION. **Sec. 2001.** RCW 43.21M.010, 43.21M.020, 43.21M.030,
30 43.21M.040, and 43.21M.900 are recodified as a new chapter in the new
31 title created in section 103 of this act.

32 NEW SECTION. **Sec. 2002.** RCW 43.37.010, 43.37.030, 43.37.040,
33 43.37.050, 43.37.060, 43.37.080, 43.37.090, 43.37.100, 43.37.110,
34 43.37.120, 43.37.130, 43.37.140, 43.37.150, 43.37.160, 43.37.170,
35 43.37.180, 43.37.190, 43.37.200, 43.37.210, 43.37.215, 43.37.220, and
36 43.37.910 are recodified as a new chapter in the new title created in
37 section 103 of this act.

1 NEW SECTION. **Sec. 2003.** RCW 43.145.010, 43.145.020, and
2 43.145.030 are recodified as a new chapter in the new title created
3 in section 103 of this act.

4 NEW SECTION. **Sec. 2004.** RCW 43.146.010 and 43.146.900 are
5 recodified as a new chapter in the new title created in section 103
6 of this act.

7 NEW SECTION. **Sec. 2005.** RCW 43.200.010, 43.200.015, 43.200.020,
8 43.200.030, 43.200.070, 43.200.080, 43.200.170, 43.200.180,
9 43.200.190, 43.200.200, 43.200.220, 43.200.230, 43.200.233,
10 43.200.235, 43.200.900, 43.200.901, 43.200.905, and 43.200.907 are
11 recodified as a new chapter in the new title created in section 103
12 of this act.

13 NEW SECTION. **Sec. 2006.** RCW 43.205.010 and 43.205.020 are
14 recodified as a new chapter in the new title created in section 103
15 of this act.

16 NEW SECTION. **Sec. 2007.** RCW 70.75A.005, 70.75A.010, 70.75A.020,
17 70.75A.030, 70.75A.040, 70.75A.050, and 70.75A.060 are recodified as
18 a new chapter in the new title created in section 103 of this act.

19 NEW SECTION. **Sec. 2008.** RCW 70.76.005, 70.76.010, 70.76.020,
20 70.76.030, 70.76.040, 70.76.050, 70.76.060, 70.76.070, 70.76.080,
21 70.76.090, 70.76.100, and 70.76.110 are recodified as a new chapter
22 in the new title created in section 103 of this act.

23 NEW SECTION. **Sec. 2009.** RCW 70.93.010, 70.93.020, 70.93.030,
24 70.93.040, 70.93.050, 70.93.060, 70.93.070, 70.93.080, 70.93.090,
25 70.93.093, 70.93.095, 70.93.097, 70.93.110, 70.93.180, 70.93.200,
26 70.93.210, 70.93.220, 70.93.230, 70.93.250, and 70.93.910 are
27 recodified as a new chapter in the new title created in section 103
28 of this act.

29 NEW SECTION. **Sec. 2010.** RCW 70.94.011, 70.94.015, 70.94.017,
30 70.94.030, 70.94.033, 70.94.035, 70.94.037, 70.94.040, 70.94.041,
31 70.94.053, 70.94.055, 70.94.057, 70.94.068, 70.94.069, 70.94.070,
32 70.94.081, 70.94.085, 70.94.091, 70.94.092, 70.94.093, 70.94.094,
33 70.94.095, 70.94.096, 70.94.097, 70.94.100, 70.94.110, 70.94.120,

