
SENATE BILL 5190

State of Washington

56th Legislature

1999 Regular Session

By Senators Swecker, Fraser, Rasmussen, T. Sheldon and Winsley

Read first time 01/15/1999. Referred to Committee on Environmental Quality & Water Resources.

1 AN ACT Relating to lakes management; amending RCW 85.38.010,
2 36.61.020, 36.61.270, 75.20.100, 90.48.445, and 17.24.051; adding new
3 chapters to Title 90 RCW; creating a new section; repealing RCW
4 36.61.115; providing an expiration date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the
7 environmental, recreational, and aesthetic values of many of the
8 state's lakes are threatened by eutrophication and other deterioration
9 and that existing governmental authorities are unable to improve and
10 maintain the quality of the state's lakes adequately. It is the
11 purpose of this chapter to allow the creation of a new type of special
12 district authorized to embark on a program of lake improvement and
13 maintenance for the general public's benefit, health, and welfare.

14 NEW SECTION. **Sec. 2.** (1) Lake management service areas may be
15 created and provide lake management services and facilities, including
16 facilities and services to: (a) Maintain and restore lakes; (b)
17 enhance water quality; (c) control and maintain water levels; (d)
18 provide fish ladders and other devices to conserve fish and game fish;

1 (e) divert and treat storm water before its disposal in a lake; (f)
2 control agricultural wastes; (g) study lake water quality problems and
3 solutions; (h) clean and maintain ditches and streams entering or
4 leaving a lake; and (i) provide drainage control, storm water control,
5 and surface water control improvements and activities. A lake
6 management service area may take the necessary administrative,
7 engineering, legal, and operational actions associated with its
8 substantive authorities. No lake management service area activities
9 shall adversely affect any existing property or water rights.

10 (2) A lake management service area is a quasi-municipal corporation
11 possessing the normal authorities of a quasi-municipal corporation
12 including, but not limited to, the authority to: (a) Acquire,
13 purchase, or lease, in its own name, necessary property, property
14 rights, facilities, and equipment; (b) sell or exchange surplus
15 property, property rights, facilities, and equipment; (c) accept funds
16 and property by loan, grant, gift, or otherwise from the United States,
17 the state of Washington, or any other public or private source; (d)
18 hire staff, employees, or services, or use voluntary labor; (e) sue and
19 be sued; (f) enter into contracts, including interlocal contracts and
20 agreements under chapter 39.34 RCW; and (g) cooperate with or join the
21 United States, the state of Washington, or any other public or private
22 entity or person for municipality purposes.

23 NEW SECTION. **Sec. 3.** A lake management service area shall be
24 governed by a three-member governing body, the members of which are
25 elected to three-year staggered terms of office. The provisions of
26 chapter 85.38 RCW relating to the appointing of the initial members of
27 the governing body of a special district, subsequent election of
28 members of the governing body of a special district, and filling of a
29 vacancy, apply to the governing body of a lake management service area.

30 NEW SECTION. **Sec. 4.** Elections and franchise rights in a lake
31 management service area shall conform with the provisions of chapter
32 85.38 RCW relating to the elections and franchise rights in a special
33 district, except that a property owner shall not receive added votes
34 based upon the extent of his or her ownership of land within the
35 service area and the ownership of lake bottom property within the lake
36 management service area shall not grant franchise rights.

1 NEW SECTION. **Sec. 5.** The provisions of chapter 85.38 RCW relating
2 to the following matters in special districts apply to lake management
3 service areas:

4 (1) The procedure to create a special district;

5 (2) The filing of bonds by members of the governing body;

6 (3) The adoption of a budget, imposition of special assessments,
7 and imposition of rates and charges by a special district that was
8 created after July 28, 1985, except that liens for special assessments
9 and liens for rates and charges shall not extend to public property and
10 special assessments or rates and charges shall not be imposed on lake
11 bottom property;

12 (4) Issuing special assessment bonds, refunding special assessment
13 bonds, and creating a special assessment bond guaranty fund;

14 (5) Limitations on constructing improvements by employees of the
15 special district; and

16 (6) Annexing contiguous territory, consolidating contiguous special
17 districts, withdrawing areas from a special district that are located
18 in a city or town, transferring territory from one special district to
19 another special district, suspending the operations of a special
20 district, and reactivating a special district that had its operations
21 suspended.

