

2 E2SHB 1866 - S COMM AMD

3 By Committee on Agriculture & Environment

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5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The purpose of this act is to create a
8 voluntary program authorizing environmental excellence program
9 agreements with persons regulated under the environmental laws of the
10 state of Washington, and to direct agencies of the state of Washington
11 to solicit and support the development of agreements that use
12 innovative environmental measures or strategies to achieve
13 environmental results more effectively or efficiently.

14 Agencies shall encourage environmental excellence program
15 agreements that favor or promote pollution prevention, source
16 reduction, or improvements in practices that are transferable to other
17 interested entities or that can achieve better overall environmental
18 results than required by otherwise applicable rules and requirements.

19 In enacting this act it is not the intent of the legislature that
20 state environmental standards be applied in a manner that could result
21 in these state standards being waived under section 121 of the federal
22 comprehensive environmental response, compensation, and liability act
23 (42 U.S.C. Sec. 9261).

24 NEW SECTION. **Sec. 2.** The definitions in this section apply
25 throughout this chapter unless the context clearly requires otherwise.

26 (1) "State, regional, or local agency" means an agency, board,
27 department, authority, or commission that administers environmental
28 laws.

29 (2) "Coordinating agency" means the state, regional, or local
30 agency with the primary regulatory responsibility for the proposed
31 environmental excellence program agreement. If multiple agencies have
32 jurisdiction to administer state environmental laws affected by an
33 environmental excellence agreement, the department of ecology shall
34 designate or act as the coordinating agency.

1 (3) "Director" means the individual or body of individuals in whom
2 the ultimate legal authority of an agency is vested by any provision of
3 law. If the agency head is a body of individuals, a majority of those
4 individuals constitutes the director.

5 (4) "Environmental laws" means chapters 43.21A, 70.94, 70.95,
6 70.105, 70.119A, 75.20, 90.48, 90.52, 90.58, 90.64, and 90.71 RCW, and
7 RCW 90.54.020(3)(b) and rules adopted under those chapters and section.
8 The term environmental laws as used in this chapter does not include
9 any provision of the Revised Code of Washington, or of any municipal
10 ordinance or enactment, that regulates the selection of a location for
11 a new facility.

12 (5) "Facility" means a site or activity that is regulated under any
13 of the provisions of the environmental laws.

14 (6) "Legal requirement" includes any provision of an environmental
15 law, rule, order, or permit.

16 (7) "Sponsor" means the owner or operator of a facility, including
17 a municipal corporation, subject to regulation under the environmental
18 laws of the state of Washington, or an authorized representative of the
19 owner or operator, that submits a proposal for an environmental
20 excellence program agreement.

21 (8) "Stakeholder" means a person who has a direct interest in the
22 proposed environmental excellence program agreement or who represents
23 a public interest in the proposed environmental excellence program
24 agreement. Stakeholders may include communities near the project,
25 local or state governments, permittees, businesses, environmental and
26 other public interest groups, employees or employee representatives, or
27 other persons.

28 NEW SECTION. **Sec. 3.** An environmental excellence program
29 agreement entered into under this chapter must achieve more effective
30 or efficient environmental results than the results that would be
31 otherwise achieved. The basis for comparison shall be a reasonable
32 estimate of the overall impact of the participating facility on the
33 environment in the absence of an environmental excellence program
34 agreement. More effective environmental results are results that are
35 better overall than those that would be achieved under the legal
36 requirements superseded or replaced by the agreement. More efficient
37 environmental results are results that are achieved at reduced cost but
38 do not decrease the overall environmental results achieved by the

1 participating facility. An environmental excellence program agreement
2 may not authorize either (1) the release of pollutants that will
3 exceed, at established points of compliance in the ambient environment,
4 numeric ambient air quality standards adopted as rules under chapter
5 70.94 RCW or numeric surface water or ground water quality criteria or
6 numeric sediment quality criteria adopted as rules under chapter 90.48
7 RCW; or (2) a decrease in the overall environmental results achieved by
8 the participating facility compared with results achieved over a
9 representative period before the date on which the agreement is
10 proposed by the sponsor. However, an environmental excellence program
11 agreement may authorize reasonable increases in the release of
12 pollutants to permit increases in facility production or facility
13 expansion.

14 NEW SECTION. **Sec. 4.** (1) The director of a state, regional, or
15 local agency may enter into an environmental excellence program
16 agreement with any sponsor, even if one or more of the terms of the
17 environmental excellence program agreement would be inconsistent with
18 an otherwise applicable legal requirement. An environmental excellence
19 program agreement must meet the requirements of section 3 of this act.
20 Otherwise applicable legal requirements identified according to section
21 7(1) of this act shall be superseded and replaced in accordance with
22 section 9 of this act.