1 70.94.130, 70.94.141, 70.94.142, 70.94.143, 70.94.151, 70.94.152,
2 70.94.153, 70.94.154, 70.94.155, 70.94.157, 70.94.161, 70.94.162,
3 70.94.163, 70.94.165, 70.94.170, 70.94.181, 70.94.200, 70.94.205,
4 70.94.211, 70.94.221, 70.94.230, 70.94.231, 70.94.240, 70.94.260,
5 70.94.262, 70.94.302, 70.94.331, 70.94.332, 70.94.335, 70.94.350,
6 70.94.370, 70.94.380, 70.94.385, 70.94.390, 70.94.395, 70.94.400,
7 70.94.405, 70.94.410, 70.94.420, 70.94.422, 70.94.425, 70.94.430,
8 70.94.431, 70.94.435, 70.94.440, 70.94.450, 70.94.453, 70.94.455,
9 70.94.457, 70.94.460, 70.94.463, 70.94.467, 70.94.470, 70.94.473,
10 70.94.475, 70.94.477, 70.94.480, 70.94.483, 70.94.488, 70.94.510,
11 70.94.521, 70.94.524, 70.94.527, 70.94.528, 70.94.531, 70.94.534,
12 70.94.537, 70.94.541, 70.94.544, 70.94.547, 70.94.551, 70.94.555,
13 70.94.600, 70.94.610, 70.94.620, 70.94.640, 70.94.645, 70.94.6511,
14 70.94.6512, 70.94.6514, 70.94.6516, 70.94.6518, 70.94.6520,
15 70.94.6522, 70.94.6524, 70.94.6526, 70.94.6528, 70.94.6530,
16 70.94.6532, 70.94.6534, 70.94.6536, 70.94.6538, 70.94.6540,
17 70.94.6542, 70.94.6544, 70.94.6546, 70.94.6548, 70.94.6550,
18 70.94.6552, 70.94.6554, 70.94.6556, 70.94.710, 70.94.715, 70.94.720,
19 70.94.725, 70.94.730, 70.94.785, 70.94.800, 70.94.805, 70.94.820,
20 70.94.850, 70.94.860, 70.94.875, 70.94.880, 70.94.892, 70.94.901,
21 70.94.902, 70.94.904, 70.94.911, 70.94.960, 70.94.970, 70.94.980,
22 70.94.990, 70.94.991, and 70.94.992 are recodified as a new chapter
23 in the new title created in section 103 of this act.

24 NEW SECTION. **Sec. 2011.** RCW 70.95.010, 70.95.020, 70.95.030,
25 70.95.055, 70.95.060, 70.95.065, 70.95.075, 70.95.080, 70.95.090,
26 70.95.092, 70.95.094, 70.95.095, 70.95.096, 70.95.100, 70.95.110,
27 70.95.130, 70.95.140, 70.95.150, 70.95.160, 70.95.163, 70.95.165,
28 70.95.167, 70.95.170, 70.95.180, 70.95.185, 70.95.190, 70.95.200,
29 70.95.205, 70.95.207, 70.95.210, 70.95.212, 70.95.215, 70.95.217,
30 70.95.218, 70.95.220, 70.95.230, 70.95.235, 70.95.240, 70.95.250,
31 70.95.255, 70.95.260, 70.95.263, 70.95.265, 70.95.267, 70.95.268,
32 70.95.270, 70.95.280, 70.95.285, 70.95.290, 70.95.295, 70.95.300,
33 70.95.305, 70.95.306, 70.95.310, 70.95.315, 70.95.320, 70.95.330,
34 70.95.400, 70.95.410, 70.95.420, 70.95.430, 70.95.440, 70.95.500,
35 70.95.510, 70.95.515, 70.95.521, 70.95.530, 70.95.532, 70.95.535,
36 70.95.540, 70.95.550, 70.95.555, 70.95.560, 70.95.565, 70.95.570,
37 70.95.600, 70.95.610, 70.95.620, 70.95.630, 70.95.640, 70.95.650,
38 70.95.660, 70.95.670, 70.95.700, 70.95.710, 70.95.715, 70.95.720,
39 70.95.725, 70.95.805, 70.95.807, 70.95.810, 70.95.815, 70.95.900,

1 70.95.903, and 70.95.904 are recodified as a new chapter in the new
2 title created in section 103 of this act.

3 NEW SECTION. **Sec. 2012.** RCW 70.95A.010, 70.95A.020, 70.95A.030,
4 70.95A.035, 70.95A.040, 70.95A.045, 70.95A.050, 70.95A.060,
5 70.95A.070, 70.95A.080, 70.95A.090, 70.95A.100, 70.95A.910,
6 70.95A.912, and 70.95A.930 are recodified as a new chapter in the new
7 title created in section 103 of this act.