22 **Sec. 6.** RCW 85.38.010 and 1991 c 349 s 1 are each amended to read
23 as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter:

26 (1) "Governing body" means the board of commissioners, board of
27 supervisors, or board of directors of a special district.

28 (2) "Owner of land" means the record owner of at least a majority
29 ownership interest in a separate and legally created lot or parcel of
30 land, as determined by the records of the county auditor, except that
31 if the lot or parcel has been sold under a real estate contract, the
32 vendee or grantee shall be deemed to be the owner of such land for
33 purposes of authorizing voting rights. It is assumed, unless shown
34 otherwise, that the name appearing as the owner of property on the
35 property tax rolls is the current owner.

36 (3) "Qualified voter of a special district" means a person who is
37 either: (a) A natural person who is a voter under general state
38 election laws, registered to vote in the state of Washington for a

1 period of not less than thirty days before the election, and the owner
2 of land located in the special district for a period of not less than
3 thirty days before the election; (b) a corporation or partnership that
4 has owned land located in the special district for a period of not less
5 than sixty days before the election; or (c) the state, its agencies or
6 political subdivisions that own land in the special district or lands
7 proposed to be annexed into the special district except that the state,
8 its agencies and political subdivisions shall not be eligible to vote
9 to elect a member of the governing board of a special district.

10 (4) "Special district" means: (a) A diking district; (b) a
11 drainage district; (c) a diking, drainage, and/or sewerage improvement
12 district; (d) an intercounty diking and drainage district; (e) a
13 consolidated diking district, drainage district, diking improvement
14 district, and/or drainage improvement district; ~~((or))~~ (f) a flood
15 control district; or (g) a lake management service area.

16 (5) "Special district general election" means the election of a
17 special district regularly held on the first Tuesday after the first
18 Monday in February in each even-numbered year at which a member of the
19 special district governing body is regularly elected.

20 **Sec. 7.** RCW 36.61.020 and 1987 c 432 s 2 are each amended to read
21 as follows:

22 Any county may create lake management districts to finance the
23 improvement and maintenance of lakes located within or partially within
24 the boundaries of the county. All or a portion of a lake and the
25 adjacent land areas may be included within one or more lake management
26 districts. More than one lake, or portions of lakes, and the adjacent
27 land areas may be included in a single lake management district. ~~((A
28 lake management district may be created for a period of up to ten
29 years.))~~

30 Special assessments or rates and charges may be imposed on the
31 property included within a lake management district to finance lake
32 improvement and maintenance activities, including: (1) The control or
33 removal of aquatic plants and vegetation; (2) water quality; (3) the
34 control of water levels; (4) storm water diversion and treatment; (5)
35 agricultural waste control; (6) studying lake water quality problems
36 and solutions; (7) cleaning and maintaining ditches and streams
37 entering or leaving the lake; and (8) the related administrative,

1 engineering, legal, and operational costs, including the costs of
2 creating the lake management district.

3 Special assessments or rates and charges may be imposed annually on
4 all the land in a lake management district for the duration of the lake
5 management district without a related issuance of lake management
6 district bonds or revenue bonds. Special assessments also may be
7 imposed in the manner of special assessments in a local improvement
8 district with each landowner being given the choice of paying the
9 entire special assessment in one payment, or to paying installments,
10 with lake management district bonds being issued to obtain moneys not
11 derived by the initial full payment of the special assessments, and the
12 installments covering all of the costs related to issuing, selling, and
13 redeeming the lake management district bonds.

