
ENGROSSED SUBSTITUTE HOUSE BILL 2198

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Government Reform & Land Use (originally sponsored by Representatives Reams, Thompson and Mielke)

Read first time 03/05/97.

1 AN ACT Relating to shoreline management; amending RCW 36.70A.480;
2 adding a new section to chapter 90.58 RCW; adding a new chapter to
3 Title 90 RCW; creating a new section; prescribing penalties; and
4 providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that each county and
7 city that has adopted and implemented plans under the requirements of
8 the growth management act has accomplished through a participatory,
9 public process a scheme for balanced environmental protection, economic
10 development, and other important goals throughout its jurisdiction just
11 as the state has required for twenty-five years for the utilization,
12 protection, restoration, and preservation of shorelines. The
13 legislature further finds that given the success of growth management
14 in those jurisdictions that have completed initial implementation,
15 along with the need for efficient and effective provision of
16 governmental services, the mission and function of the shorelines
17 management act should be coordinated and fully integrated with the
18 planning and regulatory requirements of the growth management act,
19 chapter 36.70A RCW.

1 In this act, the legislature authorizes and encourages each county
2 and city that has adopted and implemented a comprehensive plan under
3 chapter 36.70A RCW to manage its shorelines through a streamlined
4 process while ensuring continued recognition of the valuable and
5 fragile nature of our shorelines.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.58 RCW
7 to read as follows:

8 Any county or city that has adopted and implemented its
9 comprehensive plan under chapter 36.70A RCW may manage its shorelines
10 under either this chapter or chapter 90.-- RCW (sections 4 through 46
11 of this act).

12 **Sec. 3.** RCW 36.70A.480 and 1995 c 347 s 104 are each amended to
13 read as follows:

14 (1) For shorelines of the state, the goals and policies of the
15 shoreline management act as set forth in RCW 90.58.020 are added as one
16 of the goals of this chapter as set forth in RCW 36.70A.020. The goals
17 and policies of a shoreline master program for a county or city
18 approved under chapter 90.58 RCW or adopted under chapter 90.-- RCW
19 (sections 4 through 46 of this act) shall be considered an element of
20 the county or city's comprehensive plan. All other portions of the
21 shoreline master program for a county or city adopted under chapter
22 90.58 RCW, including use regulations, shall be considered a part of the
23 county or city's development regulations.

24 (2) The shoreline master program shall be adopted pursuant to the
25 procedures of chapter 90.58 RCW or under the procedures of chapter
26 90.-- RCW (sections 4 through 46 of this act) rather than the
27 procedures set forth in this chapter for the adoption of a
28 comprehensive plan or development regulations.

29 NEW SECTION. **Sec. 4.** This chapter applies to a county or city
30 which has adopted and implemented its comprehensive plan under chapter
31 36.70A RCW and which has chosen to manage its shorelines under this
32 chapter. RCW 90.58.020 applies to a county or city which manages its
33 shorelines under this chapter.

1 NEW SECTION. **Sec. 5.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) Administration:

5 (a) "Department" means the department of ecology.

6 (b) "Director" means the director of the department of ecology.

7 (c) "Local government" means any county, incorporated city, or town
8 which contains within its boundaries any lands or waters subject to
9 this chapter.

10 (d) "Person" means an individual, partnership, corporation,
11 association, organization, cooperative, public or municipal
12 corporation, or agency of the state or local governmental unit however
13 designated.

14 (2) Geographical:

15 (a) "Extreme low tide" means the lowest line on the land reached by
16 a receding tide.

17 (b) "Ordinary high water mark" on all lakes, streams, and tidal
18 water is that mark that will be found by examining the bed and banks
19 and ascertaining where the presence and action of waters are so common
20 and usual, and so long continued in all ordinary years, as to mark upon
21 the soil a character distinct from that of the abutting upland, in
22 respect to vegetation as that condition exists on June 1, 1971, as it
23 may naturally change thereafter, or as it may change thereafter in
24 accordance with permits issued by a local government or the department.
25 However, in any area where the ordinary high water mark cannot be
26 found, the ordinary high water mark adjoining salt water shall be the
27 line of mean higher high tide and the ordinary high water mark
28 adjoining fresh water shall be the line of mean high water.

29 (c) "Shorelines of the state" are the total of all shorelines and
30 shorelines of state-wide significance within the state.

