

2 **2SHB 1866 - H AMD 365 ADOPTED 3-19-97**

3 By Representative Chandler

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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 directing 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 chapter it is not the intent of the legislature
20 that agencies apply state environmental standards inconsistently in
21 conducting remedial actions for hazardous waste under state law, such
22 that these state standards could be waived under section 121 of the
23 federal comprehensive environmental response, compensation and
24 liability act (42 U.S.C. Sec. 9261).

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

27 (1) "Agency of the state of Washington" or "state, regional, or
28 local agency" means an agency, board, department, authority, or
29 commission that administers environmental laws.

30 (2) "Coordinating agency" means the state, regional, or local
31 agency with the primary regulatory responsibility for the proposed
32 environmental excellence program agreement. If multiple agencies have
33 jurisdiction to administer state environmental laws affected by an
34 environmental excellence agreement, the department of ecology shall
35 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 70.95B, 70.105, 70.119A, 75.20, 90.48, 90.52, 90.58, 90.64, and 90.71
7 RCW, and RCW 90.54.020 and rules adopted under those chapters and
8 section. The term environmental laws as used in this chapter does not
9 include any provision of the Revised Code of Washington, or of any
10 municipal ordinance or enactment, that regulates the selection of a
11 location for 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 statute, rule, order, or
15 environmental 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, or similar entities.

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31 achieved when compared to the legal requirements superseded or replaced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

1 environmental excellence agreement may not authorize a decrease in the
2 overall environmental results achieved by the participating facility
3 over a representative period prior to the date on which the agreement
4 is proposed by the sponsor.

5 NEW SECTION. **Sec. 4.** (1) The director of a state, regional, or
6 local agency may enter into an environmental excellence program
7 agreement with any sponsor, even if one or more of the terms of the
8 environmental excellence program agreement would be inconsistent with
9 an otherwise applicable legal requirement. An environmental excellence
10 program agreement must meet the requirements of section 3 of this act.
11 Otherwise applicable legal requirements inconsistent with the terms of
12 an environmental excellence program agreement shall be superseded and
13 replaced in accordance with section 9 of this act.

14 (2) The director of a state, regional, or local agency may enter
15 into an environmental excellence program agreement only to the extent
16 the state, regional, or local agency has jurisdiction to administer
17 state environmental laws either directly or indirectly through the
18 adoption of rules.

19 (3) Where a sponsor proposes an environmental excellence program
20 agreement that would affect environmental requirements applicable to
21 the covered facility that are administered by more than one state,
22 regional, or local agency, the coordinating agency shall take the lead
23 in developing the environmental excellence program agreement with the
24 sponsor and other agencies administering legal requirements applicable
25 to the covered facility and affected by the agreement. To be
26 effective, the environmental excellence program agreement must be
27 signed by the director of each agency administering legal requirements
28 affected by the agreement and applicable to the covered facility.

29 (4) No director may enter into an environmental excellence program
30 agreement applicable to a remedial action conducted under the
31 Washington model toxics control act, chapter 70.105D RCW, or the
32 federal comprehensive environmental response, compensation and
33 liability act (42 U.S.C. Sec. 9601 et seq). No action taken under this
34 chapter shall be deemed a waiver of any applicable, relevant, or
35 appropriate requirements for any remedial action conducted under the
36 Washington model toxics control act or the federal comprehensive
37 environmental response, compensation and liability act.

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

8 NEW SECTION. **Sec. 5.** (1) A sponsor may propose an environmental
9 excellence program agreement. A trade association or other authorized
10 representative of a sponsor or sponsors may propose a programmatic
11 environmental excellence program agreement for multiple facilities.