23 (2) The director of a state, regional, or local agency may enter
24 into an environmental excellence program agreement only to the extent
25 the state, regional, or local agency has jurisdiction to administer
26 state environmental laws either directly or indirectly through the
27 adoption of rules.

28 (3) Where a sponsor proposes an environmental excellence program
29 agreement that would affect legal requirements applicable to the
30 covered facility that are administered by more than one state,
31 regional, or local agency, the coordinating agency shall take the lead
32 in developing the environmental excellence program agreement with the
33 sponsor and other agencies administering legal requirements applicable
34 to the covered facility and affected by the agreement. To be
35 effective, the environmental excellence program agreement must be
36 signed by the director of each agency administering legal requirements
37 identified according to section 7(1) of this act.

1 (4) No director may enter into an environmental excellence program
2 agreement applicable to a remedial action conducted under the
3 Washington model toxics control act, chapter 70.105D RCW, or the
4 federal comprehensive environmental response, compensation and
5 liability act (42 U.S.C. Sec. 9601 et seq). No action taken under this
6 chapter shall be deemed a waiver of any applicable, relevant, or
7 appropriate requirements for any remedial action conducted under the
8 Washington model toxics control act or the federal comprehensive
9 environmental response, compensation and liability act.

10 (5) The directors of state, regional, or local agencies shall not
11 enter into an environmental excellence program agreement or a
12 modification of an environmental excellence program agreement
13 containing terms affecting legal requirements adopted to comply with
14 provisions of a federal regulatory program and to which the responsible
15 federal agency objects after notice under the terms of section 8(4) of
16 this act.

17 (6) The directors of regional or local governments may not enter
18 into an environmental excellence program agreement or a modification of
19 an environmental excellence program agreement containing terms
20 affecting legal requirements that are subject to review or appeal by a
21 state agency, including but not limited to chapters 70.94, 70.95, and
22 90.58 RCW, and to which the responsible state agency objects after
23 notice is given under the terms of section 8(4) of this act.

24 NEW SECTION. **Sec. 5.** (1) A sponsor may propose an environmental
25 excellence program agreement. A trade association or other authorized
26 representative of a sponsor or sponsors may propose a programmatic
27 environmental excellence program agreement for multiple facilities.

28 (2) A sponsor must submit, at a minimum, the following information
29 and other information that may be requested by the director or
30 directors required to sign the agreement:

31 (a) A statement that describes how the proposal is consistent with
32 the purpose of this chapter and the project approval criteria in
33 section 3 of this act;

34 (b)(i) For a site-specific proposal, a comprehensive description of
35 the proposed environmental excellence project that includes the nature
36 of the facility and the operations that will be affected, how the
37 facility or operations will achieve results more effectively or
38 efficiently, and the nature of the results anticipated; or

1 (ii) For a programmatic proposal, a comprehensive description of
2 the proposed environmental excellence project that identifies the
3 facilities and the operations that are expected to participate, how
4 participating facilities or operations will achieve environmental
5 results more effectively or efficiently, the nature of the results
6 anticipated, and the method to identify and document the commitments
7 made by individual participants;

8 (c) An environmental checklist, containing sufficient information
9 to reasonably inform the public of the nature of the proposed
10 environmental excellence program agreement and describing probable
11 significant adverse environmental impacts and environmental benefits
12 expected from implementation of the proposal;

13 (d) A draft environmental excellence program agreement;

14 (e) A description of the stakeholder process as provided in
15 section 6 of this act;

16 (f) A preliminary identification of the permit amendments or
17 modifications that may be necessary to implement the proposed
18 environmental excellence program agreement.

19 NEW SECTION. **Sec. 6.** (1) Stakeholder participation in and support
20 for an environmental excellence program agreement is vital to the
21 integrity of the environmental excellence program agreement and helps
22 to inform the decision whether an environmental excellence program
23 agreement can be approved.

24 (2) A proposal for an environmental excellence program agreement
25 shall include the sponsor's plan to identify and contact stakeholders,
26 to advise stakeholders of the facts and nature of the project, and to
27 request stakeholder participation and review. Stakeholder
28 participation and review shall occur during the development,
29 consideration, and implementation stages of the proposed environmental
30 excellence program agreement. The plan shall include notice to the
31 employees of the facility to be covered by the proposed environmental
32 excellence program agreement and public notice in the area of the
33 covered facility.