31 (d) "Shorelines" means all of the water areas of the state,
32 including reservoirs, and their associated shorelands, together with
33 the lands underlying them; except (i) shorelines of state-wide
34 significance; (ii) shorelines on segments of streams upstream of a
35 point where the mean annual flow is twenty cubic feet per second or
36 less and the wetlands associated with such upstream segments; and (iii)
37 shorelines on lakes less than twenty acres in size and wetlands
38 associated with such small lakes.

1 (e) "Shorelines of state-wide significance" means the following
2 shorelines of the state:

3 (i) The area between the ordinary high water mark and the western
4 boundary of the state from Cape Disappointment on the south to Cape
5 Flattery on the north, including harbors, bays, estuaries, and inlets;

6 (ii) Those areas of Puget Sound and adjacent salt waters and the
7 Strait of Juan de Fuca between the ordinary high water mark and the
8 line of extreme low tide as follows:

9 (A) Nisqually Delta--from DeWolf Bight to Tatsolo Point;

10 (B) Birch Bay--from Point Whitehorn to Birch Point;

11 (C) Hood Canal--from Tala Point to Foulweather Bluff;

12 (D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point;

13 and

14 (E) Padilla Bay--from March Point to William Point;

15 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and
16 adjacent salt waters north to the Canadian line and lying seaward from
17 the line of extreme low tide;

18 (iv) Those lakes, whether natural, artificial, or a combination
19 thereof, with a surface acreage of one thousand acres or more measured
20 at the ordinary high water mark;

21 (v) Those natural rivers or segments thereof as follows:

22 (A) Any west of the crest of the Cascade range downstream of a
23 point where the mean annual flow is measured at one thousand cubic feet
24 per second or more;

25 (B) Any east of the crest of the Cascade range downstream of a
26 point where the annual flow is measured at two hundred cubic feet per
27 second or more, or those portions of rivers east of the crest of the
28 Cascade range downstream from the first three hundred square miles of
29 drainage area, whichever is longer;

30 (vi) Those shorelands associated with (e)(i), (ii), (iv), and (v)
31 of this subsection.

32 (f) "Shorelands" or "shoreland areas" means those lands extending
33 landward for two hundred feet in all directions as measured on a
34 horizontal plane from the ordinary high water mark; floodways and
35 contiguous flood plain areas landward two hundred feet from such
36 floodways; and all wetlands and river deltas associated with the
37 streams, lakes, and tidal waters which are subject to the provisions of
38 this chapter; the same to be designated as to location by the
39 department. Any county or city may determine that portion of a one

1 hundred year flood plain to be included in its master program as long
2 as such portion includes, as a minimum, the floodway and the adjacent
3 land extending landward two hundred feet from the floodway.

4 (g) "Floodway" means those portions of the area of a river valley
5 lying streamward from the outer limits of a watercourse upon which
6 flood waters are carried during periods of flooding that occur with
7 reasonable regularity, although not necessarily annually, the floodway
8 being identified, under normal condition, by changes in surface soil
9 conditions or changes in types or quality of vegetative ground cover
10 condition. The floodway shall not include those lands that can
11 reasonably be expected to be protected from flood waters by flood
12 control devices maintained by or maintained under license from the
13 federal government, the state, or a political subdivision of the state.

14 (h) "Wetlands" means areas that are inundated or saturated by
15 surface water or ground water at a frequency and duration sufficient to
16 support, and that under normal circumstances do support, a prevalence
17 of vegetation typically adapted for life in saturated soil conditions.
18 Wetlands generally include swamps, marshes, bogs, and similar areas.
19 Wetlands do not include those artificial wetlands intentionally created
20 from nonwetland sites, including, but not limited to, irrigation and
21 drainage ditches, grass-lined swales, canals, detention facilities,
22 wastewater treatment facilities, farm ponds, and landscape amenities,
23 or those wetlands created after July 1, 1990, that were unintentionally
24 created as a result of the construction of a road, street, or highway.
25 Wetlands may include those artificial wetlands intentionally created
26 from nonwetland areas to mitigate the conversion of wetlands.

27 (3) Procedural terms:

28 (a) "Guidelines" means those standards adopted to implement the
29 policy of this chapter for regulation of use of the shorelines of the
30 state prior to adoption of master programs. The standards shall also
31 provide criteria to local governments and the department in developing
32 master programs.

33 (b) "Master program" means the comprehensive use plan for a
34 described area, and the use regulations together with maps, diagrams,
35 charts, or other descriptive material and text, a statement of desired
36 goals, and standards developed in accordance with the policies
37 enunciated in RCW 90.58.020.

38 (c) "State master program" means the cumulative total of all master
39 programs approved or adopted by the department.