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

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

18 (b)(i) For a site-specific proposal, a comprehensive description of
19 the proposed environmental excellence project that includes the nature
20 of the facility and the operations that will be affected, how the
21 facility or operations will achieve results more effectively or
22 efficiently, and the nature of the results anticipated; or

23 (ii) For a programmatic proposal, a comprehensive description of
24 the proposed environmental excellence project that identifies the
25 facilities and the operations that are expected to participate, how
26 participating facilities or operations will achieve environmental
27 results more effectively or efficiently, the nature of the results
28 anticipated, and the method to identify and document the commitments
29 made by individual participants;

30 (c) An environmental checklist, containing sufficient information
31 to reasonably inform the public of the nature of the proposed
32 environmental excellence program agreement and describing probable
33 significant adverse environmental impacts and environmental benefits
34 expected from implementation of the proposal;

35 (d) A draft environmental excellence program agreement;

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

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

4 NEW SECTION. **Sec. 6.** (1) Stakeholder participation in and support
5 for an environmental excellence program agreement is vital to the
6 integrity of the environmental excellence program agreement and helps
7 to inform the decision whether an environmental excellence program
8 agreement can be approved.

9 (2) A proposal for an environmental excellence program agreement
10 shall include the sponsor's plan to identify and contact stakeholders,
11 to advise stakeholders of the facts and nature of the project, and to
12 request stakeholder participation and review. Stakeholder
13 participation and review shall occur during the development,
14 consideration, and implementation stages of the proposed environmental
15 excellence program agreement. The plan shall include notice to the
16 employees of the facility to be covered by the proposed environmental
17 excellence program agreement and public notice in the area of the
18 covered facility.

19 (3) The coordinating agency will identify any additional provisions
20 for the stakeholder process that the director of the coordinating
21 agency, in the director's sole discretion, considers appropriate to the
22 success of the stakeholder process, and provide for notice to the
23 United States environmental protection agency or other responsible
24 federal agency of each proposed environmental excellence program
25 agreement that may affect legal requirements of any program
26 administered by that agency.

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

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

31 (2) A description of all legal requirements that are enforceable as
32 provided in section 13(2) of this act that are different from those
33 legal requirements applicable in the absence of the environmental
34 excellence program agreement;

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

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

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

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

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

12 (8) A statement describing how any participating facility shall
13 measure and demonstrate its compliance with the environmental
14 excellence program agreement including, without limitation, a
15 description of the methods to be used to monitor performance, criteria
16 that represent acceptable performance, and the method of reporting
17 performance to the public and local communities;

18 (9) A description of and plan for public participation in the
19 implementation of the environmental excellence program agreement and
20 for public access to information needed to assess the benefits of the
21 environmental excellence program agreement and the sponsor's compliance
22 with the environmental excellence program agreement;

23 (10) A schedule of periodic performance review of the environmental
24 excellence program agreement by the directors that signed the
25 agreement;

26 (11) Provisions for voluntary and involuntary termination of the
27 agreement;

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

30 (13) Statements approving the environmental excellence program
31 agreement made by the sponsor and by or on behalf of directors of each
32 state, regional, or local agency administering legal requirements that
33 are affected by the agreement and are applicable to the covered
34 facility;

35 (14) Additional terms as requested by the directors signing the
36 environmental excellence program agreement and consistent with this
37 chapter;

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

1 (16) With respect to a programmatic environmental excellence
2 program agreement, state the method with which to identify and document
3 the specific commitments to be made by individual participants.

4 NEW SECTION. **Sec. 8.** (1) The coordinating agency shall provide at
5 least thirty days after notice has been published in a newspaper under
6 subsection (2) of this section for public comment on a proposal to
7 enter into or modify an environmental excellence program agreement.
8 The coordinating agency may provide for an additional period of public
9 comment if required by the complexity of the proposed environmental
10 excellence program agreement and the degree of public interest. Before
11 the start of the comment period, the coordinating agency shall prepare
12 a proposed agreement, a public notice and a fact sheet. The fact sheet
13 shall: (a) Briefly describe the principal facts and the significant
14 factual, legal, methodological and policy questions considered by the
15 directors signing the agreement, and the directors' proposed decisions;
16 and (b) briefly describe how the proposed action meets the requirements
17 of section 3 of this act.

18 (2) The coordinating agency shall publish notice of the proposed
19 agreement in the Washington State Register and in a newspaper of
20 general circulation in the vicinity of the facility or facilities
21 covered by the proposed environmental excellence program agreement.
22 The notice shall generally describe the agreement or modification; the
23 facilities to be covered; summarize the changes in legal requirements
24 that will result from the agreement; summarize the reasons for
25 approving the agreement or modifications; identify an agency person to
26 contact for additional information; state that the proposed agreement
27 or modification and fact sheet are available on request; and state that
28 comments may be submitted to the agency during the comment period. The
29 coordinating agency may order a public informational meeting or a
30 public hearing to receive oral comments if the written comments during
31 the comment period demonstrate considerable public interest in the
32 proposed agreement.

