
SUBSTITUTE HOUSE BILL 1866

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Linville, Lisk, Delvin and Schoesler)

Read first time 03/05/97.

1 AN ACT Relating to the establishment of voluntary programs creating
2 environmental excellence program agreements; amending RCW 90.54.020;
3 adding new sections to chapter 43.131 RCW; adding a new section to
4 chapter 43.21A RCW; adding a new section to chapter 70.94 RCW; adding
5 a new section to chapter 70.95 RCW; adding a new section to chapter
6 70.105 RCW; adding a new section to chapter 75.20 RCW; adding a new
7 section to chapter 90.48 RCW; adding a new section to chapter 90.52
8 RCW; adding a new section to chapter 90.56 RCW; adding a new section to
9 chapter 90.58 RCW; adding a new section to chapter 90.64 RCW; adding a
10 new section to chapter 90.71 RCW; adding a new chapter to Title 43 RCW;
11 and creating a new section.

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

13 NEW SECTION. **Sec. 1.** The purpose of this act is to create a
14 voluntary program authorizing environmental excellence program
15 agreements with persons regulated under the environmental laws of the
16 state of Washington, by directing agencies of the state of Washington
17 to solicit and support the development of agreements that use
18 innovative environmental measures or strategies not otherwise

1 recognized or allowed under existing laws and rules to achieve
2 environmental results more effectively or efficiently.

3 Agencies shall encourage environmental excellence program
4 agreements that favor or promote pollution prevention, source
5 reduction, or improvements in practices that are transferable to other
6 interested entities or that can achieve better overall environmental
7 results than required by otherwise applicable rules and requirements.

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

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

13 (2) "Coordinating agency" means the state, regional, or local
14 agency with the primary regulatory responsibility for the proposed
15 environmental excellence program agreement. If multiple agencies have
16 jurisdiction to administer state environmental laws affected by an
17 environmental excellence agreement, the department of ecology shall
18 designate or act as the coordinating agency.

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

23 (4) "Environmental laws" means chapters 43.21A, 70.94, 70.95,
24 70.105, 75.20, 90.48, 90.52, 90.56, 90.58, 90.64, and 90.71 RCW, and
25 RCW 90.54.020 and rules adopted under those chapters and section. The
26 term environmental laws as used in this chapter does not include any
27 provision of the Revised Code of Washington, or of any municipal
28 ordinance or enactment, that regulates the selection of a location for
29 a new facility.

30 (5) "Facility" means a site of a business or municipal activity
31 that is regulated under any of the provisions of the environmental
32 laws.

33 (6) "Sponsor" means the owner or operator of a facility, including
34 a municipality, subject to regulation under the environmental laws of
35 the state of Washington, or an authorized representative of the owner
36 or operator, that submits a proposal for an environmental excellence
37 program agreement.

1 (7) "Stakeholder" means a person who has a direct interest in the
2 proposed environmental excellence program agreement or who represents
3 a public interest in the proposed environmental excellence program
4 agreement. Stakeholders may include communities near the project,
5 local or state governments, permittees, businesses, environmental and
6 other public interest groups, or similar entities.

7 NEW SECTION. **Sec. 3.** (1) The director of a state, regional, or
8 local agency may enter into an environmental excellence program
9 agreement with any person regulated under the environmental laws of the
10 state, even if one or more of the terms of the environmental excellence
11 program agreement would be inconsistent with an otherwise applicable
12 statute, rule, or environmental permit. The director of a state,
13 regional, or local agency may enter into an environmental excellence
14 program agreement only to the extent the state, regional, or local
15 agency has jurisdiction to administer state environmental laws either
16 directly or indirectly through the adoption of rules.

17 (2) Where a sponsor proposes an environmental excellence program
18 agreement that would affect environmental requirements administered by
19 more than one state, regional, or local agency, the coordinating agency
20 shall take the lead in developing the environmental excellence program
21 agreement with the sponsor and other agencies with jurisdiction. The
22 environmental excellence program agreement must be signed by the
23 director of each agency administering legal requirements affected by
24 the agreement.

25 NEW SECTION. **Sec. 4.** (1) A sponsor may propose an environmental
26 excellence program agreement. A trade association or other authorized
27 representative of a sponsor or sponsors may propose a programmatic
28 environmental excellence program agreement for multiple facilities.