8 NEW SECTION. **Sec. 2013.** RCW 70.95B.010, 70.95B.020, 70.95B.030,
9 70.95B.040, 70.95B.050, 70.95B.060, 70.95B.071, 70.95B.080,
10 70.95B.090, 70.95B.095, 70.95B.100, 70.95B.110, 70.95B.115,
11 70.95B.120, 70.95B.130, 70.95B.140, 70.95B.151, and 70.95B.900 are
12 recodified as a new chapter in the new title created in section 103
13 of this act.

14 NEW SECTION. **Sec. 2014.** RCW 70.95C.010, 70.95C.020, 70.95C.030,
15 70.95C.040, 70.95C.050, 70.95C.060, 70.95C.070, 70.95C.080,
16 70.95C.110, 70.95C.120, 70.95C.200, 70.95C.210, 70.95C.220,
17 70.95C.230, 70.95C.240, and 70.95C.250 are recodified as a new
18 chapter in the new title created in section 103 of this act.

19 NEW SECTION. **Sec. 2015.** RCW 70.95D.010, 70.95D.020, 70.95D.030,
20 70.95D.040, 70.95D.051, 70.95D.060, 70.95D.070, 70.95D.080,
21 70.95D.090, 70.95D.100, and 70.95D.110 are recodified as a new
22 chapter in the new title created in section 103 of this act.

23 NEW SECTION. **Sec. 2016.** RCW 70.95E.010, 70.95E.020, 70.95E.030,
24 70.95E.040, 70.95E.050, 70.95E.080, 70.95E.090, and 70.95E.100 are
25 recodified as a new chapter in the new title created in section 103
26 of this act.

27 NEW SECTION. **Sec. 2017.** RCW 70.95F.010, 70.95F.020, and
28 70.95F.030 are recodified as a new chapter in the new title created
29 in section 103 of this act.

30 NEW SECTION. **Sec. 2018.** RCW 70.95G.005, 70.95G.010, 70.95G.020,
31 70.95G.030, 70.95G.040, 70.95G.050, 70.95G.060, and 70.95G.070 are
32 recodified as a new chapter in the new title created in section 103
33 of this act.

1 NEW SECTION. **Sec. 2019.** RCW 70.95I.005, 70.95I.010, 70.95I.020,
2 70.95I.030, 70.95I.040, 70.95I.050, 70.95I.060, 70.95I.070,
3 70.95I.080, and 70.95I.901 are recodified as a new chapter in the new
4 title created in section 103 of this act.

5 NEW SECTION. **Sec. 2020.** RCW 70.95J.005, 70.95J.007, 70.95J.010,
6 70.95J.020, 70.95J.025, 70.95J.030, 70.95J.040, 70.95J.050,
7 70.95J.060, 70.95J.070, 70.95J.080, and 70.95J.090 are recodified as
8 a new chapter in the new title created in section 103 of this act.

9 NEW SECTION. **Sec. 2021.** RCW 70.95K.005, 70.95K.010, 70.95K.011,
10 70.95K.020, 70.95K.030, 70.95K.040, 70.95K.900, and 70.95K.920 are
11 recodified as a new chapter in the new title created in section 103
12 of this act.

13 NEW SECTION. **Sec. 2022.** RCW 70.95L.005, 70.95L.010, 70.95L.020,
14 70.95L.030, and 70.95L.040 are recodified as a new chapter in the new
15 title created in section 103 of this act.

16 NEW SECTION. **Sec. 2023.** RCW 70.95M.010, 70.95M.020, 70.95M.030,
17 70.95M.040, 70.95M.050, 70.95M.060, 70.95M.070, 70.95M.080,
18 70.95M.090, 70.95M.100, 70.95M.110, 70.95M.115, 70.95M.120,
19 70.95M.130, and 70.95M.140 are recodified as a new chapter in the new
20 title created in section 103 of this act.