34 (3) The coordinating agency shall extend an invitation to
35 participate in the development of the proposal to a broad and
36 representative sector of the public likely to be affected by the
37 environmental excellence program agreement, including representatives
38 of local community, labor, environmental, and neighborhood advocacy

1 groups. The coordinating agency shall select participants to be
2 included in the stakeholder process that are representative of the
3 diverse sectors of the public that are interested in the agreement.
4 The stakeholder process shall include the opportunity for discussion
5 and comment at multiple stages of the process and access to the
6 information relied upon by the directors in approving the agreement.

7 (4) The coordinating agency will identify any additional provisions
8 for the stakeholder process that the director of the coordinating
9 agency, in the director's sole discretion, considers appropriate to the
10 success of the stakeholder process, and provide for notice to the
11 United States environmental protection agency or other responsible
12 federal agency of each proposed environmental excellence program
13 agreement that may affect legal requirements of any program
14 administered by that agency.

15 NEW SECTION. **Sec. 7.** An environmental excellence program
16 agreement must contain the following terms and conditions:

17 (1) An identification of all legal requirements that are superseded
18 or replaced by the environmental excellence program agreement;

19 (2) A description of all legal requirements that are enforceable as
20 provided in section 13(1) of this act that are different from those
21 legal requirements applicable in the absence of the environmental
22 excellence program agreement;

23 (3) A description of the voluntary goals that are or will be
24 pursued by the sponsor;

25 (4) A statement describing how the environmental excellence program
26 agreement will achieve the purposes of this chapter;

27 (5) A statement describing how the environmental excellence program
28 agreement will be implemented, including a list of steps and an
29 implementation schedule;

30 (6) A statement that the proposed environmental excellence program
31 agreement will not increase overall worker safety risks or cause an
32 unjust or disproportionate and inequitable distribution of
33 environmental risks among diverse economic and cultural communities;

34 (7) A summary of the stakeholder process that was followed in the
35 development of the environmental excellence program agreement;

36 (8) A statement describing how any participating facility shall
37 measure and demonstrate its compliance with the environmental
38 excellence program agreement including, without limitation, a

1 description of the methods to be used to monitor performance, criteria
2 that represent acceptable performance, and the method of reporting
3 performance to the public and local communities. The facility's
4 compliance with the agreement must be independently verifiable;

5 (9) A description of and plan for public participation in the
6 implementation of the environmental excellence program agreement and
7 for public access to information needed to assess the benefits of the
8 environmental excellence program agreement and the sponsor's compliance
9 with the environmental excellence program agreement;

10 (10) A schedule of periodic performance review of the environmental
11 excellence program agreement by the directors that signed the
12 agreement;

13 (11) Provisions for voluntary and involuntary termination of the
14 agreement;

15 (12) The duration of the environmental excellence program agreement
16 and provisions for renewal;

17 (13) Statements approving the environmental excellence program
18 agreement made by the sponsor and by or on behalf of directors of each
19 state, regional, or local agency administering legal requirements that
20 are identified according to section 7(1) of this act;

21 (14) Additional terms as requested by the directors signing the
22 environmental excellence program agreement and consistent with this
23 chapter;

24 (15) Draft permits or permit modifications as needed to implement
25 the environmental excellence program agreement;

26 (16) With respect to a programmatic environmental excellence
27 program agreement, a statement of the method with which to identify and
28 document the specific commitments to be made by individual
29 participants.

30 NEW SECTION. **Sec. 8.** (1) The coordinating agency shall provide at
31 least thirty days after notice has been published in a newspaper under
32 subsection (2) of this section for public comment on a proposal to
33 enter into or modify an environmental excellence program agreement.
34 The coordinating agency may provide for an additional period of public
35 comment if required by the complexity of the proposed environmental
36 excellence program agreement and the degree of public interest. Before
37 the start of the comment period, the coordinating agency shall prepare
38 a proposed agreement, a public notice and a fact sheet. The fact sheet

1 shall: (a) Briefly describe the principal facts and the significant
2 factual, legal, methodological and policy questions considered by the
3 directors signing the agreement, and the directors' proposed decisions;
4 and (b) briefly describe how the proposed action meets the requirements
5 of section 3 of this act.