1 (d) "Development" means a use consisting of the construction or
2 exterior alteration of structures; dredging; drilling; dumping;
3 filling; removal of any sand, gravel, or minerals; bulkheading; driving
4 of piling; placing of obstructions; or any project of a permanent or
5 temporary nature that interferes with the normal public use of the
6 surface of the waters overlying lands subject to this chapter at any
7 state of water level.

8 (e) "Substantial development" means any development of which the
9 total cost or fair market value exceeds two thousand five hundred
10 dollars, or any development which materially interferes with the normal
11 public use of the water or shorelines of the state; except that the
12 following is not considered substantial developments for the purpose of
13 this chapter:

14 (i) Normal maintenance or repair of existing structures or
15 developments, including damage by accident, fire, or elements;

16 (ii) Construction of the normal protective bulkhead common to
17 single-family residences;

18 (iii) Emergency construction necessary to protect property from
19 damage by the elements;

20 (iv) Construction and practices normal or necessary for farming,
21 irrigation, and ranching activities, including agricultural service
22 roads and utilities on shorelands, and the construction and maintenance
23 of irrigation structures including but not limited to head gates,
24 pumping facilities, and irrigation channels. A feedlot of any size,
25 all processing plants, other activities of a commercial nature,
26 alteration of the contour of the shorelands by leveling or filling
27 other than that which results from normal cultivation, are not
28 considered normal or necessary farming or ranching activities. A
29 feedlot is an enclosure or facility used or capable of being used for
30 feeding livestock hay, grain, silage, or other livestock feed, but does
31 not include land for growing crops or vegetation for livestock feeding
32 or grazing, or both, nor does it include normal livestock wintering
33 operations;

34 (v) Construction or modification of navigational aids such as
35 channel markers and anchor buoys;

36 (vi) Construction on shorelands by an owner, lessee, or contract
37 purchaser of a single-family residence for his or her own use or for
38 the use of his or her family, which residence does not exceed a height
39 of thirty-five feet above average grade level and that meets all

1 requirements of the state agency or local government having
2 jurisdiction thereof, other than requirements imposed under this
3 chapter;

4 (vii) Construction of a dock, including a community dock, designed
5 for pleasure craft only, for the private noncommercial use of the
6 owner, lessee, or contract purchaser of single and multiple family
7 residences. This exception applies if either: (A) In salt waters, the
8 fair market value of the dock does not exceed two thousand five hundred
9 dollars; or (B) in fresh waters, the fair market value of the dock does
10 not exceed ten thousand dollars, but if subsequent construction having
11 a fair market value exceeding two thousand five hundred dollars occurs
12 within five years of completion of the prior construction, the
13 subsequent construction shall be considered a substantial development
14 for the purpose of this chapter;

15 (viii) Operation, maintenance, or construction of canals,
16 waterways, drains, reservoirs, or other facilities that now exist or
17 are hereafter created or developed as a part of an irrigation system
18 for the primary purpose of making use of system waters, including
19 return flow and artificially stored ground water for the irrigation of
20 lands;

21 (ix) The marking of property lines or corners on state owned lands,
22 when such marking does not significantly interfere with normal public
23 use of the surface of the water;

24 (x) Operation and maintenance of any system of dikes, ditches,
25 drains, or other facilities existing on September 8, 1975, that were
26 created, developed, or used primarily as a part of an agricultural
27 drainage or diking system;

28 (xi) Site exploration and investigation activities that are
29 prerequisite to preparation of an application for development
30 authorization under this chapter, if:

31 (A) The activity does not interfere with the normal public use of
32 the surface waters;

33 (B) The activity will have no significant adverse impact on the
34 environment including, but not limited to, fish, wildlife, fish or
35 wildlife habitat, water quality, and aesthetic values;

36 (C) The activity does not involve the installation of a structure,
37 and upon completion of the activity the vegetation and land
38 configuration of the site are restored to conditions existing before
39 the activity;

1 (D) A private entity seeking development authorization under this
2 section first posts a performance bond or provides other evidence of
3 financial responsibility to the local jurisdiction to ensure that the
4 site is restored to preexisting conditions; and

5 (E) The activity is not subject to the permit requirements of
6 section 42 of this act;

7 (xii) The process of removing or controlling an aquatic noxious
8 weed, as defined in RCW 17.26.020, through the use of an herbicide or
9 other treatment methods applicable to weed control that are recommended
10 by a final environmental impact statement published by the department
11 of agriculture or the department jointly with other state agencies
12 under chapter 43.21C RCW.