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

32 (a) A statement that describes how the proposal is consistent with
33 the purpose of this chapter and the project approval criteria in
34 section 7 of this act;

35 (b)(i) For a site-specific proposal, a comprehensive description of
36 the proposed environmental excellence project that includes the nature
37 of the facility and the operations that will be affected, how the

1 facility or operations will achieve results that represent
2 environmental excellence, and the nature of the results anticipated; or

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

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

15 (d) A draft environmental excellence program agreement;

16 (e) A description of the stakeholder process as provided in
17 section 5 of this act;

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

21 NEW SECTION. **Sec. 5.** (1) Stakeholder participation in and support
22 for an environmental excellence program agreement is vital to the
23 integrity of the environmental excellence program agreement and helps
24 to form the decision whether an environmental excellence program
25 agreement can be approved.

26 (2) A proposal for an environmental excellence program agreement
27 shall include the sponsor's plan to identify and contact stakeholders,
28 to advise stakeholders of the facts and nature of the project, and to
29 request stakeholder participation and review during the development and
30 implementation of the proposed environmental excellence program
31 agreement. The plan shall include notice to the employees of the
32 facility to be covered by public notice in the area of the covered
33 facility, and such other measures as the directors who are to sign the
34 agreement may reasonably require.

35 (3) The coordinating agency will identify any additional provisions
36 for the stakeholder process that the director of the coordinating
37 agency, in the director's sole discretion, considers appropriate to the
38 success of the stakeholder process, and provide for notice to the

1 United States environmental protection agency, or other responsible
2 federal agency of each proposed environmental excellence program
3 agreement that may affect legal requirements of any program
4 administered by that agency.

5 NEW SECTION. **Sec. 6.** An environmental excellence program
6 agreement must contain the following terms and conditions:

7 (1) A description of all legal requirements that are superseded or
8 replaced by the environmental excellence program agreement;

9 (2) A description of all enforceable legal requirements different
10 from those applicable in the absence of the environmental excellence
11 program agreement;

12 (3) A description of the voluntary goals that are or will be
13 adopted by the sponsor but which are not enforceable except through a
14 termination or modification of the environmental excellence program
15 agreement;

16 (4) A statement that the civil and criminal penalties for the
17 violation of enforceable legal requirements described in subsection (2)
18 of this section shall be the same as for the violation of the legal
19 requirements that are superseded or replaced by the environmental
20 excellence program agreement;

21 (5) A statement describing how the environmental excellence program
22 agreement will achieve the purposes of this chapter;

23 (6) A statement describing how the environmental excellence program
24 agreement will be implemented, including a list of steps and an
25 implementation schedule;

26 (7) A statement that the proposed environmental excellence program
27 agreement will not increase overall worker safety risks or impose
28 unjust or disproportionate environmental impacts;

29 (8) A statement that the stakeholder plan was implemented in the
30 development of the environmental excellence program agreement;

31 (9) A statement describing how any participating facility shall
32 measure and demonstrate its compliance with the environmental
33 excellence program agreement including, without limitation, a
34 description of the methods to be used to monitor performance, criteria
35 that represent acceptable performance, and the method of reporting
36 performance to the public;

37 (10) A description of and plan for public participation in the
38 implementation of the environmental excellence program agreement and

1 for public access to information needed to assess the benefits of the
2 environmental excellence program agreement and the sponsors compliance
3 with the environmental excellence program agreement;

4 (11) A schedule of periodic performance review of the environmental
5 excellence program agreement by the governor or the governor's
6 designee;

7 (12) Provisions for voluntary and involuntary termination of the
8 agreement;

9 (13) The duration of the environmental excellence program agreement
10 and provisions for renewal;

11 (14) Statements approving the environmental excellence program
12 agreement made by or on behalf of the governor and the sponsor;

13 (15) Additional terms as requested by the governor or the
14 governor's designee and consistent with this chapter.

