
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1866

State of Washington

55th Legislature

1997 Regular Session

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

Read first time 03/10/97.

1 AN ACT Relating to the establishment of voluntary programs creating
2 environmental excellence program agreements; amending RCW 90.54.020;
3 adding a new section to chapter 43.21A RCW; adding a new section to
4 chapter 70.94 RCW; adding a new section to chapter 70.95 RCW; adding a
5 new section to chapter 70.95B RCW; adding a new section to chapter
6 70.105 RCW; adding a new section to chapter 70.119A 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 90.58 RCW; adding a new section to
9 chapter 90.64 RCW; adding a new section to chapter 90.71 RCW; adding a
10 new chapter to Title 43 RCW; and creating new sections.

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

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

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

6 In enacting this chapter it is not the intent of the legislature
7 that agencies apply state environmental standards inconsistently in
8 conducting remedial actions for hazardous waste under state law, such
9 that these state standards could be waived under section 121 of the
10 federal comprehensive environmental response, compensation and
11 liability act (42 U.S.C. Sec. 9261).

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

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

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

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

27 (4) "Environmental laws" means chapters 43.21A, 70.94, 70.95,
28 70.95B, 70.105, 70.119A, 75.20, 90.48, 90.52, 90.58, 90.64, and 90.71
29 RCW, and RCW 90.54.020 and rules adopted under those chapters and
30 section. The term environmental laws as used in this chapter does not
31 include any provision of the Revised Code of Washington, or of any
32 municipal ordinance or enactment, that regulates the selection of a
33 location for a new facility.

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

36 (6) "Legal requirement" includes any statute, rule, order, or
37 environmental permit.

1 (7) "Sponsor" means the owner or operator of a facility, including
2 a municipal corporation, subject to regulation under the environmental
3 laws of the state of Washington, or an authorized representative of the
4 owner or operator, that submits a proposal for an environmental
5 excellence program agreement.

6 (8) "Stakeholder" means a person who has a direct interest in the
7 proposed environmental excellence program agreement or who represents
8 a public interest in the proposed environmental excellence program
9 agreement. Stakeholders may include communities near the project,
10 local or state governments, permittees, businesses, environmental and
11 other public interest groups, employees or employee representatives, or
12 other organizations.

13 NEW SECTION. **Sec. 3.** An environmental excellence program
14 agreement entered into under this chapter must achieve more effective
15 or efficient environmental results. More effective environmental
16 results are results that are better overall than those that would be
17 achieved when compared to the legal requirements superseded or replaced
18 by the agreement. More efficient environmental results are results
19 that are achieved at reduced cost but do not decrease the overall
20 environmental results achieved by the participating facility. The
21 basis for comparison shall be a reasonable estimate of the overall
22 impact of the facility on the environment prior to an environmental
23 excellence program agreement. With a reasonable allowance for an
24 increase in production or for facility expansion or modification, an
25 environmental excellence agreement may not authorize a decrease in the
26 overall environmental results achieved by the participating facility
27 over a representative period prior to the date on which the agreement
28 is proposed by the sponsor.

29 NEW SECTION. **Sec. 4.** (1) The director of a state, regional, or
30 local agency may enter into an environmental excellence program
31 agreement with any sponsor, even if one or more of the terms of the
32 environmental excellence program agreement would be inconsistent with
33 an otherwise applicable legal requirement. An environmental excellence
34 program agreement must meet the requirements of section 3 of this act.
35 Otherwise applicable legal requirements inconsistent with the terms of
36 an environmental excellence program agreement shall be superseded and
37 replaced in accordance with section 9 of this act.

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

6 (3) Where a sponsor proposes an environmental excellence program
7 agreement that would affect environmental requirements applicable to
8 the covered facility that are administered by more than one state,
9 regional, or local agency, the coordinating agency shall take the lead
10 in developing the environmental excellence program agreement with the
11 sponsor and other agencies administering legal requirements applicable
12 to the covered facility and affected by the agreement. To be
13 effective, the environmental excellence program agreement must be
14 signed by the director of each agency administering legal requirements
15 affected by the agreement and applicable to the covered facility.

16 (4) No director may enter into an environmental excellence program
17 agreement applicable to a remedial action conducted under the
18 Washington model toxics control act, chapter 70.105D RCW, or the
19 federal comprehensive environmental response, compensation and
20 liability act (42 U.S.C. Sec. 9601 et seq). No action taken under this
21 chapter shall be deemed a waiver of any applicable, relevant, or
22 appropriate requirements for any remedial action conducted under the
23 Washington model toxics control act or the federal comprehensive
24 environmental response, compensation and liability act.

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

32 NEW SECTION. **Sec. 5.** (1) A sponsor may propose an environmental
33 excellence program agreement. A trade association or other authorized
34 representative of a sponsor or sponsors may propose a programmatic
35 environmental excellence program agreement for multiple facilities.

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

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

4 (b)(i) For a site-specific proposal, a comprehensive description of
5 the proposed environmental excellence project that includes the nature
6 of the facility and the operations that will be affected, how the
7 facility or operations will achieve results more effectively or
8 efficiently, and the nature of the results anticipated; or

9 (ii) For a programmatic proposal, a comprehensive description of
10 the proposed environmental excellence project that identifies the
11 facilities and the operations that are expected to participate, how
12 participating facilities or operations will achieve environmental
13 results more effectively or efficiently, the nature of the results
14 anticipated, and the method to identify and document the commitments
15 made by individual participants;

16 (c) An environmental checklist, containing sufficient information
17 to reasonably inform the public of the nature of the proposed
18 environmental excellence program agreement and describing probable
19 significant adverse environmental impacts and environmental benefits
20 expected from implementation of the proposal;

21 (d) A draft environmental excellence program agreement;

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

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

27 NEW SECTION. **Sec. 6.** (1) Stakeholder participation in and support
28 for an environmental excellence program agreement is vital to the
29 integrity of the environmental excellence program agreement and helps
30 to inform the decision whether an environmental excellence program
31 agreement can be approved.