14 **Sec. 8.** RCW 36.61.270 and 1987 c 432 s 11 are each amended to read
15 as follows:

16 Whenever rates and charges are to be imposed in a lake management
17 district or whenever a previously approved schedule of rates and
18 charges is to be adjusted, the county legislative authority shall
19 prepare a roll of rates and charges that includes those matters
20 required to be included in a special assessment roll and shall hold a
21 public hearing on the proposed roll of rates and charges as provided
22 under RCW 36.61.120 through 36.61.150 for a special assessment roll.
23 The county legislative authority shall have full jurisdiction and
24 authority to fix, alter, regulate, and control the rates and charges
25 imposed by a lake management district and may classify the rates or
26 charges by any reasonable factor or factors, including benefit, use,
27 front footage, acreage, the extent of improvements on the property, the
28 type of improvements on the property, uses to which the property is
29 put, service to be provided, and any other reasonable factor or
30 factors. The flexibility to establish rates and charges includes the
31 authority to reduce rates and charges on property owned by low-income
32 persons.

33 Except as provided in this section, the collection of rates and
34 charges, lien status of unpaid rates and charges, and method of
35 foreclosing on such liens shall be subject to the provisions of chapter
36 36.94 RCW. Public property, including state property, shall be subject
37 to the rates and charges to the same extent that private property is
38 subject to them, except that liens may not be foreclosed on the public

1 property, and the procedure for imposing such rates and charges on
2 state property shall conform with the procedure provided for in chapter
3 79.44 RCW concerning the imposition of special assessments upon state
4 property. The total amount of rates and charges cannot exceed the cost
5 of lake improvement or maintenance activities proposed to be financed
6 by such rates and charges, as specified in the resolution of intention.
7 Revenue bonds exclusively payable from the rates and charges may be
8 issued by the county under chapter 39.46 RCW.

9 NEW SECTION. **Sec. 9.** RCW 36.61.115 and 1987 c 432 s 9 are each
10 repealed.

11 NEW SECTION. **Sec. 10.** The legislature finds that it is in the
12 best interest of the people of the state to provide a predictable
13 approach to control of aquatic plants that is protective of both human
14 health and the environment. The legislature intends, through an
15 aquatic plant management permit program, to create a coordinated,
16 timely, and predictable permit process that will assist property owners
17 and local governments in controlling aquatic plants.

18 NEW SECTION. **Sec. 11.** The definitions in this section apply
19 throughout this chapter, unless the context requires otherwise.

20 (1) "Aquatic plant" includes any noxious weed on the state noxious
21 weed list adopted under RCW 17.10.080; any other nuisance or beneficial
22 aquatic plants not on the state noxious weed list; and any algae or
23 cyanobacteria.

24 (2) "Aquatic plant management" means controlling, eradicating, or
25 removing aquatic plants through chemical, biological, or mechanical
26 means.

27 (3) "Aquatic plant management plan" means any plan that reviews
28 alternative aquatic plant management methods according to the
29 principles of integrated pest management, as defined in RCW
30 17.15.010(1), determines feasible, effective solutions to be
31 implemented, and provides for the monitoring and evaluation of the
32 plan's effectiveness.

33 (4) "Department" means the department of ecology.

34 (5) "Person" means an individual or a public or private entity or
35 organization and includes local, state, and federal government

1 agencies, and all business organizations including corporations and
2 partnerships.

3 NEW SECTION. **Sec. 12.** No person may control, eradicate, remove,
4 or otherwise alter any aquatic plants in waters of the state unless an
5 aquatic plant management permit for such activity has been issued by
6 the department, or unless: (1) The removal is incidental or
7 unintentional, (2) the activity removes noxious weeds with hand tools,
8 or (3) the activity is in waters expressly exempted by this chapter or
9 by rule. Application for an aquatic plant management permit to engage
10 in aquatic plant management activities shall be made to the department.

11 NEW SECTION. **Sec. 13.** (1) The department and the department of
12 agriculture shall jointly develop rules to implement the aquatic plant
13 management permit program, in consultation with the department of
14 natural resources, the department of health, the department of fish and
15 wildlife, and the state noxious weed board. The rules shall be adopted
16 by the department. The rules shall be oriented towards developing
17 solutions to noxious and nuisance aquatic plant problems, shall provide
18 first for the protection of human health, and second for the protection
19 of wildlife and the environment, and shall provide for measurable
20 results. The rules shall also be based on the principles of integrated
21 pest management as defined in RCW 17.15.010(1) and shall define a
22 tiered approach to aquatic plant management, including the tiers
23 described in section 14 of this act. The rules shall include, at a
24 minimum, the following elements:

- 25 (a) The submittal requirements for a permit application;
- 26 (b) Criteria for issuing, modifying, or denying permit
27 applications;
- 28 (c) Operating and threshold requirements for chemical, biological,
29 and mechanical controls based on the risk assessment in subsection (2)
30 of this section;
- 31 (d) An administrative appeals process;
- 32 (e) An opportunity for public comment on permit applications;
- 33 (f) Penalties and remedies for noncompliance by an applicant or the
34 department;
- 35 (g) Maximum timelines for permit issuance, not to exceed sixty days
36 from the time a complete application is received;

1 (h) A method to update the rules periodically as new information or
2 products are developed; and

3 (i) Criteria and forms for state environmental policy act review
4 under chapter 43.21C RCW, appropriate to an aquatic environment, to
5 expedite issuance of individual permits.

6 (2) The department and the department of agriculture shall contract
7 for a risk assessment of alternative aquatic plant management methods.
8 Consultants may be nominated by national scientific organizations or by
9 the public. Review of chemical control methods shall focus on issues
10 specific to Washington state that are not addressed through federal
11 pesticide registration and labeling. Information in the risk
12 assessment shall be reviewed by experts in the fields of aquatic plant
13 management and water quality, and shall be used to develop the
14 operating and threshold requirements referenced in subsection (1)(c) of
15 this section.

16 (3) Environmental review of the proposed rules conducted according
17 to chapter 43.21C RCW shall incorporate and update all existing state
18 environmental policy act documents related to aquatic plant management.

19 NEW SECTION. **Sec. 14.** (1) The aquatic plant management permit
20 program shall include a tiered approach to aquatic plant management.
21 At a minimum, the permit program shall include the following tiers:

22 (a) An expedited permit may be approved for aquatic plant
23 management activities on lakes less than five acres where the following
24 criteria are met: (i) There is no outlet; (ii) there are no salmonid
25 fish in the lake; (iii) there is no drinking water use of the lake;
26 (iv) there is no swimming; and (v) the lake is in single ownership or
27 all owners support the exemption. Applicants for an expedited permit
28 under this subsection shall submit a notification that establishes
29 compliance with these criteria and describes measures to ensure
30 compliance with the limitations on drinking water and swimming use
31 during the management activities. The department shall review the
32 notification compliance with the criteria, and may deny the permit only
33 for inapplicability of the criteria or inadequate measure to enforce
34 the limitations of the criteria. If the department does not make a
35 decision on the permit within thirty days of receiving the
36 notification, the permit is deemed approved. In such lakes, any state-
37 registered aquatic pesticide may be used. Use of the pesticide shall

1 be conducted in a manner to protect human health and safety, and to
2 prevent injury to nontargeted plant and animal life.

3 (b) The operating and threshold requirements of the aquatic plant
4 management permit established in section 13(1)(c) of this act shall
5 provide procedures and criteria by which information developed through
6 site-specific review in completing the lake management or aquatic
7 vegetation management plan may be used to formulate specific permit
8 provisions. State environmental policy act review under chapter 43.21C
9 RCW must be completed for any aquatic plant management plan. Waters
10 with adopted aquatic plant management plans may be issued a multiyear
11 aquatic plant management permit.

12 (c) Pilot use of state-registered aquatic pesticides that does not
13 meet the operating requirements in section 13(1)(c) of this act may be
14 permitted to develop solutions to noxious and nuisance conditions
15 affecting the public health, to address early infestation of noxious
16 weeds, and for the purpose of data collection and research to assist
17 the department with the review and revision of the operating
18 requirements of the aquatic plant management permit program.

19 (d) General permits may be issued on a regional or state-wide basis
20 to control noxious aquatic weeds. Any person may apply for coverage
21 under the general permit.

22 (2) The department and the department of agriculture may expand
23 these tiers to address other circumstances or waters.