13 NEW SECTION. **Sec. 6.** The shoreline management program of this
14 chapter applies to the shorelines of the state.

15 NEW SECTION. **Sec. 7.** This chapter establishes a cooperative
16 program of shoreline management between local government and the state.
17 Local government has the primary responsibility for initiating the
18 planning required by this chapter and administering the regulatory
19 program consistent with the policy and provisions of this chapter. The
20 department shall act in a supportive and review capacity with an
21 emphasis on providing assistance to local government and on insuring
22 compliance with the policy and provisions of this chapter.

23 NEW SECTION. **Sec. 8.** (1) The department shall periodically review
24 and adopt guidelines consistent with RCW 90.58.020, containing the
25 elements specified in section 11 of this act for:

26 (a) Development of master programs for regulation of the uses of
27 shorelines; and

28 (b) Development of master programs for regulation of the uses of
29 shorelines of state-wide significance.

30 (2) Before adopting or amending guidelines under this section, the
31 department shall provide an opportunity for public review and comment
32 as follows:

33 (a) The department shall mail copies of the proposal to all cities,
34 counties, and federally recognized Indian tribes, and to any other
35 person who has requested a copy, and shall publish the proposed
36 guidelines in the Washington State Register. Comments shall be

1 submitted in writing to the department within sixty days from the date
2 the proposal has been published in the Washington State Register.

3 (b) The department shall hold at least four public hearings on the
4 proposal in different locations throughout the state to provide a
5 reasonable opportunity for residents in all parts of the state to
6 present statements and views on the proposed guidelines. Notice of the
7 hearings shall be published at least once in each of the three weeks
8 immediately preceding the hearing in one or more newspapers of general
9 circulation in each county of the state. If an amendment to the
10 guidelines addresses an issue limited to one geographic area, the
11 number and location of hearings may be adjusted consistent with the
12 intent of this subsection to assure all parties a reasonable
13 opportunity to comment on the proposed amendment. The department shall
14 accept written comments on the proposal during the sixty-day public
15 comment period and for seven days after the final public hearing.

16 (c) At the conclusion of the public comment period, the department
17 shall review the comments received and modify the proposal consistent
18 with the provisions of this chapter. The proposal shall then be
19 published for adoption under the provisions of chapter 34.05 RCW.

20 (3) The department may propose amendments to the guidelines not
21 more than once each year. At least once every five years the
22 department shall conduct a review of the guidelines under the
23 procedures outlined in subsection (2) of this section.

24 NEW SECTION. **Sec. 9.** Local governments shall develop or amend,
25 within twenty-four months after the adoption of guidelines as provided
26 in section 8 of this act, a master program for regulation of uses of
27 the shorelines of the state consistent with the required elements of
28 the guidelines adopted by the department.

29 NEW SECTION. **Sec. 10.** A master program, segment of a master
30 program, or an amendment to a master program becomes effective when
31 approved by the legislative body of the local government.

32 NEW SECTION. **Sec. 11.** (1) The master programs provided for in
33 this chapter, when adopted or approved by the local government shall
34 constitute use regulations for the various shorelines of the state. In
35 preparing the master programs, and any amendments thereto, local
36 governments shall to the extent feasible:

1 (a) Use a systematic interdisciplinary approach that will ensure
2 the integrated use of the natural and social sciences and the
3 environmental design arts;

4 (b) Consult with and obtain the comments of any federal, state,
5 regional, or local agency having any special expertise with respect to
6 any environmental impact;

7 (c) Consider all plans, studies, surveys, inventories, and systems
8 of classification made or being made by federal, state, regional, or
9 local agencies, by private individuals, or by organizations dealing
10 with pertinent shorelines of the state;

11 (d) Conduct or support such further research, studies, surveys, and
12 interviews as are deemed necessary;

13 (e) Use all available information regarding hydrology, geography,
14 topography, ecology, economics, and other pertinent data;

15 (f) Employ, when feasible, all appropriate, modern scientific data
16 processing and computer techniques to store, index, analyze, and manage
17 the information gathered.

