

---

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 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.** After a termination under section 11 of  
37 this act is final and no longer subject to judicial review, the sponsor

1 has sixty days in which to apply for any permit or approval affected by  
2 any terminated portion of the environmental excellence program  
3 agreement. An application filed during the sixty-day period shall be  
4 deemed a timely application for renewal of a permit under the terms of  
5 any 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.

--- END ---