24 NEW SECTION. **Sec. 15.** The rules developed by the department and
25 the department of agriculture to implement the aquatic plant management
26 permit program shall include the requirements of other aquatic plant
27 management permitting programs, including the water quality permit
28 required by RCW 90.48.445, the hydraulic project approval required by
29 RCW 75.20.100 and 75.20.108, and the special permit for biological
30 control required by RCW 17.24.051. Issuance of an aquatic plant
31 management permit satisfies the requirements of RCW 90.48.445,
32 75.20.100, and 17.24.051. If an application for an aquatic plant
33 management permit includes biological control methods, the department
34 shall defer to the department of agriculture and the requirements of
35 RCW 17.24.051. If an application for an aquatic plant management
36 permit includes mechanical control methods, the department shall defer
37 to the department of fish and wildlife and the requirements of RCW
38 75.20.100 and 75.20.108.

1 NEW SECTION. **Sec. 16.** The department shall update the final
2 supplemental environmental impact statement completed in 1992 for the
3 aquatic plants management program to reflect new information on
4 herbicides evaluated in 1992 and new, commercially available
5 herbicides. The department shall maintain the currency of the
6 information on herbicides and evaluate new herbicides as they become
7 commercially available.

8 NEW SECTION. **Sec. 17.** (1) Control of Eurasian water milfoil is a
9 growing problem in Washington lakes and rivers. No aquatic pesticides
10 currently authorized for aquatic use by the department of ecology have
11 been effective in eradicating Eurasian water milfoil in large water
12 bodies. With no available chemical control methods, early infestation
13 of Eurasian water milfoil will spread both within and between lakes.

14 (2) The department of ecology shall establish and administer a
15 demonstration project for the control of Eurasian water milfoil, for
16 the purpose of evaluating the effectiveness of the pesticide 2,4-D at
17 eradicating early infestations. The department shall authorize one or
18 more demonstration projects.

19 (3) Demonstration projects shall be administered at the local level
20 by a county weed board. The department of ecology shall enter into
21 grant agreements with demonstration project jurisdictions by June 1,
22 1999. The grant agreement shall include reporting requirements,
23 timelines, and a fund disbursement schedule based on agreed project
24 milestones.

25 (4) A local match of fifty percent of the total grant amount is
26 required for any demonstration project.

27 (5) Information gathered through the demonstration projects shall
28 be used by the department of ecology in developing the rules under
29 section 13 of this act.

30 (6) This section expires July 1, 2000.

31 **Sec. 18.** RCW 75.20.100 and 1998 c 190 s 87 are each amended to
32 read as follows:

33 (1) In the event that any person or government agency desires to
34 construct any form of hydraulic project or perform other work that will
35 use, divert, obstruct, or change the natural flow or bed of any of the
36 salt or fresh waters of the state, such person or government agency
37 shall, before commencing construction or work thereon and to ensure the

1 proper protection of fish life, secure the approval of the department
2 as to the adequacy of the means proposed for the protection of fish
3 life. This approval shall not be unreasonably withheld.

4 (2)(a) Except as provided in RCW 75.20.1001, the department shall
5 grant or deny approval of a standard permit within forty-five calendar
6 days of the receipt of a complete application and notice of compliance
7 with any applicable requirements of the state environmental policy act,
8 made in the manner prescribed in this section.

9 (b) The applicant may document receipt of application by filing in
10 person or by registered mail. A complete application for approval
11 shall contain general plans for the overall project, complete plans and
12 specifications of the proposed construction or work within the mean
13 higher high water line in salt water or within the ordinary high water
14 line in fresh water, and complete plans and specifications for the
15 proper protection of fish life.

16 (c) The forty-five day requirement shall be suspended if:

17 (i) After ten working days of receipt of the application, the
18 applicant remains unavailable or unable to arrange for a timely field
19 evaluation of the proposed project;

20 (ii) The site is physically inaccessible for inspection; or

21 (iii) The applicant requests delay. Immediately upon determination
22 that the forty-five day period is suspended, the department shall
23 notify the applicant in writing of the reasons for the delay.

24 (d) For purposes of this section, "standard permit" means a written
25 permit issued by the department when the conditions under subsections
26 (3) and (5)(b) of this section are not met.