6 (2) The coordinating agency shall publish notice of the proposed
7 agreement in the Washington State Register and in a newspaper of
8 general circulation in the vicinity of the facility or facilities
9 covered by the proposed environmental excellence program agreement.
10 The notice shall generally describe the agreement or modification; the
11 facilities to be covered; summarize the changes in legal requirements
12 that will result from the agreement; summarize the reasons for
13 approving the agreement or modifications; identify an agency person to
14 contact for additional information; state that the proposed agreement
15 or modification and fact sheet are available on request; and state that
16 comments may be submitted to the agency during the comment period. The
17 coordinating agency shall order a public informational meeting or a
18 public hearing to receive oral comments if the written comments during
19 the comment period demonstrate considerable public interest in the
20 proposed agreement.

21 (3) The coordinating agency shall prepare and make available a
22 responsiveness summary indicating the agencies' actions taken in
23 response to comments and the reasons for those actions.

24 (4) With respect to an environmental excellence program agreement
25 that affects legal requirements adopted to comply with provisions of a
26 federal regulatory program, the coordinating agency shall provide a
27 copy of the environmental excellence program agreement, and a copy of
28 the notice required by subsection (1) of this section, to the federal
29 agency that is responsible for administering that program at least
30 thirty days before entering into or modifying the environmental
31 excellence program agreement, and shall afford the federal agency the
32 opportunity to object to those terms of the environmental excellence
33 program agreement or modification of an environmental excellence
34 program agreement affecting the legal requirements. Regional or local
35 governments shall provide similar notice to state agencies that have
36 statutory review or appeal responsibilities regarding provisions of the
37 environmental excellence program agreement.

1 NEW SECTION. **Sec. 9.** (1) Notwithstanding any other provision of
2 law, any legal requirement identified under section 7(1) of this act
3 shall be superseded or replaced in accordance with the terms of the
4 environmental excellence program agreement. Legal requirements
5 contained in a permit that are affected by an environmental excellence
6 program agreement will continue to be enforceable until such time as
7 the permit is revised in accordance with subsection (2) of this
8 section. With respect to any other legal requirements, the legal
9 requirements contained in the environmental excellence program
10 agreement, are effective as provided by the environmental excellence
11 program agreement, and the facility or facilities covered by an
12 environmental excellence program agreement shall comply with the terms
13 of the environmental excellence program agreement in lieu of the legal
14 requirements that are superseded and replaced by the approved
15 environmental excellence program agreement.

16 (2) Any permits affected by an environmental excellence program
17 agreement shall be revised to conform to the environmental excellence
18 program agreement by the agency with jurisdiction. The permit
19 revisions will be completed within one hundred twenty days of the
20 effective date of the agreement in accordance with otherwise applicable
21 procedural requirements, including, where applicable, public notice and
22 the opportunity for comment, and the opportunity for review and
23 objection by federal agencies.

24 (3) Other than as superseded or replaced as provided in an approved
25 environmental excellence program agreement, any existing permit
26 requirements remain in effect and are enforceable.

27 (4) A programmatic environmental excellence program agreement shall
28 become applicable to an individual facility when the director or
29 directors entering into the programmatic agreement approve the owner or
30 operator's commitment to comply with the agreement. A programmatic
31 agreement may not take effect, however, until notice and an opportunity
32 to comment for the individual facility has been provided in accordance
33 with the requirements of section 8 (1) through (3) of this act.

34 NEW SECTION. **Sec. 10.** (1) A decision by the directors of state,
35 regional, or local agencies to approve a proposed environmental
36 excellence program agreement, or to terminate or modify an approved
37 environmental excellence program agreement, is subject to judicial
38 review in superior court. For purposes of judicial review, the court

1 may grant relief from the decision to approve or modify an
2 environmental excellence program agreement only if it determines that
3 the action: (a) Violates constitutional provisions; (b) exceeds the
4 statutory authority of the agency; (c) was arbitrary and capricious; or
5 (d) was taken without compliance with the procedures provided by this
6 chapter. However, the decision of the director or directors shall be
7 accorded substantial deference by the court. A decision not to enter
8 into or modify an environmental excellence program agreement and a
9 decision not to accept a commitment under section 9(4) of this act to
10 comply with the terms of a programmatic environmental excellence
11 agreement are within the sole discretion of the directors of the state,
12 regional, or local agencies and are not subject to review.

13 (2) An appeal from a decision to approve or modify a facility
14 specific or a programmatic environmental excellence program agreement
15 is not timely unless filed with the superior court and served on the
16 parties to the environmental excellence program agreement within thirty
17 days of the date on which the agreement or modification is signed by
18 the director. For an environmental excellence program agreement or
19 modification signed by more than one director, there is only one
20 appeal, and the time for appeal shall run from the last date on which
21 the agreement or modification is signed by a director.