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

36 (4) With respect to an environmental excellence program agreement
37 that affects legal requirements adopted to comply with provisions of a
38 federal regulatory program, the coordinating agency shall provide a

1 copy of the environmental excellence program agreement, and a copy of
2 the notice required by subsection (1) of this section, to the federal
3 agency that is responsible for administering that program at least
4 thirty days before entering into or modifying the environmental
5 excellence program agreement, and shall afford the federal agency the
6 opportunity to object to those terms of the environmental excellence
7 program agreement or modification of an environmental excellence
8 program agreement affecting the legal requirements.

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

23 (2) Any permits affected by an environmental excellence program
24 agreement shall be revised to conform to the environmental excellence
25 program agreement by the agency with jurisdiction. The permit
26 revisions will be completed within one hundred twenty days of the
27 effective date of the agreement in accordance with otherwise applicable
28 procedural requirements, including, where applicable, public notice and
29 the opportunity for comment, and the opportunity for review and
30 objection by federal agencies.

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

34 (4) A programmatic environmental excellence program agreement shall
35 become applicable to an individual facility when the director or
36 directors entering into the programmatic agreement approve the owner or
37 operator's commitment to comply with the agreement. A programmatic
38 agreement may not take effect, however, until notice and an opportunity

1 to comment for the individual facility has been provided in accordance
2 with the requirements of section 8 (1) through (3) of this act.

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

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

29 (3) A decision to accept the commitment of a specific facility to
30 comply with the terms of a programmatic environmental excellence
31 program agreement, or to modify the application of an agreement to a
32 specific facility, is subject to judicial review as described in
33 subsection (1) of this section. An appeal is not timely unless filed
34 with the superior court and served on the directors signing the
35 agreement, the sponsor, and the owner or operator of the specific
36 facility within thirty days of the date the director or directors that
37 signed the programmatic agreement approve the owner or operator's
38 commitment to comply with the agreement. For a programmatic

1 environmental excellence program agreement or modification signed by
2 more than one director, there shall be only one appeal and the time for
3 appeal shall run from the last date on which a director approves the
4 commitment.

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

7 (5) An appeal of a decision by a director under section 11 of this
8 act to terminate in whole or in part a facility specific or
9 programmatic environmental excellence program agreement is not timely
10 unless filed with the superior court and served on the director within
11 thirty days of the date on which notice of the termination is issued
12 under section 11(2) of this act.

13 NEW SECTION. **Sec. 11.** (1) In addition to any termination
14 provisions contained in an environmental excellence program agreement,
15 a director of an agency may terminate an environmental excellence
16 program agreement in whole or in part with respect to a legal
17 requirement administered by that agency, if the director finds: (a)
18 That after notice and a reasonable opportunity to cure, the covered
19 facility is in violation of a material requirement of the agreement;
20 (b) that the facility has repeatedly violated any requirements of the
21 agreement; (c) that the operation of the facility under the agreement
22 has caused an imminent and substantial endangerment to public health
23 that cannot be remedied by modification of the agreement; or (d) the
24 facility has failed to make substantial progress in achieving the
25 voluntary goals identified under section 6(3) of this act, and these
26 goals are material to the overall objectives of the agreement.

27 (2) A director of an agency terminating an environmental excellence
28 program agreement in any respect shall provide each of the parties to
29 the agreement with a written notice of that action specifying the
30 extent to which the environmental excellence program agreement is to be
31 terminated, the factual and legal basis for termination, and a
32 description of the opportunity for judicial review of the decision to
33 terminate the environmental excellence program agreement.

34 (3) If a director terminates less than the entire environmental
35 excellence program agreement, the owner or operator of the covered
36 facility may elect to terminate the entire agreement as it applies to
37 the facility.