15 NEW SECTION. **Sec. 7.** An environmental excellence program
16 agreement entered into under this chapter must achieve more effective
17 or efficient environmental results. More effective environmental
18 results are results that are better overall than those that would be
19 achieved when compared to the legal requirements superseded or replaced
20 by the agreement. More efficient environmental results are results
21 that are achieved at reduced cost and are at least equivalent to the
22 legal requirements superseded or replaced by the agreement. An
23 environmental excellence agreement may not authorize a decrease in the
24 overall environmental results achieved by the participating facility at
25 the date on which the agreement is proposed by the sponsor.

26 NEW SECTION. **Sec. 8.** (1) The coordinating agency shall provide at
27 least thirty days for public comment on a proposal to enter into or
28 modify an environmental excellence program agreement. Before the start
29 of the comment period, the coordinating agency shall prepare a proposed
30 agreement, a public notice and a fact sheet. The fact sheet shall: (a)
31 Briefly describe the principal facts and the significant factual,
32 legal, methodological and policy questions considered by the directors
33 signing the agreement, and the directors' proposed decisions; and (b)
34 briefly describe how the proposed action meets the requirements of
35 section 7 of this act.

36 (2) The coordinating agency shall publish notice of the proposed
37 agreement in the Washington State Register and in a newspaper of

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

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

17 (4) With respect to an environmental excellence program agreement
18 that affects legal requirements adopted to comply with provisions of a
19 federal regulatory program, the coordinating agency shall provide a
20 copy of the environmental excellence program agreement, and a copy of
21 the notice required by subsection (1) of this section, to the federal
22 agency that is responsible for administering that program at least
23 thirty days before entering into or modifying the environmental
24 excellence program agreement, and shall afford the federal agency the
25 opportunity to object to those terms of the environmental excellence
26 program agreement or modification of an environmental excellence
27 program agreement affecting the legal requirements. The directors of
28 state, regional, or local agencies shall not enter into an
29 environmental excellence program agreement or a modification of an
30 environmental excellence program agreement containing terms affecting
31 legal requirements adopted to comply with provisions of a federal
32 regulatory program and to which the responsible federal agency objects.

33 NEW SECTION. **Sec. 9.** (1) Notwithstanding any other provision of
34 law, any legal requirement under the environmental laws affected by an
35 environmental excellence program agreement, including, without
36 limitation, any standard, limitation, or order, shall be superseded in
37 accordance with the terms of the environmental excellence program
38 agreement. Legal requirements contained in a permit that are affected

1 by an environmental excellence program agreement will continue to be
2 enforceable until such time as the permit is revised in accordance with
3 subsection (2) of this section. With respect to any other legal
4 requirements, the legal requirements contained in the environmental
5 excellence program agreement are effective as provided by the
6 environmental excellence program agreement and the facility or
7 facilities covered by an environmental excellence program agreement
8 shall comply with the terms of the environmental excellence program
9 agreement in lieu of the legal requirements that are superseded and
10 replaced by the approved environmental excellence program agreement.

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

19 (3) Other than as revised as provided in an approved environmental
20 excellence program agreement, any existing permit requirements remain
21 in effect and are enforceable.

22 (4) A programmatic environmental excellence program agreement shall
23 become effective for an individual facility when the owner or operator
24 provides a commitment, satisfactory to the director or directors
25 entering into the programmatic agreement, to comply with the agreement.

26 NEW SECTION. **Sec. 10.** (1) A decision by the directors of state,
27 regional, or local agencies to approve a proposed environmental
28 excellence program agreement, or to terminate or modify an approved
29 environmental excellence program agreement, is subject to judicial
30 review under RCW 34.05.570. For purposes of judicial review, the
31 decision to approve, terminate, or modify an environmental excellence
32 program agreement is subject to review in the superior court in the
33 same manner as an agency rule. However, the decision shall be accorded
34 substantial deference by the court. A decision not to enter into or
35 modify an environmental excellence program agreement is within the sole
36 discretion of the directors of the state, regional, or local agencies
37 and is not subject to review.

1 (2) An appeal from a decision to approve, terminate, or modify a
2 facility specific or a programmatic environmental excellence program
3 agreement is not timely unless filed with the superior court and served
4 on the parties to the environmental excellence program agreement within
5 thirty days of the date on which the agreement is signed by the
6 director. For an environmental excellence program agreement or
7 modification signed by more than one director, there is only one
8 appeal, and the time for appeal shall run from the last date on which
9 the agreement or modification is signed by the director.