22 (3) A decision to accept the commitment of a specific facility to
23 comply with the terms of a programmatic environmental excellence
24 program agreement, or to modify the application of an agreement to a
25 specific facility, is subject to judicial review as described in
26 subsection (1) of this section. An appeal is not timely unless filed
27 with the superior court and served on the directors signing the
28 agreement, the sponsor, and the owner or operator of the specific
29 facility within thirty days of the date the director or directors that
30 signed the programmatic agreement approve the owner or operator's
31 commitment to comply with the agreement. For a programmatic
32 environmental excellence program agreement or modification signed by
33 more than one director, there shall be only one appeal and the time for
34 appeal shall run from the last date on which a director approves the
35 commitment.

36 (4) The issuance of permits and permit modifications is subject to
37 review under otherwise applicable law.

38 (5) An appeal of a decision by a director under section 11 of this
39 act to terminate in whole or in part a facility specific or

1 programmatic environmental excellence program agreement is not timely
2 unless filed with the superior court and served on the director within
3 thirty days of the date on which notice of the termination is issued
4 under section 11(2) of this act.

5 NEW SECTION. **Sec. 11.** (1) In addition to any termination
6 provisions contained in an environmental excellence program agreement,
7 a director of an agency may terminate an environmental excellence
8 program agreement in whole or in part with respect to a legal
9 requirement administered by that agency, if the director finds: (a)
10 That after notice and a reasonable opportunity to cure, the covered
11 facility is in violation of a material requirement of the agreement;
12 (b) that the facility has repeatedly violated any requirements of the
13 agreement; (c) that the operation of the facility under the agreement
14 has caused endangerment to public health or the environment that cannot
15 be remedied by modification of the agreement; or (d) the facility has
16 failed to make substantial progress in achieving the voluntary goals
17 identified under section 6(4) of this act, and these goals are material
18 to the overall objectives of the agreement.

19 (2) A director of an agency terminating an environmental excellence
20 program agreement in any respect shall provide each of the parties to
21 the agreement with a written notice of that action specifying the
22 extent to which the environmental excellence program agreement is to be
23 terminated, the factual and legal basis for termination, and a
24 description of the opportunity for judicial review of the decision to
25 terminate the environmental excellence program agreement.

26 (3) If a director terminates less than the entire environmental
27 excellence program agreement, the owner or operator of the covered
28 facility may elect to terminate the entire agreement as it applies to
29 the facility.

30 (4) If a director decides to terminate an environmental excellence
31 program agreement because the facility has not been able to meet the
32 legal requirements established under the agreement, or because
33 operation of the facility under the agreement has caused endangerment
34 to public health or the environment, as provided in subsection (1)(c)
35 of this section, the director may establish in the notice of
36 termination: (a) Practical interim requirements for the facility that
37 are no less stringent than the legal requirements that would apply to
38 the facility in the absence of the agreement; and (b) a practical

1 schedule of compliance for meeting the interim requirements. The
2 interim requirements and schedule of compliance shall be subject to
3 judicial review under the provisions of section 10(5) of this act. The
4 facility shall comply with the interim requirements established under
5 this subsection after they are final and no longer subject to judicial
6 review until applicable permits or permit modifications have been
7 issued under section 12 of this act.

8 NEW SECTION. **Sec. 12.** After a termination under section 11 of
9 this act is final and no longer subject to judicial review, the sponsor
10 has sixty days in which to apply for any permit or approval affected by
11 any terminated portion of the environmental excellence program
12 agreement. An application filed during the sixty-day period shall be
13 deemed a timely application for renewal of a permit under the terms of
14 any applicable law. Except as provided in section 11(4) of this act,
15 the terms and conditions of the environmental excellence program
16 agreement and of permits issued will continue in effect until a final
17 permit or approval is issued. If the sponsor fails to submit a timely
18 or complete application, any affected permit or approval may be
19 modified at any time that is consistent with applicable law.

20 NEW SECTION. **Sec. 13.** (1) The legal requirements contained in the
21 environmental excellence program agreement in accordance with section
22 7(2) of this act are enforceable commitments of the facility covered by
23 the agreement. Any violation of these legal requirements is subject to
24 penalties and remedies to the same extent as the legal requirements
25 that they superseded or replaced.

26 (2) The voluntary goals stated in the environmental excellence
27 program agreement in accordance with section 7(3) of this act are
28 voluntary commitments of the facility covered by the agreement. If the
29 facility fails to meet these goals, it shall not be subject to any form
30 of enforcement action, including penalties, orders, or any form of
31 injunctive relief. The failure to make substantial progress in meeting
32 these goals may be a basis on which to terminate the environmental
33 excellence program agreement under section 11 of this act.