1 (4) If a director decides to terminate an environmental excellence
2 program agreement because the facility has not been able to meet the
3 legal requirements established under the agreement, or because
4 operation of the facility under the agreement has caused an imminent
5 and substantial endangerment to public health, as provided in
6 subsection (1)(c) of this section, the director may establish in the
7 notice of termination: (a) Practical interim requirements for the
8 facility that are no less stringent than the legal requirements that
9 would apply to the facility in the absence of the agreement; and (b) a
10 practical schedule of compliance for meeting the interim requirements.
11 The interim requirements and schedule of compliance shall be subject to
12 judicial review under the provisions of section 10(5) of this act. The
13 facility shall comply with the interim requirements established under
14 this subsection after they are final and no longer subject to judicial
15 review until applicable permits or permit modifications have been
16 issued under section 12 of this act.

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

29 NEW SECTION. **Sec. 13.** (1) The legal requirements contained in the
30 environmental excellence program agreement in accordance with section
31 7(2) of this act are enforceable commitments of the facility covered by
32 the agreement. Any violation of these legal requirements is subject to
33 penalties and remedies to the same extent as the legal requirements
34 that they superseded or replaced.

35 (2) The voluntary goals stated in the environmental excellence
36 program agreement in accordance with section 7(3) of this act are
37 voluntary commitments of the facility covered by the agreement. If the

1 facility fails to meet these goals, it shall not be subject to any form
2 of enforcement action, including penalties, orders, or any form of
3 injunctive relief. The failure to make substantial progress in meeting
4 these goals may be a basis on which to terminate the environmental
5 excellence program agreement under section 11 of this act.

6 (3) Nothing in this chapter limits the authority of an agency, the
7 attorney general, or a prosecuting attorney to initiate an enforcement
8 action for violation of any applicable legal requirement. However, no
9 civil, criminal, or administrative action may be brought with respect
10 to any legal requirement that is superseded or replaced under the terms
11 of an environmental excellence program agreement.

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

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

18 NEW SECTION. **Sec. 15.** A decision to approve an environmental
19 excellence program agreement is not subject to the requirements of the
20 state environmental policy act, chapter 43.21C RCW, including the
21 requirement to prepare an environmental impact statement under RCW
22 43.21C.031. However, the consideration of a proposed environmental
23 excellence program agreement will integrate an assessment of
24 environmental impacts.

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

30 NEW SECTION. **Sec. 17.** The director of the department of ecology
31 shall appoint an advisory committee to review the effectiveness of the
32 environmental excellence program agreement program and to make a
33 recommendation to the legislature concerning the continuation,
34 termination, or modification of the program. The committee also may
35 make recommendations it considers appropriate for revision of any

1 regulatory program that is affected by an environmental excellence
2 program agreement. The committee shall be composed of one
3 representative each from two state agencies, two representatives of the
4 regulated community, and two representatives of environmental
5 organizations or other public interest groups. The committee must
6 submit a report and its recommendation to the legislature not later
7 than October 31, 2001. The department of ecology shall provide the
8 advisory committee with such support as they may require.

9 NEW SECTION. **Sec. 18.** (1) Agencies authorized to enter into
10 environmental excellence program agreements may assess and collect a
11 fee to recover the costs of processing environmental excellence program
12 agreement proposals. The amount of the fee may not exceed the direct
13 and indirect costs of processing the environmental excellence program
14 agreement proposal. Processing includes, but is not limited to:
15 Working with the sponsor to develop the agreement, meeting with
16 stakeholder groups, conducting public meetings and hearings, and
17 preparing a record of the decision to enter into or modify an
18 agreement.

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

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

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

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

34 Notwithstanding any other provision of law, any legal requirement
35 under this chapter, including any standard, limitation, rule, or order
36 is superseded and replaced in accordance with the terms and provisions

1 of an environmental excellence program agreement, entered into under
2 chapter 43.-- RCW (sections 2 through 19 of this act).