32 (2) A proposal for an environmental excellence program agreement
33 shall include the sponsor's plan to identify and contact stakeholders,
34 to advise stakeholders of the facts and nature of the project, and to
35 request stakeholder participation and review. Stakeholder
36 participation and review shall occur during the development,
37 consideration, and implementation stages of the proposed environmental
38 excellence program agreement. The plan shall include notice to the

1 employees of the facility to be covered by the proposed environmental
2 excellence program agreement and public notice in the area of the
3 covered facility.

4 (3) The coordinating agency shall extend an invitation to
5 participate in the development of the proposal to a broad and
6 representative sector of the public likely to be affected by the
7 environmental excellence program agreement, including representatives
8 of local community, labor, environmental, and neighborhood advocacy
9 groups. The coordinating agency shall select participants to be
10 included in the stakeholder process that are representative of the
11 diverse sectors of the public that are interested in the agreement.
12 The stakeholder process shall include the opportunity for discussion
13 and comment at multiple stages of the process and access to the
14 information relied upon by the directors in approving the agreement.

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

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

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

27 (2) A description of all legal requirements that are enforceable as
28 provided in section 13(2) of this act that are different from those
29 legal requirements applicable in the absence of the environmental
30 excellence program agreement;

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

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

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

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

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

7 (8) A statement describing how any participating facility shall
8 measure and demonstrate its compliance with the environmental
9 excellence program agreement including, without limitation, a
10 description of the methods to be used to monitor performance, criteria
11 that represent acceptable performance, and the method of reporting
12 performance to the public and local communities. The facility's
13 compliance with the agreement must be independently verifiable;

14 (9) A description of and plan for public participation in the
15 implementation of the environmental excellence program agreement and
16 for public access to information needed to assess the benefits of the
17 environmental excellence program agreement and the sponsor's compliance
18 with the environmental excellence program agreement;

19 (10) A schedule of periodic performance review of the environmental
20 excellence program agreement by the directors that signed the
21 agreement;

22 (11) Provisions for voluntary and involuntary termination of the
23 agreement;

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

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

31 (14) Additional terms as requested by the directors signing the
32 environmental excellence program agreement and consistent with this
33 chapter;

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

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

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

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

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

33 (4) With respect to an environmental excellence program agreement
34 that affects legal requirements adopted to comply with provisions of a
35 federal regulatory program, the coordinating agency shall provide a
36 copy of the environmental excellence program agreement, and a copy of
37 the notice required by subsection (1) of this section, to the federal
38 agency that is responsible for administering that program at least
39 thirty days before entering into or modifying the environmental

1 excellence program agreement, and shall afford the federal agency the
2 opportunity to object to those terms of the environmental excellence
3 program agreement or modification of an environmental excellence
4 program agreement affecting the legal requirements.

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

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

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

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

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

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

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

1 appeal shall run from the last date on which a director approves the
2 commitment.

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

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

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

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

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

36 (4) If a director decides to terminate an environmental excellence
37 program agreement because the facility has not been able to meet the
38 legal requirements established under the agreement, or because

1 operation of the facility under the agreement has caused an imminent
2 and substantial endangerment to public health, as provided in
3 subsection (1)(c) of this section, the director may establish in the
4 notice of termination: (a) Practical interim requirements for the
5 facility that are no less stringent than the legal requirements that
6 would apply to the facility in the absence of the agreement; and (b) a
7 practical schedule of compliance for meeting the interim requirements.
8 The interim requirements and schedule of compliance shall be subject to
9 judicial review under the provisions of section 10(5) of this act. The
10 facility shall comply with the interim requirements established under
11 this subsection after they are final and no longer subject to judicial
12 review until applicable permits or permit modifications have been
13 issued under section 12 of this act.

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

26 NEW SECTION. **Sec. 13.** (1) The legal requirements contained in the
27 environmental excellence program agreement in accordance with section
28 7(2) of this act are enforceable commitments of the facility covered by
29 the agreement. Any violation of these legal requirements is subject to
30 penalties and remedies to the same extent as the legal requirements
31 that they superseded or replaced.

32 (2) The voluntary goals stated in the environmental excellence
33 program agreement in accordance with section 7(3) of this act are
34 voluntary commitments of the facility covered by the agreement. If the
35 facility fails to meet these goals, it shall not be subject to any form
36 of enforcement action, including penalties, orders, or any form of
37 injunctive relief. The failure to make substantial progress in meeting

1 these goals may be a basis on which to terminate the environmental
2 excellence program agreement under section 11 of this act.

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

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

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

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

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

27 NEW SECTION. **Sec. 17.** The director of the department of ecology
28 shall appoint an advisory committee to review the effectiveness of the
29 environmental excellence program agreement program and to make a
30 recommendation to the legislature concerning the continuation,
31 termination, or modification of the program. The committee also may
32 make recommendations it considers appropriate for revision of any
33 regulatory program that is affected by an environmental excellence
34 program agreement. The committee shall be composed of one
35 representative each from two state agencies, two representatives of the

1 regulated community, and two representatives of environmental
2 organizations or other public interest groups. The committee must
3 submit a report and its recommendation to the legislature not later
4 than October 31, 2001. The department of ecology shall provide the
5 advisory committee with such support as they may require.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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