34 (3) Nothing in this chapter limits the authority of an agency, the
35 attorney general, or a prosecuting attorney to initiate an enforcement
36 action for violation of any applicable legal requirement. However, no
37 civil, criminal, or administrative action may be brought with respect

1 to any legal requirement that is superseded or replaced under the terms
2 of an environmental excellence program agreement.

3 (4) This chapter does not create any new authority for citizen
4 suits, and does not alter or amend other statutory provisions
5 authorizing citizen suits.

6 NEW SECTION. **Sec. 14.** An environmental excellence program
7 agreement may contain a reduced fee schedule with respect to a program
8 applicable to the covered facility or facilities.

9 NEW SECTION. **Sec. 15.** A decision to approve an environmental
10 excellence program agreement is not subject to the requirements of the
11 state environmental policy act, chapter 43.21C RCW, including the
12 requirement to prepare an environmental impact statement under RCW
13 43.21C.031. However, the consideration of a proposed environmental
14 excellence program agreement will integrate an assessment of
15 environmental impacts.

16 NEW SECTION. **Sec. 16.** Any state, regional, or local agency
17 administering programs under an environmental law may adopt rules or
18 ordinances to implement this chapter. However, it is not necessary
19 that an agency adopt rules or ordinances in order to consider or enter
20 into environmental excellence program agreements.

21 NEW SECTION. **Sec. 17.** The director of the department of ecology
22 shall appoint an advisory committee to review the effectiveness of the
23 environmental excellence program agreement program and to make a
24 recommendation to the legislature concerning the continuation,
25 termination, or modification of the program. The committee also may
26 make recommendations it considers appropriate for revision of any
27 regulatory program that is affected by an environmental excellence
28 program agreement. The committee shall be composed of one
29 representative each from two state agencies, two representatives of the
30 regulated community, and two representatives of environmental
31 organizations or other public interest groups. The committee must
32 submit a report and its recommendation to the legislature not later
33 than October 31, 2001. The department of ecology shall provide the
34 advisory committee with such support as they may require.

1 NEW SECTION. **Sec. 18.** (1) Agencies authorized to enter into
2 environmental excellence program agreements may assess and collect a
3 fee to recover the costs of processing environmental excellence program
4 agreement proposals. The amount of the fee may not exceed the direct
5 and indirect costs of processing the environmental excellence program
6 agreement proposal. Processing includes, but is not limited to:
7 Working with the sponsor to develop the agreement, meeting with
8 stakeholder groups, conducting public meetings and hearings, preparing
9 a record of the decision to enter into or modify an agreement, and
10 defending any appeal from a decision to enter into or modify an
11 agreement. Fees also may include, to the extent specified by the
12 agreement, the agencies' direct costs of monitoring compliance with
13 those specific terms of an agreement not covered by permits issued to
14 the participating facility.

15 (2) Agencies assessing fees may graduate the initial fees for
16 processing an environmental excellence program agreement proposal to
17 account for the size of the sponsor and to make the environmental
18 excellence program agreement program more available to small
19 businesses. An agency may exercise its discretion to waive all or any
20 part of the fees.

21 (3) Sponsors may voluntarily contribute funds to the administration
22 of an agency's environmental excellence program agreement program.

23 NEW SECTION. **Sec. 19.** The authority of a director to enter into
24 a new environmental excellence program agreement program shall be
25 terminated June 30, 2002. Environmental excellence program agreements
26 entered into before June 30, 2002, shall remain in force and effect
27 subject to the provisions of this chapter.

28 NEW SECTION. **Sec. 20.** A new section is added to chapter 43.21A
29 RCW to read as follows:

30 Notwithstanding any other provision of law, any legal requirement
31 under this chapter, including any standard, limitation, rule, or order
32 is superseded and replaced in accordance with the terms and provisions
33 of an environmental excellence program agreement, entered into under
34 chapter 43.-- RCW (sections 2 through 19 of this act).

35 NEW SECTION. **Sec. 21.** A new section is added to chapter 70.94 RCW
36 to read as follows:

1 Notwithstanding any other provision of law, any legal requirement
2 under this chapter, including any standard, limitation, rule, or order
3 is superseded and replaced in accordance with the terms and provisions
4 of an environmental excellence program agreement, entered into under
5 chapter 43.-- RCW (sections 2 through 19 of this act).