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

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

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

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

17 NEW SECTION. **Sec. 23.** A new section is added to chapter 70.95B
18 RCW to read as follows:

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

24 NEW SECTION. **Sec. 24.** A new section is added to chapter 70.105
25 RCW to read as follows:

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

31 NEW SECTION. **Sec. 25.** A new section is added to chapter 70.119A
32 RCW to read as follows:

33 Notwithstanding any other provision of law, any legal requirement
34 under this chapter, including any standard, limitation, rule, or order

1 is superseded and replaced in accordance with the terms and provisions
2 of an environmental excellence program agreement, entered into under
3 chapter 43.-- RCW (sections 2 through 19 of this act).

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

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

11 NEW SECTION. **Sec. 27.** A new section is added to chapter 90.48 RCW
12 to read as follows:

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

18 NEW SECTION. **Sec. 28.** A new section is added to chapter 90.52 RCW
19 to read as follows:

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

25 NEW SECTION. **Sec. 29.** A new section is added to chapter 90.58 RCW
26 to read as follows:

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

32 NEW SECTION. **Sec. 30.** A new section is added to chapter 90.64 RCW
33 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. 31.** A new section is added to chapter 90.71 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 **Sec. 32.** RCW 90.54.020 and 1989 c 348 s 1 are each amended to read
14 as follows:

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

17 (1) Uses of water for domestic, stock watering, industrial,
18 commercial, agricultural, irrigation, hydroelectric power production,
19 mining, fish and wildlife maintenance and enhancement, recreational,
20 and thermal power production purposes, and preservation of
21 environmental and aesthetic values, and all other uses compatible with
22 the enjoyment of the public waters of the state, are declared to be
23 beneficial.

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

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

30 (a) Perennial rivers and streams of the state shall be retained
31 with base flows necessary to provide for preservation of wildlife,
32 fish, scenic, aesthetic and other environmental values, and
33 navigational values. Lakes and ponds shall be retained substantially
34 in their natural condition. Withdrawals of water which would conflict
35 therewith shall be authorized only in those situations where it is
36 clear that overriding considerations of the public interest will be
37 served.

1 (b) Waters of the state shall be of high quality. Regardless of
2 the quality of the waters of the state, all wastes and other materials
3 and substances proposed for entry into said waters shall be provided
4 with all known, available, and reasonable methods of treatment prior to
5 entry. Notwithstanding that standards of quality established for the
6 waters of the state would not be violated, wastes and other materials
7 and substances shall not be allowed to enter such waters which will
8 reduce the existing quality thereof, except in those situations where
9 it is clear that overriding considerations of the public interest will
10 be served. Technology-based effluent limitations or standards for
11 discharges for municipal water treatment plants located on the
12 Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted
13 to reflect credit for substances removed from the plant intake water
14 if:

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

17 (ii) The municipality demonstrates that no violation of receiving
18 water quality standards or appreciable environmental degradation will
19 result.

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

22 (5) Multiple-purpose impoundment structures are to be preferred
23 over single-purpose structures. Due regard shall be given to means and
24 methods for protection of fishery resources in the planning for and
25 construction of water impoundment structures and other artificial
26 obstructions.

27 (6) Federal, state, and local governments, individuals,
28 corporations, groups and other entities shall be encouraged to carry
29 out practices of conservation as they relate to the use of the waters
30 of the state. In addition to traditional development approaches,
31 improved water use efficiency and conservation shall be emphasized in
32 the management of the state's water resources and in some cases will be
33 a potential new source of water with which to meet future needs
34 throughout the state.

35 (7) Development of water supply systems, whether publicly or
36 privately owned, which provide water to the public generally in
37 regional areas within the state shall be encouraged. Development of
38 water supply systems for multiple domestic use which will not serve the

1 public generally shall be discouraged where water supplies are
2 available from water systems serving the public.

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

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

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

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

17 NEW SECTION. Sec. 33. The environmental excellence account is
18 hereby created in the state treasury. All fees and voluntary
19 contributions collected by state agencies under section 18 of this act
20 shall be deposited into the account. Except for unanticipated receipts
21 under RCW 43.79.260 through 43.79.282, moneys in the account may be
22 spent only after appropriation. Expenditures from the account may be
23 used only for purposes consistent with the environmental excellence
24 program created under sections 2 through 19 of this act.

25 NEW SECTION. Sec. 34. Sections 2 through 19 of this act
26 constitute a new chapter in Title 43 RCW."

27 Correct the title.

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