18 (2) The master programs shall include, when appropriate, the
19 following:

20 (a) An economic development element for the location and design of
21 industries, transportation facilities, port facilities, tourist
22 facilities, commerce, and other developments that are particularly
23 dependent on their location on or use of the shorelines of the state;

24 (b) A public access element making provision for public access to
25 publicly owned areas;

26 (c) A recreational element for the preservation and enlargement of
27 recreational opportunities, including but not limited to parks,
28 tidelands, beaches, and recreational areas;

29 (d) A circulation element consisting of the general location and
30 extent of existing and proposed major thoroughfares, transportation
31 routes, terminals, and other public utilities and facilities, all
32 correlated with the shoreline use element;

33 (e) A use element which considers the proposed general distribution
34 and general location and extent of the use on shorelines and adjacent
35 land areas for housing, business, industry, transportation,
36 agriculture, natural resources, recreation, education, public buildings
37 and grounds, and other categories of public and private uses of the
38 land;

1 (f) A conservation element for the preservation of natural
2 resources, including but not limited to scenic vistas, aesthetics, and
3 vital estuarine areas for fisheries and wildlife protection;

4 (g) An historic, cultural, scientific, and educational element for
5 the protection and restoration of buildings, sites, and areas having
6 historic, cultural, scientific, or educational values;

7 (h) An element that gives consideration to the state-wide interest
8 in the prevention and minimization of flood damages; and

9 (i) Any other element deemed appropriate or necessary to effectuate
10 the policy of this chapter.

11 (3) The master programs shall include such map or maps, descriptive
12 text, diagrams and charts, or other descriptive material as are
13 necessary to provide for ease of understanding.

14 (4) Master programs will reflect that state-owned shorelines of the
15 state are particularly adapted to providing wilderness beaches,
16 ecological study areas, and other recreational activities for the
17 public and will give appropriate special consideration to same.

18 (5) Each master program shall contain provisions to allow for the
19 varying of the application of use regulations of the program, including
20 provisions for permits for conditional uses and variances, to ensure
21 that strict implementation of a program will not create unnecessary
22 hardships or thwart the policy enumerated in RCW 90.58.020. Any such
23 varying shall be allowed only if extraordinary circumstances are shown
24 and the public interest suffers no substantial detrimental effect. The
25 concept of this subsection shall be incorporated in the guidelines
26 adopted by rule by the department relating to the establishment of a
27 permit system as provided in section 15(3) of this act.

28 (6) Each master program shall contain standards governing the
29 protection of single-family residences and appurtenant structures
30 against damage or loss due to shoreline erosion. The standards shall
31 govern the issuance of substantial development permits for shoreline
32 protection, including structural methods such as construction of
33 bulkheads, and nonstructural methods of protection. The standards
34 shall provide for methods which achieve effective and timely protection
35 against loss or damage to single-family residences and appurtenant
36 structures due to shoreline erosion. The standards shall provide a
37 preference for permit issuance for measures to protect single-family
38 residences occupied prior to January 1, 1992, where the proposed

1 measure is designed to minimize harm to the shoreline natural
2 environment.

3 NEW SECTION. **Sec. 12.** (1) If it appears to the director that a
4 master program should be developed for a region of the shorelines of
5 the state which includes lands and waters located in two or more
6 adjacent local government jurisdictions, the director shall designate
7 the region and notify the appropriate units of local government
8 thereof. It is the duty of the notified units to develop cooperatively
9 an inventory and master program in accordance with and within the time
10 provided in section 9 of this act.

11 (2) A local government master program may be adopted in segments
12 applicable to particular areas so that immediate attention may be given
13 to those areas of the shorelines of the state in most need of a use
14 regulation.

15 NEW SECTION. **Sec. 13.** All rules, regulations, designations,
16 and guidelines issued by the department under RCW 90.58.070(2) or
17 90.58.090(4) shall be adopted or approved in accordance with the
18 provisions of RCW 34.05.310 through 34.05.395 insofar as such
19 provisions are not inconsistent with the provisions of this chapter.
20 All guidelines, regulations, or designations adopted under this chapter
21 shall be available for public inspection at the office of the
22 department or the appropriate county and city. The term "adopt" for
23 purposes of this section includes modifications and rescission of
24 guidelines.

25 NEW SECTION. **Sec. 14.** To ensure that all persons and entities
26 having an interest in the guidelines and master programs developed
27 under this chapter are provided with a full opportunity for involvement
28 in both their development and implementation, local governments shall
29 comply with the public participation requirements of RCW 36.70A.140.

30 NEW SECTION. **Sec. 15.** (1) A development shall not be undertaken
31 on the shorelines of the state unless it is consistent with the master
32 program.

33 (2) A substantial development shall not be undertaken on shorelines
34 of the state without first obtaining a permit from the local

1 governmental entity having administrative jurisdiction under this
2 chapter.