10 (3) An appeal from an application of a decision to approve,
11 terminate, or modify a programmatic environmental excellence program
12 agreement is not timely unless filed with the superior court and served
13 on the directors signing the agreement, the sponsor, and the owner or
14 operator of the specific facility within thirty days of the date a
15 facility enters into the environmental excellence program by signing
16 the agreement.

17 (4) Permit modifications or revisions are subject to review under
18 otherwise applicable law.

19 NEW SECTION. **Sec. 11.** (1) A director of an agency may terminate
20 an environmental excellence program agreement in whole or in part with
21 respect to a legal requirement administered by that agency, if the
22 director finds: (a) That after notice and a reasonable opportunity to
23 cure, the covered facility is in violation of a material requirement of
24 the agreement; or (b) that the facility has repeatedly violated any
25 requirements of the agreement.

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

33 (3) If the director terminates less than the entire environmental
34 excellence program agreement, the covered facility may elect to
35 terminate the entire agreement.

36 NEW SECTION. **Sec. 12.** A termination under section 11 of this act
37 is final and no longer subject to judicial review. The sponsor has

1 sixty days in which to apply for any permit or approval affected by any
2 terminated portion of the environmental excellence program agreement.
3 An application filed during the sixty-day period shall be deemed a
4 timely application for renewal of a permit under the terms of any
5 applicable law. The terms and conditions of the environmental
6 excellence program agreement and of permits issued will continue in
7 effect until a final permit or approval is issued. If the sponsor
8 fails to submit a timely or complete application, any affected permit
9 or approval may be modified at any time that is consistent with
10 applicable law.

11 NEW SECTION. **Sec. 13.** (1) The legal requirements contained in the
12 environmental excellence program agreement in accordance with section
13 6(2) of this act are enforceable commitments of the facility covered by
14 the agreement. Any violation of these legal requirements is subject to
15 penalties and remedies to the same extent as the legal requirements
16 that they superseded or replaced.

17 (2) The goals stated in the environmental excellence program
18 agreement in accordance with section 6(3) of this act are voluntary
19 commitments of the facility covered by the agreement. If the facility
20 fails to meet these goals, it shall not be subject to any form of
21 enforcement action, including penalties, orders, or any form of
22 injunctive relief. The failure to meet these goals may be a basis on
23 which to terminate or modify the environmental excellence program
24 agreement as provided in section 11 of this act.

25 (3) Nothing in this chapter limits the authority of an agency, the
26 attorney general, or a prosecuting attorney to initiate an enforcement
27 action for violation of any applicable legal requirement. However, (a)
28 no civil, criminal, or administrative action may be brought with
29 respect to any legal requirement that is superseded or replaced under
30 the terms of an environmental excellence program agreement; and (b) no
31 criminal, civil, or administrative sanction or action may be instituted
32 or imposed for failure to meet any identified environmental excellence
33 and innovation goal identified as an unenforceable target or plan in an
34 environmental excellence program agreement.

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

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

4 NEW SECTION. **Sec. 15.** A decision to approve an environmental
5 excellence program agreement is not subject to the requirements of the
6 state environmental policy act, chapter 43.21C RCW, including the
7 requirement to prepare an environmental impact statement under RCW
8 43.21C.031. However, the consideration of a proposed environmental
9 excellence program agreement by the governor or the governor's designee
10 will integrate an assessment of environmental impacts.

11 NEW SECTION. **Sec. 16.** Any state, regional, or local agency
12 administering programs under an environmental law may adopt rules to
13 implement this chapter.

14 NEW SECTION. **Sec. 17.** The director of the department of ecology
15 shall appoint an advisory committee to review the effectiveness of the
16 environmental excellence program agreement program and to make a
17 recommendation to the legislature concerning the continuation,
18 termination, or modification of the program. The committee shall be
19 composed of one representative each from two state agencies, two
20 representatives of the regulated community, and two representatives of
21 environmental organizations. The committee must submit a report and
22 its recommendation to the legislature not later than October 31, 2001.
23 The department of ecology shall provide the advisory committee with
24 such support as they may require.