6 NEW SECTION. **Sec. 22.** A new section is added to chapter 70.95 RCW
7 to read as follows:

8 Notwithstanding any other provision of law, any legal requirement
9 under this chapter, including any standard, limitation, rule, or order
10 is superseded and replaced in accordance with the terms and provisions
11 of an environmental excellence program agreement, entered into under
12 chapter 43.-- RCW (sections 2 through 19 of this act).

13 NEW SECTION. **Sec. 23.** A new section is added to chapter 70.105
14 RCW to read as follows:

15 Notwithstanding any other provision of law, any legal requirement
16 under this chapter, including any standard, limitation, rule, or order
17 is superseded and replaced in accordance with the terms and provisions
18 of an environmental excellence program agreement, entered into under
19 chapter 43.-- RCW (sections 2 through 19 of this act).

20 NEW SECTION. **Sec. 24.** A new section is added to chapter 70.119A
21 RCW to read as follows:

22 Notwithstanding any other provision of law, any legal requirement
23 under this chapter, including any standard, limitation, rule, or order
24 is superseded and replaced in accordance with the terms and provisions
25 of an environmental excellence program agreement, entered into under
26 chapter 43.-- RCW (sections 2 through 19 of this act).

27 NEW SECTION. **Sec. 25.** A new section is added to chapter 75.20 RCW
28 to read as follows:

29 Notwithstanding any other provision of law, any legal requirement
30 under this chapter, including any standard, limitation, rule, or order
31 is superseded and replaced in accordance with the terms and provisions
32 of an environmental excellence program agreement, entered into under
33 chapter 43.-- RCW (sections 2 through 19 of this act).

1 NEW SECTION. **Sec. 26.** A new section is added to chapter 90.48 RCW
2 to read as follows:

3 Notwithstanding any other provision of law, any legal requirement
4 under this chapter, including any standard, limitation, rule, or order
5 is superseded and replaced in accordance with the terms and provisions
6 of an environmental excellence program agreement, entered into under
7 chapter 43.-- RCW (sections 2 through 19 of this act).

8 NEW SECTION. **Sec. 27.** A new section is added to chapter 90.52 RCW
9 to read as follows:

10 Notwithstanding any other provision of law, any legal requirement
11 under this chapter, including any standard, limitation, rule, or order
12 is superseded and replaced in accordance with the terms and provisions
13 of an environmental excellence program agreement, entered into under
14 chapter 43.-- RCW (sections 2 through 19 of this act).

15 NEW SECTION. **Sec. 28.** A new section is added to chapter 90.58 RCW
16 to read as follows:

17 Notwithstanding any other provision of law, any legal requirement
18 under this chapter, including any standard, limitation, rule, or order
19 is superseded and replaced in accordance with the terms and provisions
20 of an environmental excellence program agreement, entered into under
21 chapter 43.-- RCW (sections 2 through 19 of this act).

22 NEW SECTION. **Sec. 29.** A new section is added to chapter 90.64 RCW
23 to read as follows:

24 Notwithstanding any other provision of law, any legal requirement
25 under this chapter, including any standard, limitation, rule, or order
26 is superseded and replaced in accordance with the terms and provisions
27 of an environmental excellence program agreement, entered into under
28 chapter 43.-- RCW (sections 2 through 19 of this act).

29 NEW SECTION. **Sec. 30.** A new section is added to chapter 90.71 RCW
30 to read as follows:

31 Notwithstanding any other provision of law, any legal requirement
32 under this chapter, including any standard, limitation, rule, or order
33 is superseded and replaced in accordance with the terms and provisions
34 of an environmental excellence program agreement, entered into under
35 chapter 43.-- RCW (sections 2 through 19 of this act).

1 **Sec. 31.** RCW 90.54.020 and 1989 c 348 s 1 are each amended to read
2 as follows:

3 Utilization and management of the waters of the state shall be
4 guided by the following general declaration of fundamentals:

5 (1) Uses of water for domestic, stock watering, industrial,
6 commercial, agricultural, irrigation, hydroelectric power production,
7 mining, fish and wildlife maintenance and enhancement, recreational,
8 and thermal power production purposes, and preservation of
9 environmental and aesthetic values, and all other uses compatible with
10 the enjoyment of the public waters of the state, are declared to be
11 beneficial.

12 (2) Allocation of waters among potential uses and users shall be
13 based generally on the securing of the maximum net benefits for the
14 people of the state. Maximum net benefits shall constitute total
15 benefits less costs including opportunities lost.