21 NEW SECTION. **Sec. 2024.** RCW 70.95N.010, 70.95N.020, 70.95N.030,
22 70.95N.040, 70.95N.050, 70.95N.060, 70.95N.070, 70.95N.080,
23 70.95N.090, 70.95N.100, 70.95N.110, 70.95N.120, 70.95N.130,
24 70.95N.140, 70.95N.150, 70.95N.160, 70.95N.170, 70.95N.180,
25 70.95N.190, 70.95N.200, 70.95N.210, 70.95N.220, 70.95N.230,
26 70.95N.240, 70.95N.250, 70.95N.260, 70.95N.280, 70.95N.290,
27 70.95N.300, 70.95N.310, 70.95N.320, 70.95N.330, 70.95N.340,
28 70.95N.350, 70.95N.900, and 70.95N.902 are recodified as a new
29 chapter in the new title created in section 103 of this act.

30 NEW SECTION. **Sec. 2025.** RCW 70.98.010, 70.98.020, 70.98.030,
31 70.98.050, 70.98.080, 70.98.085, 70.98.090, 70.98.095, 70.98.098,
32 70.98.100, 70.98.110, 70.98.120, 70.98.122, 70.98.125, 70.98.130,
33 70.98.140, 70.98.150, 70.98.160, 70.98.170, 70.98.180, 70.98.190,

1 70.98.200, 70.98.220, 70.98.910, and 70.98.920 are recodified as a
2 new chapter in the new title created in section 103 of this act.

3 NEW SECTION. **Sec. 2026.** RCW 70.99.010, 70.99.020, 70.99.030,
4 70.99.040, 70.99.050, 70.99.060, 70.99.900, and 70.99.910 are
5 recodified as a new chapter in the new title created in section 103
6 of this act.

7 NEW SECTION. **Sec. 2027.** RCW 70.102.010 and 70.102.020 are
8 recodified as a new chapter in the new title created in section 103
9 of this act.

10 NEW SECTION. **Sec. 2028.** RCW 70.103.010, 70.103.020, 70.103.030,
11 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, and
12 70.103.090 are recodified as a new chapter in the new title created
13 in section 103 of this act.

14 NEW SECTION. **Sec. 2029.** RCW 70.105.005, 70.105.007, 70.105.010,
15 70.105.020, 70.105.025, 70.105.030, 70.105.035, 70.105.040,
16 70.105.050, 70.105.070, 70.105.080, 70.105.085, 70.105.090,
17 70.105.095, 70.105.097, 70.105.100, 70.105.105, 70.105.109,
18 70.105.110, 70.105.111, 70.105.112, 70.105.116, 70.105.120,
19 70.105.130, 70.105.135, 70.105.140, 70.105.145, 70.105.150,
20 70.105.160, 70.105.165, 70.105.170, 70.105.180, 70.105.200,
21 70.105.210, 70.105.215, 70.105.217, 70.105.220, 70.105.221,
22 70.105.225, 70.105.230, 70.105.235, 70.105.240, 70.105.245,
23 70.105.250, 70.105.255, 70.105.260, 70.105.270, 70.105.280,
24 70.105.300, 70.105.310, and 70.105.900 are recodified as a new
25 chapter in the new title created in section 103 of this act.

26 NEW SECTION. **Sec. 2030.** RCW 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, and 70.105D.920 are recodified as a new
32 chapter in the new title created in section 103 of this act.

33 NEW SECTION. **Sec. 2031.** RCW 70.105E.010, 70.105E.020,
34 70.105E.030, 70.105E.040, 70.105E.050, 70.105E.060, 70.105E.080,

1 70.105E.100, 70.105E.900, and 70.105E.901 are recodified as a new
2 chapter in the new title created in section 103 of this act.

3 NEW SECTION. **Sec. 2032.** RCW 70.106.010, 70.106.020, 70.106.030,
4 70.106.040, 70.106.050, 70.106.060, 70.106.070, 70.106.080,
5 70.106.090, 70.106.100, 70.106.110, 70.106.120, 70.106.140,
6 70.106.150, 70.106.905, and 70.106.910 are recodified as a new
7 chapter in the new title created in section 103 of this act.