3 A permit shall be granted:

4 (a) From June 1, 1971, until such time as an applicable master
5 program has become effective, only when the development proposed is
6 consistent with: (i) The policy of RCW 90.58.020; and (ii) after their
7 adoption, the guidelines and rules of the department; and (iii) so far
8 as can be ascertained, the master program being developed for the area;

9 (b) After adoption or approval, as appropriate, by the local
10 government of its master program, only when the development proposed is
11 consistent with the applicable master program.

12 (3) The local government shall establish a program, using the
13 guidelines adopted by the department, for the administration and
14 enforcement of the permit system provided in this section. The
15 adoption and administration of the system so established shall be
16 performed exclusively by the local government.

17 (4) Except as otherwise specifically provided in subsection (10) of
18 this section, the local government shall require notification of the
19 public of all applications for permits governed by any permit system
20 established under subsection (3) of this section by ensuring that
21 notice of the application is given by at least one of the following
22 methods:

23 (a) Mailing of the notice to the latest recorded real property
24 owners as shown by the records of the county assessor within at least
25 three hundred feet of the boundary of the property upon which the
26 substantial development is proposed;

27 (b) Posting of the notice in a conspicuous manner on the property
28 upon which the project is to be constructed; or

29 (c) Any other manner deemed appropriate by local authorities to
30 accomplish the objectives of reasonable notice to adjacent landowners
31 and the public.

32 The notices shall include a statement that any person desiring to
33 submit written comments concerning an application, or desiring to
34 receive notification of the final decision concerning an application as
35 expeditiously as possible after the issuance of the decision, may
36 submit the comments or requests for decisions to the local government
37 within thirty days of the date the notice of application is issued
38 under this subsection. The local government shall forward, in a timely

1 manner following the issuance of a decision, a copy of the decision to
2 each person who submits a request for the decision.

3 If a hearing is to be held on an application, notices of such a
4 hearing shall include a statement that any person may submit oral or
5 written comments on an application at the hearing.

6 (5) The system shall include provisions to assure that construction
7 pursuant to a permit will not begin or be authorized until twenty-one
8 days from the date the permit decision was filed as provided in
9 subsection (6) of this section; or until all review proceedings are
10 terminated if the proceedings were initiated within twenty-one days
11 from the date of filing as defined in subsection (6) of this section
12 except as follows:

13 (a) In the case of any permit issued to the state of Washington,
14 department of transportation, for the construction and modification of
15 SR 90 (I-90) on or adjacent to Lake Washington, the construction may
16 begin after thirty days from the date of filing, and the permits are
17 valid until December 31, 1995;

18 (b) Construction may be commenced no sooner than twenty-one days
19 after the local government's decision granting the permit is filed. If
20 an appeal for judicial review of the decision is filed under chapter
21 36.70C RCW, the appellant in any action filed under the provisions of
22 section 20 (1) and (2) of this act may request, within ten days of the
23 filing of the appeal with the court, a hearing before the court to
24 determine whether construction under the permit approved by the local
25 government should not commence. In such a hearing before the court,
26 the burden of proving whether the construction may involve significant
27 irreversible damage to the environment and demonstrating whether such
28 construction would or would not be appropriate is on the appellant.
29 If, at the conclusion of the hearing, the court finds that construction
30 under the permit would involve a significant, irreversible damaging of
31 the environment, the court shall prohibit the permittee from commencing
32 the construction under the approved permit until all review proceedings
33 are final. Construction under a permit revised at the direction of the
34 superior court may begin only on that portion of the substantial
35 development for which the local government had originally issued the
36 permit, and construction under a revised permit on other portions of
37 the substantial development may not begin until after all review
38 proceedings are terminated.

1 If a permittee begins construction under (a) or (b) of this
2 subsection, the construction is begun at the permittee's own risk. If,
3 as a result of judicial review, the courts order the removal of any
4 portion of the construction or the restoration of any portion of the
5 environment involved or require the alteration of any portion of a
6 substantial development constructed under a permit, the permittee is
7 barred from recovering damages or costs involved in adhering to such
8 requirements from the local government that granted the permit or any
9 appellant or intervener.

10 (6) Any decision on an application for a permit under the authority
11 of this section, whether it is an approval or a denial, shall,
12 concurrently with the transmittal of the ruling to the applicant, be
13 filed with the department and the attorney general. With regard to a
14 permit, "date of filing" as used in this section means the date of
15 actual receipt by the department. The department shall notify in
16 writing the local government and the applicant of the date of filing.

17 (7) Applicants for permits under this section have the burden of
18 proving that a proposed substantial development is consistent with the
19 criteria that must be met before a permit is granted. In any review of
20 the granting or denial of an application for a permit as provided in
21 section 20 (1) and (2) of this act, the person requesting the review
22 has the burden of proof.