27 (3)(a) The department may issue an expedited written permit in
28 those instances where normal permit processing would result in
29 significant hardship for the applicant or unacceptable damage to the
30 environment. In cases of imminent danger, the department shall issue
31 an expedited written permit, upon request, for work to repair existing
32 structures, move obstructions, restore banks, protect property, or
33 protect fish resources. Expedited permit requests require a complete
34 written application as provided in subsection (2)(b) of this section
35 and shall be issued within fifteen calendar days of the receipt of a
36 complete written application. Approval of an expedited permit is valid
37 for up to sixty days from the date of issuance.

38 (b) For the purposes of this subsection, "imminent danger" means a
39 threat by weather, water flow, or other natural conditions that is

1 likely to occur within sixty days of a request for a permit
2 application.

3 (c) The department may not require the provisions of the state
4 environmental policy act, chapter 43.21C RCW, to be met as a condition
5 of issuing a permit under this subsection.

6 (d) The department or the county legislative authority may
7 determine if an imminent danger exists. The county legislative
8 authority shall notify the department, in writing, if it determines
9 that an imminent danger exists.

10 (4) Approval of a standard permit is valid for a period of up to
11 five years from date of issuance. The permittee must demonstrate
12 substantial progress on construction of that portion of the project
13 relating to the approval within two years of the date of issuance. If
14 the department denies approval, the department shall provide the
15 applicant, in writing, a statement of the specific reasons why and how
16 the proposed project would adversely affect fish life. Protection of
17 fish life shall be the only ground upon which approval may be denied or
18 conditioned. Chapter 34.05 RCW applies to any denial of project
19 approval, conditional approval, or requirements for project
20 modification upon which approval may be contingent.

21 (5)(a) In case of an emergency arising from weather or stream flow
22 conditions or other natural conditions, the department, through its
23 authorized representatives, shall issue immediately, upon request, oral
24 approval for removing any obstructions, repairing existing structures,
25 restoring stream banks, or to protect property threatened by the stream
26 or a change in the stream flow without the necessity of obtaining a
27 written approval prior to commencing work. Conditions of an oral
28 approval to protect fish life shall be established by the department
29 and reduced to writing within thirty days and complied with as provided
30 for in this section. Oral approval shall be granted immediately, upon
31 request, for a stream crossing during an emergency situation.

32 (b) For purposes of this section and RCW 75.20.103, "emergency"
33 means an immediate threat to life, the public, property, or of
34 environmental degradation.

35 (c) The department or the county legislative authority may declare
36 and continue an emergency when one or more of the criteria under (b) of
37 this subsection are met. The county legislative authority shall
38 immediately notify the department if it declares an emergency under
39 this subsection.

1 (6) The department shall, at the request of a county, develop five-
2 year maintenance approval agreements, consistent with comprehensive
3 flood control management plans adopted under the authority of RCW
4 86.12.200, or other watershed plan approved by a county legislative
5 authority, to allow for work on public and private property for bank
6 stabilization, bridge repair, removal of sand bars and debris, channel
7 maintenance, and other flood damage repair and reduction activity under
8 agreed-upon conditions and times without obtaining permits for specific
9 projects.

10 (7) This section shall not apply to the construction of any form of
11 hydraulic project or other work which diverts water for agricultural
12 irrigation or stock watering purposes authorized under or recognized as
13 being valid by the state's water codes, or when such hydraulic project
14 or other work is associated with streambank stabilization to protect
15 farm and agricultural land as defined in RCW 84.34.020. These
16 irrigation or stock watering diversion and streambank stabilization
17 projects shall be governed by RCW 75.20.103.

18 A landscape management plan approved by the department and the
19 department of natural resources under RCW 76.09.350(2), shall serve as
20 a hydraulic project approval for the life of the plan if fish are
21 selected as one of the public resources for coverage under such a plan.

22 (8) A permit issued under section 12 of this act satisfies the
23 requirements under this section.

24 (9) For the purposes of this section and RCW 75.20.103, "bed" means
25 the land below the ordinary high water lines of state waters. This
26 definition does not include irrigation ditches, canals, storm water
27 run-off devices, or other artificial watercourses except where they
28 exist in a natural watercourse that has been altered by man.