8 NEW SECTION. **Sec. 2033.** RCW 70.107.010, 70.107.020, 70.107.030,
9 70.107.040, 70.107.050, 70.107.060, 70.107.070, 70.107.080,
10 70.107.900, and 70.107.910 are recodified as a new chapter in the new
11 title created in section 103 of this act.

12 NEW SECTION. **Sec. 2034.** RCW 70.116.010, 70.116.020, 70.116.030,
13 70.116.040, 70.116.050, 70.116.060, 70.116.070, 70.116.080,
14 70.116.090, 70.116.100, 70.116.110, 70.116.120, 70.116.134, and
15 70.116.140 are recodified as a new chapter in the new title created
16 in section 103 of this act.

17 NEW SECTION. **Sec. 2035.** RCW 70.118.010, 70.118.020, 70.118.030,
18 70.118.040, 70.118.050, 70.118.060, 70.118.070, 70.118.080,
19 70.118.090, 70.118.110, 70.118.120, and 70.118.130 are recodified as
20 a new chapter in the new title created in section 103 of this act.

21 NEW SECTION. **Sec. 2036.** RCW 70.118A.010, 70.118A.020,
22 70.118A.030, 70.118A.040, 70.118A.050, 70.118A.060, 70.118A.070,
23 70.118A.080, 70.118A.090, and 70.118A.100 are recodified as a new
24 chapter in the new title created in section 103 of this act.

25 NEW SECTION. **Sec. 2037.** RCW 70.118B.005, 70.118B.010,
26 70.118B.020, 70.118B.030, 70.118B.040, 70.118B.050, 70.118B.060, and
27 70.118B.070 are recodified as a new chapter in the new title created
28 in section 103 of this act.

29 NEW SECTION. **Sec. 2038.** RCW 70.119.010, 70.119.020, 70.119.030,
30 70.119.040, 70.119.050, 70.119.060, 70.119.070, 70.119.081,
31 70.119.090, 70.119.100, 70.119.110, 70.119.120, 70.119.130,
32 70.119.140, 70.119.150, 70.119.160, 70.119.170, 70.119.180, and

1 70.119.900 are recodified as a new chapter in the new title created
2 in section 103 of this act.

3 NEW SECTION. **Sec. 2039.** RCW 70.119A.020, 70.119A.025,
4 70.119A.030, 70.119A.040, 70.119A.050, 70.119A.060, 70.119A.070,
5 70.119A.080, 70.119A.100, 70.119A.110, 70.119A.115, 70.119A.120,
6 70.119A.130, 70.119A.140, 70.119A.150, 70.119A.170, 70.119A.180,
7 70.119A.190, 70.119A.200, 70.119A.210, and 70.119A.900 are recodified
8 as a new chapter in the new title created in section 103 of this act.

9 NEW SECTION. **Sec. 2040.** RCW 70.120.010, 70.120.020, 70.120.070,
10 70.120.080, 70.120.100, 70.120.120, 70.120.130, 70.120.150,
11 70.120.160, 70.120.170, 70.120.190, 70.120.210, 70.120.230, and
12 70.120.902 are recodified as a new chapter in the new title created
13 in section 103 of this act.

14 NEW SECTION. **Sec. 2041.** RCW 70.120A.010, 70.120A.020,
15 70.120A.030, and 70.120A.050 are recodified as a new chapter in the
16 new title created in section 103 of this act.

17 NEW SECTION. **Sec. 2042.** RCW 70.121.010, 70.121.020, 70.121.030,
18 70.121.040, 70.121.050, 70.121.060, 70.121.070, 70.121.080,
19 70.121.090, 70.121.100, 70.121.110, 70.121.120, 70.121.130,
20 70.121.140, 70.121.150, 70.121.900, and 70.121.905 are recodified as
21 a new chapter in the new title created in section 103 of this act.

22 NEW SECTION. **Sec. 2043.** RCW 70.132.010, 70.132.020, 70.132.030,
23 70.132.040, 70.132.050, and 70.132.900 are recodified as a new
24 chapter in the new title created in section 103 of this act.

25 NEW SECTION. **Sec. 2044.** RCW 70.138.010, 70.138.020, 70.138.030,
26 70.138.040, 70.138.050, 70.138.060, 70.138.070, 70.138.900, and
27 70.138.901 are recodified as a new chapter in the new title created
28 in section 103 of this act.