23 (8) Any permit may, after a hearing with adequate notice to the
24 permittee and the public, be rescinded by the issuing authority upon
25 the finding that a permittee has not complied with conditions of a
26 permit. If the department is of the opinion that noncompliance exists,
27 the department shall provide written notice to the local government and
28 the permittee. If the department is of the opinion that the
29 noncompliance continues to exist thirty days after the date of the
30 notice, and the local government has taken no action to rescind the
31 permit, the department may apply for enforcement, modification, or
32 rescission to superior court in the county in which the permit was
33 issued.

34 (9) The holder of a certification from the governor under chapter
35 80.50 RCW is not required to obtain a permit under this section.

36 (10)(a) An application for a substantial development permit for a
37 limited utility extension or for the construction of a bulkhead or
38 other measures to protect a single-family residence and its appurtenant

1 structures from shoreline erosion is subject to the following
2 procedures:

3 (i) The public comment period under subsection (4) of this section
4 is twenty days. The notice provided under subsection (4) of this
5 section shall state the manner in which the public may obtain a copy of
6 the local government decision on the application no later than two days
7 following its issuance;

8 (ii) The local government shall issue its decision to grant or deny
9 the permit within twenty-one days of the last day of the comment period
10 specified in (a)(i) of this subsection; and

11 (iii) If there is an appeal of the decision to grant or deny the
12 permit to the local government legislative authority, the appeal shall
13 be finally determined by the legislative authority within thirty days.

14 (b) For purposes of this section, "a limited utility extension"
15 means the extension of a utility service that:

16 (i) Is categorically exempt under chapter 43.21C RCW for one or
17 more of the following: Natural gas, electricity, telephone, water, or
18 sewer;

19 (ii) Will serve an existing use in compliance with this chapter;
20 and

21 (iii) Will not extend more than twenty-five hundred linear feet
22 within the shorelines of the state.

23 NEW SECTION. **Sec. 16.** (1) The time requirements of this section
24 apply to all substantial development permits and to any development
25 authorized under a variance or conditional use permit authorized under
26 this chapter. Upon a finding of good cause, based on the requirements
27 and circumstances of the project proposed and consistent with the
28 policy and provisions of the master program and this chapter, local
29 government may adopt different time limits as a part of action on a
30 substantial development permit.

31 (2) Construction activities shall be commenced or, where no
32 construction activities are involved, the use or activity shall be
33 commenced within two years of the effective date of a substantial
34 development permit. However, local government may authorize a single
35 extension for a period not to exceed one year based on reasonable
36 factors, if a request for extension has been filed before the
37 expiration date and notice of the proposed extension is given to

1 parties of record on the substantial development permit and to the
2 department.

3 (3) Authorization to conduct construction activities shall
4 terminate five years after the effective date of a substantial
5 development permit. However, local government may authorize a single
6 extension for a period not to exceed one year based on reasonable
7 factors, if a request for extension has been filed before the
8 expiration date and notice of the proposed extension is given to
9 parties of record and to the department.

10 (4) The effective date of a substantial development permit is the
11 date of the last action required on the substantial development permit
12 and all other government permits and approvals for the development that
13 authorize the development to proceed, including all administrative and
14 legal actions on any permits or approvals.

15 NEW SECTION. **Sec. 17.** A public or private project that is
16 designed to improve fish or wildlife habitat or fish passage is exempt
17 from the substantial development permit requirements of this chapter
18 when all of the following apply:

19 (1) The project has been approved by the department of fish and
20 wildlife;

21 (2) The project has received hydraulic project approval by the
22 department of fish and wildlife under chapter 75.20 RCW; and

23 (3) The local government has determined that the project is
24 substantially consistent with the local shoreline master program. The
25 local government shall make such determination in a timely manner and
26 provide it by letter to the project proponent.

27 NEW SECTION. **Sec. 18.** With respect to timber situated within two
28 hundred feet abutting landward of the ordinary high water mark within
29 shorelines of state-wide significance, the department or local
30 government shall allow only selective commercial timber cutting, so
31 that no more than thirty percent of the merchantable trees may be
32 harvested in any ten-year period of time. However, other timber
33 harvesting methods may be permitted in those limited instances where
34 the topography, soil conditions, or silviculture practices necessary
35 for regeneration render selective logging ecologically detrimental.
36 Further, clear cutting of timber that is solely incidental to the

1 preparation of land for other uses authorized by this chapter may be
2 permitted.