16 (3) The quality of the natural environment shall be protected and,
17 where possible, enhanced as follows:

18 (a) Perennial rivers and streams of the state shall be retained
19 with base flows necessary to provide for preservation of wildlife,
20 fish, scenic, aesthetic and other environmental values, and
21 navigational values. Lakes and ponds shall be retained substantially
22 in their natural condition. Withdrawals of water which would conflict
23 therewith shall be authorized only in those situations where it is
24 clear that overriding considerations of the public interest will be
25 served.

26 (b) Waters of the state shall be of high quality. Regardless of
27 the quality of the waters of the state, all wastes and other materials
28 and substances proposed for entry into said waters shall be provided
29 with all known, available, and reasonable methods of treatment prior to
30 entry. Notwithstanding that standards of quality established for the
31 waters of the state would not be violated, wastes and other materials
32 and substances shall not be allowed to enter such waters which will
33 reduce the existing quality thereof, except in those situations where
34 it is clear that overriding considerations of the public interest will
35 be served. Technology-based effluent limitations or standards for
36 discharges for municipal water treatment plants located on the
37 Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted
38 to reflect credit for substances removed from the plant intake water
39 if:

1 (i) The municipality demonstrates that the intake water is drawn
2 from the same body of water into which the discharge is made; and

3 (ii) The municipality demonstrates that no violation of receiving
4 water quality standards or appreciable environmental degradation will
5 result.

6 (4) Adequate and safe supplies of water shall be preserved and
7 protected in potable condition to satisfy human domestic needs.

8 (5) Multiple-purpose impoundment structures are to be preferred
9 over single-purpose structures. Due regard shall be given to means and
10 methods for protection of fishery resources in the planning for and
11 construction of water impoundment structures and other artificial
12 obstructions.

13 (6) Federal, state, and local governments, individuals,
14 corporations, groups and other entities shall be encouraged to carry
15 out practices of conservation as they relate to the use of the waters
16 of the state. In addition to traditional development approaches,
17 improved water use efficiency and conservation shall be emphasized in
18 the management of the state's water resources and in some cases will be
19 a potential new source of water with which to meet future needs
20 throughout the state.

21 (7) Development of water supply systems, whether publicly or
22 privately owned, which provide water to the public generally in
23 regional areas within the state shall be encouraged. Development of
24 water supply systems for multiple domestic use which will not serve the
25 public generally shall be discouraged where water supplies are
26 available from water systems serving the public.

27 (8) Full recognition shall be given in the administration of water
28 allocation and use programs to the natural interrelationships of
29 surface and ground waters.

30 (9) Expressions of the public interest will be sought at all stages
31 of water planning and allocation discussions.

32 (10) Water management programs, including but not limited to, water
33 quality, flood control, drainage, erosion control and storm runoff are
34 deemed to be in the public interest.

35 (11) Notwithstanding any other provision of law, any legal
36 requirement under this section, including any standard, limitation,
37 rule, or order is superseded and replaced in accordance with the terms
38 and provisions of an environmental excellence program agreement,

1 entered into under chapter 43.-- RCW (sections 2 through 19 of this
2 act).

3 NEW SECTION. **Sec. 32.** The environmental excellence account is
4 hereby created in the state treasury. All fees and voluntary
5 contributions collected by state agencies under section 18 of this act
6 shall be deposited into the account. Except for unanticipated receipts
7 under RCW 43.79.260 through 43.79.282, moneys in the account may be
8 spent only after appropriation. Expenditures from the account may be
9 used only for purposes consistent with the environmental excellence
10 program created under sections 2 through 19 of this act.

11 NEW SECTION. **Sec. 33.** Sections 2 through 19 of this act
12 constitute a new chapter in Title 43 RCW."

13 **E2SHB 1866** - S COMM AMD
14 By Committee on Agriculture & Environment

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16 On page 1, line 2 of the title, after "agreements;" strike the
17 remainder of the title and insert "amending RCW 90.54.020; adding a new
18 section to chapter 43.21A RCW; adding a new section to chapter 70.94
19 RCW; adding a new section to chapter 70.95 RCW; adding a new section to
20 chapter 70.105 RCW; adding a new section to chapter 70.119A RCW; adding
21 a new section to chapter 75.20 RCW; adding a new section to chapter
22 90.48 RCW; adding a new section to chapter 90.52 RCW; adding a new
23 section to chapter 90.58 RCW; adding a new section to chapter 90.64
24 RCW; adding a new section to chapter 90.71 RCW; adding a new chapter to
25 Title 43 RCW; and creating new sections."

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