29 NEW SECTION. **Sec. 2045.** RCW 70.140.010, 70.140.020, 70.140.030,
30 70.140.040, 70.140.050, 70.140.060, 70.140.070, and 70.140.080 are
31 recodified as a new chapter in the new title created in section 103
32 of this act.

1 NEW SECTION. **Sec. 2046.** RCW 70.142.010, 70.142.020, 70.142.030,
2 70.142.040, and 70.142.050 are recodified as a new chapter in the new
3 title created in section 103 of this act.

4 NEW SECTION. **Sec. 2047.** RCW 70.146.010, 70.146.020, 70.146.030,
5 70.146.040, 70.146.050, 70.146.060, 70.146.070, 70.146.075,
6 70.146.090, 70.146.100, 70.146.110, and 70.146.120 are recodified as
7 a new chapter in the new title created in section 103 of this act.

8 NEW SECTION. **Sec. 2048.** RCW 70.148.005, 70.148.010, 70.148.020,
9 70.148.025, 70.148.030, 70.148.035, 70.148.040, 70.148.050,
10 70.148.060, 70.148.070, 70.148.080, 70.148.090, 70.148.110, and
11 70.148.900 are recodified as a new chapter in the new title created
12 in section 103 of this act.

13 NEW SECTION. **Sec. 2049.** RCW 70.149.010, 70.149.020, 70.149.030,
14 70.149.040, 70.149.050, 70.149.060, 70.149.070, 70.149.080,
15 70.149.090, 70.149.100, 70.149.120, 70.149.800, 70.149.801, and
16 70.149.900 are recodified as a new chapter in the new title created
17 in section 103 of this act.

18 NEW SECTION. **Sec. 2050.** RCW 70.150.010, 70.150.020, 70.150.030,
19 70.150.040, 70.150.050, 70.150.060, 70.150.070, 70.150.080, and
20 70.150.900 are recodified as a new chapter in the new title created
21 in section 103 of this act.

22 NEW SECTION. **Sec. 2051.** RCW 70.164.010, 70.164.020, 70.164.030,
23 70.164.040, 70.164.050, 70.164.060, and 70.164.070 are recodified as
24 a new chapter in the new title created in section 103 of this act.

25 NEW SECTION. **Sec. 2052.** RCW 70.220.010, 70.220.020, 70.220.030,
26 70.220.040, 70.220.050 are recodified as a new chapter in the new
27 title created in section 103 of this act.

28 NEW SECTION. **Sec. 2053.** RCW 70.235.005, 70.235.010, 70.235.020,
29 70.235.030, 70.235.040, 70.235.050, 70.235.060, 70.235.070,
30 70.235.080, and 70.235.900 are recodified as a new chapter in the new
31 title created in section 103 of this act.

1 NEW SECTION. **Sec. 2054.** RCW 70.240.010, 70.240.020, 70.240.025,
2 70.240.030, 70.240.035, 70.240.040, 70.240.050, and 70.240.060 are
3 recodified as a new chapter in the new title created in section 103
4 of this act.

5 NEW SECTION. **Sec. 2055.** RCW 70.260.010, 70.260.020, and
6 70.260.030 are recodified as a new chapter in the new title created
7 in section 103 of this act.

8 NEW SECTION. **Sec. 2056.** RCW 70.270.010, 70.270.020, 70.270.030,
9 70.270.040, 70.270.050, and 70.270.060 are recodified as a new
10 chapter in the new title created in section 103 of this act.

11 NEW SECTION. **Sec. 2057.** RCW 70.275.010, 70.275.020, 70.275.030,
12 70.275.040, 70.275.050, 70.275.060, 70.275.070, 70.275.080,
13 70.275.090, 70.275.100, 70.275.110, 70.275.130, 70.275.140,
14 70.275.150, 70.275.160, 70.275.170, 70.275.900, and 70.275.901 are
15 recodified as a new chapter in the new title created in section 103
16 of this act.