29 ((+9)) (10) The phrase "to construct any form of hydraulic project
30 or perform other work" does not include the act of driving across an
31 established ford. Driving across streams or on wetted stream beds at
32 areas other than established fords requires approval. Work within the
33 ordinary high water line of state waters to construct or repair a ford
34 or crossing requires approval.

35 **Sec. 19.** RCW 90.48.445 and 1995 c 255 s 3 are each amended to read
36 as follows:

37 (1) The director shall issue or approve water quality permits for
38 use by federal, state, or local governmental agencies and licensed

1 applicators for the purpose of using, for aquatic (~~((noxious weed))~~) pest
2 control, (~~((herbicides))~~) pesticides, adjuvants, and surfactants
3 registered under state or federal pesticide control laws. The issuance
4 of the permits shall be subject only to compliance with: Federal and
5 state pesticide label requirements, the requirements of the federal
6 insecticide, fungicide, and rodenticide act, the Washington pesticide
7 control act, the Washington pesticide application act, and the state
8 environmental policy act; and applicable requirements established in an
9 option or options recommended for controlling the (~~((noxious weed))~~) pest
10 by a final environmental impact statement published under chapter
11 43.21C RCW by the department prior to May 5, 1995, by the department of
12 agriculture, or by the department of agriculture jointly with other
13 state agencies. This section may not be construed as requiring the
14 preparation of a new environmental impact statement to replace a final
15 environmental impact statement published before May 5, 1995.

16 (2) The director of ecology may not utilize this permit authority
17 to otherwise condition or burden (~~((weed))~~) pest control efforts. The
18 director's authority to issue water quality modification permits for
19 activities other than the application of surfactants, adjuvants, and
20 approved (~~((herbicides))~~) pesticides, to control aquatic (~~((noxious~~
21 ~~weeds))~~) pests, is unaffected by this section.

22 (3) (~~((As used in this section, "aquatic noxious weed" means an~~
23 ~~aquatic weed on the state noxious weed list adopted under RCW~~
24 ~~17.10.080.))~~) A permit issued under section 12 of this act satisfies the
25 permit requirements under this section.

26 **Sec. 20.** RCW 17.24.051 and 1991 c 257 s 9 are each amended to read
27 as follows:

28 The introduction into or release within the state of a plant pest,
29 noxious weeds, bee pest, or any other organism that may directly or
30 indirectly affect the plant life of the state as an injurious pest,
31 parasite, predator, or other organism is prohibited, except under
32 special permit issued by the department under rules adopted by the
33 director. A special permit is not required if a permit has been issued
34 under section 12 of this act. A special permit is not required for the
35 introduction or release within the state of a genetically engineered
36 plant or plant pest organism if the introduction or release has been
37 approved under provisions of federal law and the department has been
38 notified of the planned introduction or release. The department shall

1 be the sole issuing agency for the permits. Except for research
2 projects approved by the department, no permit for a biological control
3 agent shall be issued unless the department has determined that the
4 parasite, predator, or plant pathogen is target organism or plant
5 specific and not likely to become a pest of nontarget plants or other
6 beneficial organisms. The director may also exclude biological control
7 agents that are infested with parasites determined to be detrimental to
8 the biological control efforts of the state. The department may rely
9 upon findings of the United States department of agriculture or any
10 experts that the director may deem appropriate in making a
11 determination about the threat posed by such organisms. In addition,
12 the director may request confidential business information subject to
13 the conditions in RCW 17.24.061.

14 Plant pests, noxious weeds, or other organisms introduced into or
15 released within this state in violation of this section shall be
16 subject to detention and disposition as otherwise provided in this
17 chapter.

18 NEW SECTION. **Sec. 21.** Sections 1 through 5 of this act constitute
19 a new chapter in Title 90 RCW.

20 NEW SECTION. **Sec. 22.** Sections 10 through 16 of this act
21 constitute a new chapter in Title 90 RCW.

22 NEW SECTION. **Sec. 23.** Section 17 of this act is necessary for the
23 immediate preservation of the public peace, health, or safety, or
24 support of the state government and its existing public institutions,
25 and takes effect immediately.

26 NEW SECTION. **Sec. 24.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

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