25 NEW SECTION. **Sec. 18.** (1) Agencies authorized to enter into
26 environmental excellence program agreements may assess and collect a
27 fee to recover the costs of processing environmental excellence program
28 agreement proposals. The amount of the fee may not exceed the direct
29 and indirect costs of processing the environmental excellence program
30 agreement proposal. Processing includes, but is not limited to:
31 Working with the sponsor to develop the agreement, meeting with
32 stakeholder groups, conducting public meetings and hearings, and
33 preparing a record of the decision to enter into or modify an
34 agreement.

1 (2) Agencies assessing fees shall graduate the initial fees for
2 processing an environmental excellence program agreement proposal to
3 account for the size of the business and to make the environmental
4 excellence program agreement program more available to small
5 businesses. An agency may exercise its discretion to waive all or any
6 part of the fees.

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

9 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.131
10 RCW to read as follows:

11 The authority of a director to enter into a new environmental
12 excellence program agreement program shall be terminated June 30, 2002,
13 as provided in section 20 of this act. Environmental excellence
14 program agreements entered into before June 30, 2002, shall remain in
15 force and effect subject to the terms of the agreements.

16 NEW SECTION. **Sec. 20.** A new section is added to chapter 43.131
17 RCW to read as follows:

18 The following acts or parts of acts, as now existing or hereafter
19 amended, are each repealed, effective June 30, 2003:

- 20 (1) 1997 c . . . s 1 (section 1 of this act);
- 21 (2) RCW 43.---.--- and 1997 c . . . s 2 (section 2 of this act);
- 22 (3) RCW 43.---.--- and 1997 c . . . s 3 (section 3 of this act);
- 23 (4) RCW 43.---.--- and 1997 c . . . s 4 (section 4 of this act);
- 24 (5) RCW 43.---.--- and 1997 c . . . s 5 (section 5 of this act);
- 25 (6) RCW 43.---.--- and 1997 c . . . s 6 (section 6 of this act);
- 26 (7) RCW 43.---.--- and 1997 c . . . s 7 (section 7 of this act);
- 27 (8) RCW 43.---.--- and 1997 c . . . s 8 (section 8 of this act);
- 28 (9) RCW 43.---.--- and 1997 c . . . s 9 (section 9 of this act);
- 29 (10) RCW 43.---.--- and 1997 c . . . s 10 (section 10 of this act);
- 30 (11) RCW 43.---.--- and 1997 c . . . s 11 (section 11 of this act);
- 31 (12) RCW 43.---.--- and 1997 c . . . s 12 (section 12 of this act);
- 32 (13) RCW 43.---.--- and 1997 c . . . s 13 (section 13 of this act);
- 33 (14) RCW 43.---.--- and 1997 c . . . s 14 (section 14 of this act);
- 34 (15) RCW 43.---.--- and 1997 c . . . s 15 (section 15 of this act);
- 35 (16) RCW 43.---.--- and 1997 c . . . s 16 (section 16 of this act);
- 36 (17) RCW 43.---.--- and 1997 c . . . s 17 (section 17 of this act);

37 and

1 (18) RCW 43.--.--- and 1997 c . . . s 18 (section 18 of this act).

2 NEW SECTION. **Sec. 21.** A new section is added to chapter 43.21A
3 RCW to read as follows:

4 Notwithstanding any other provision of law, or any legal
5 requirement under this chapter, including any standard, limitation, or
6 order is superseded and replaced in accordance with the terms and
7 provisions of an approved environmental excellence program agreement,
8 entered into under chapter 43.-- RCW (sections 2 through 18 of this
9 act).

10 NEW SECTION. **Sec. 22.** A new section is added to chapter 70.94 RCW
11 to read as follows:

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

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

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

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

28 Notwithstanding any other provision of law, or any legal
29 requirement under this chapter, including any standard, limitation, or
30 order is superseded and replaced in accordance with the terms and
31 provisions of an approved environmental excellence program agreement,
32 entered into under chapter 43.-- RCW (sections 2 through 18 of this
33 act).

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

3 Notwithstanding any other provision of law, or any legal
4 requirement under this chapter, including any standard, limitation, or
5 order is superseded and replaced in accordance with the terms and
6 provisions of an approved environmental excellence program agreement,
7 entered into under chapter 43.-- RCW (sections 2 through 18 of this
8 act).