17 NEW SECTION. **Sec. 2058.** RCW 70.280.010, 70.280.020, 70.280.030,
18 70.280.040, 70.280.050, and 70.280.060 are recodified as a new
19 chapter in the new title created in section 103 of this act.

20 NEW SECTION. **Sec. 2059.** RCW 70.285.010, 70.285.020, 70.285.030,
21 70.285.040, 70.285.050, 70.285.060, 70.285.070, 70.285.080,
22 70.285.090, and 70.285.100 are recodified as a new chapter in the new
23 title created in section 103 of this act.

24 NEW SECTION. **Sec. 2060.** RCW 70.295.010 and 70.295.020 are
25 recodified as a new chapter in the new title created in section 103
26 of this act.

27 NEW SECTION. **Sec. 2061.** RCW 70.300.005, 70.300.010, 70.300.020,
28 70.300.030, 70.300.040, 70.300.050, and 70.300.060 are recodified as
29 a new chapter in the new title created in section 103 of this act.

30 NEW SECTION. **Sec. 2062.** RCW 70.310.010, 70.310.020, 70.310.030,
31 70.310.040, and 70.310.050 are recodified as a new chapter in the new
32 title created in section 103 of this act.

1 NEW SECTION. **Sec. 2063.** RCW 70.315.010, 70.315.020, 70.315.030,
2 70.315.040, 70.315.050, 70.315.060, 70.315.900, 70.315.901, and
3 70.315.902 are recodified as a new chapter in the new title created
4 in section 103 of this act.

5 NEW SECTION. **Sec. 2064.** RCW 70.325.010, 70.325.020, 70.325.030,
6 70.325.040, and 70.325.050 are recodified as a new chapter in the new
7 title created in section 103 of this act.

8 NEW SECTION. **Sec. 2065.** RCW 70.340.010, 70.340.020, 70.340.030,
9 70.340.040, 70.340.050, 70.340.060, 70.340.070, 70.340.080,
10 70.340.090, 70.340.100, 70.340.110, 70.340.120, 70.340.130, and
11 70.340.900 are recodified as a new chapter in the new title created
12 in section 103 of this act.

13 NEW SECTION. **Sec. 2066.** RCW 70.355.010 is recodified as a new
14 chapter in the new title created in section 103 of this act.

15 NEW SECTION. **Sec. 2067.** RCW 70.360.010, 70.360.020, 70.360.030,
16 70.360.040, 70.360.050, 70.360.060, 70.360.070, 70.360.080,
17 70.360.090, 70.360.100, 70.360.110, and 70.360.900 are recodified as
18 a new chapter in the new title created in section 103 of this act.

19 NEW SECTION. **Sec. 2068.** RCW 70.365.010, 70.365.020, 70.365.030,
20 70.365.040, 70.365.050, 70.365.060, 70.365.070, 70.365.080, and
21 70.365.900 are recodified as a new chapter in the new title created
22 in section 103 of this act.

23 NEW SECTION. **Sec. 2069.** RCW 70.370.010, 70.370.020, 70.370.030,
24 and 70.370.040 are recodified as a new chapter in the new title
25 created in section 103 of this act.

26 NEW SECTION. **Sec. 2070.** RCW 70.375.010, 70.375.020, 70.375.030,
27 70.375.040, 70.375.050, 70.375.060, 70.375.070, 70.375.080,
28 70.375.090, 70.375.100, 70.375.110, 70.375.120, and 70.375.130 are
29 recodified as a new chapter in the new title created in section 103
30 of this act.

1 NEW SECTION. **Sec. 2071.** RCW 70.380.010, 70.380.020, 70.380.030,
2 and 70.380.900 are recodified as a new chapter in the new title
3 created in section 103 of this act.

4 NEW SECTION. **Sec. 2072.** RCW 90.76.005, 90.76.010, 90.76.020,
5 90.76.040, 90.76.050, 90.76.060, 90.76.070, 90.76.080, 90.76.090,
6 90.76.100, 90.76.110, 90.76.900, 90.76.901, and 90.76.902 are
7 recodified as a new chapter in the new title created in section 103
8 of this act.

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