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

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

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

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

25 NEW SECTION. **Sec. 28.** A new section is added to chapter 90.56 RCW
26 to read as follows:

27 Notwithstanding any other provision of law, or any legal
28 requirement under this chapter, including any standard, limitation, or
29 order is superseded and replaced in accordance with the terms and
30 provisions of an approved environmental excellence program agreement,
31 entered into under chapter 43.-- RCW (sections 2 through 18 of this
32 act).

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

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

7 NEW SECTION. **Sec. 30.** A new section is added to chapter 90.64 RCW
8 to read as follows:

9 Notwithstanding any other provision of law, or any legal
10 requirement under this chapter, including any standard, limitation, or
11 order is superseded and replaced in accordance with the terms and
12 provisions of an approved environmental excellence program agreement,
13 entered into under chapter 43.-- RCW (sections 2 through 18 of this
14 act).

15 NEW SECTION. **Sec. 31.** A new section is added to chapter 90.71 RCW
16 to read as follows:

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

23 **Sec. 32.** RCW 90.54.020 and 1989 c 348 s 1 are each amended to read
24 as follows:

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

27 (1) Uses of water for domestic, stock watering, industrial,
28 commercial, agricultural, irrigation, hydroelectric power production,
29 mining, fish and wildlife maintenance and enhancement, recreational,
30 and thermal power production purposes, and preservation of
31 environmental and aesthetic values, and all other uses compatible with
32 the enjoyment of the public waters of the state, are declared to be
33 beneficial.

34 (2) Allocation of waters among potential uses and users shall be
35 based generally on the securing of the maximum net benefits for the

1 people of the state. Maximum net benefits shall constitute total
2 benefits less costs including opportunities lost.

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

5 (a) Perennial rivers and streams of the state shall be retained
6 with base flows necessary to provide for preservation of wildlife,
7 fish, scenic, aesthetic and other environmental values, and
8 navigational values. Lakes and ponds shall be retained substantially
9 in their natural condition. Withdrawals of water which would conflict
10 therewith shall be authorized only in those situations where it is
11 clear that overriding considerations of the public interest will be
12 served.

13 (b) Waters of the state shall be of high quality. Regardless of
14 the quality of the waters of the state, all wastes and other materials
15 and substances proposed for entry into said waters shall be provided
16 with all known, available, and reasonable methods of treatment prior to
17 entry. Notwithstanding that standards of quality established for the
18 waters of the state would not be violated, wastes and other materials
19 and substances shall not be allowed to enter such waters which will
20 reduce the existing quality thereof, except in those situations where
21 it is clear that overriding considerations of the public interest will
22 be served. Technology-based effluent limitations or standards for
23 discharges for municipal water treatment plants located on the
24 Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted
25 to reflect credit for substances removed from the plant intake water
26 if:

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

29 (ii) The municipality demonstrates that no violation of receiving
30 water quality standards or appreciable environmental degradation will
31 result.

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

34 (5) Multiple-purpose impoundment structures are to be preferred
35 over single-purpose structures. Due regard shall be given to means and
36 methods for protection of fishery resources in the planning for and
37 construction of water impoundment structures and other artificial
38 obstructions.

1 (6) Federal, state, and local governments, individuals,
2 corporations, groups and other entities shall be encouraged to carry
3 out practices of conservation as they relate to the use of the waters
4 of the state. In addition to traditional development approaches,
5 improved water use efficiency and conservation shall be emphasized in
6 the management of the state's water resources and in some cases will be
7 a potential new source of water with which to meet future needs
8 throughout the state.

9 (7) Development of water supply systems, whether publicly or
10 privately owned, which provide water to the public generally in
11 regional areas within the state shall be encouraged. Development of
12 water supply systems for multiple domestic use which will not serve the
13 public generally shall be discouraged where water supplies are
14 available from water systems serving the public.

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

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

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

23 (11) Notwithstanding any other provision of law, or any legal
24 requirement under this section, including any standard, limitation,
25 rule, or order is superseded and replaced in accordance with the terms
26 and provisions of an approved environmental excellence program
27 agreement, entered into under chapter 43.-- RCW (sections 2 through 18
28 of this act).

29 NEW SECTION. **Sec. 33.** Sections 2 through 18 of this act
30 constitute a new chapter in Title 43 RCW.

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