3 NEW SECTION. **Sec. 19.** Surface drilling for oil or gas is
4 prohibited in the waters of Puget Sound north to the Canadian boundary
5 and the Strait of Juan de Fuca seaward from the ordinary high water
6 mark and on all lands within one thousand feet landward from the mark.

7 NEW SECTION. **Sec. 20.** (1) Any person aggrieved by the granting,
8 denying, or rescinding of a permit on shorelines of the state under
9 section 15 of this act may seek judicial review as provided in chapter
10 36.70C RCW by filing a petition for review within twenty-one days of
11 the date of filing as defined in section 15(5) of this act. Within
12 seven days of the filing of any petition for review as provided in this
13 subsection (1) pertaining to a final decision of a local government,
14 the petitioner shall serve copies of the petition on the department and
15 the office of the attorney general. The department and the attorney
16 general may intervene to protect the public interest and ensure that
17 the provisions of this chapter are complied with at any time within
18 fifteen days from the date of the receipt by the department or the
19 attorney general of a copy of the petition for review filed under this
20 section.

21 (2) The department or the attorney general may seek judicial review
22 as provided in chapter 36.70C RCW of any final decision granting a
23 permit, or granting or denying an application for a permit issued by a
24 local government by filing a written petition for review within twenty-
25 one days from the date the final decision was filed as provided in
26 section 15(6) of this act.

27 (3) When the department or the attorney general intervenes as
28 provided in subsection (1) of this section, or in an appeal filed by
29 the department or the attorney general as provided in subsection (2) of
30 this section, the record for judicial review provided by the local
31 government under RCW 36.70C.110 may be supplemented by the department
32 or the attorney general as provided in RCW 36.70C.120.

33 (4) Any person may appeal any rules, regulations, or guidelines
34 adopted or approved by the department to the shorelines hearings board
35 within thirty days of the date of the adoption or approval. The board
36 shall make a final decision within sixty days following the hearing
37 held thereon.

1 (5) The board shall find the rule, regulation, or guideline to be
2 valid and enter a final decision to that effect unless it determines
3 that the rule, regulation, or guideline:

4 (a) Is clearly erroneous in light of the policy of this chapter;

5 (b) Constitutes an implementation of this chapter in violation of
6 constitutional or statutory provisions;

7 (c) Is arbitrary and capricious;

8 (d) Was developed without fully considering and evaluating all
9 material submitted to the department during public review and comment;

10 or

11 (e) Was not adopted in accordance with required procedures.

12 (6) If the board makes a determination under subsection (5)(a)
13 through (e) of this section, it shall enter a final decision declaring
14 the rule, regulation, or guideline invalid, remanding the rule,
15 regulation, or guideline to the department with a statement of the
16 reasons in support of the determination, and directing the department
17 to adopt, after a thorough consultation with the affected local
18 government and any other interested party, a new rule, regulation, or
19 guideline consistent with the board's decision.

20 (7) A decision of the board on the validity of a rule, regulation,
21 or guideline is subject to review in superior court, if authorized
22 under chapter 34.05 RCW. A petition for review of the decision of the
23 shorelines hearings board on a rule, regulation, or guideline shall be
24 filed within thirty days after the date of final decision by the
25 shorelines hearings board.

26 NEW SECTION. **Sec. 21.** (1) The department, in cooperation with
27 other state agencies and coastal local governments, shall prepare and
28 adopt ocean use guidelines and policies to be used in reviewing
29 shoreline master programs of local governments with coastal waters or
30 coastal shorelines within their boundaries.

31 (2) After the department has adopted the guidelines required in
32 subsection (1) of this section, counties, cities, and towns with
33 coastal waters or coastal shorelines shall review their shoreline
34 master programs to ensure that the programs conform with RCW 43.143.010
35 and 43.143.030 and with the department's ocean use guidelines.

1 NEW SECTION. **Sec. 22.** The department and local governments are
2 authorized to adopt those rules as are necessary and appropriate to
3 carry out the provisions of this chapter.

4 NEW SECTION. **Sec. 23.** (1) Except as provided in RCW 43.05.060
5 through 43.05.080 and 43.05.150, the attorney general or the attorney
6 for the local government shall bring such injunctive, declaratory, or
7 other actions as are necessary to ensure that no uses are made of the
8 shorelines of the state in conflict with the provisions and programs of
9 this chapter, and to otherwise enforce the provisions of this chapter.

10 (2) Any person who fails to conform to the terms of a permit issued
11 under this chapter or who undertakes development on the shorelines of
12 the state without first obtaining any permit required under this
13 chapter is also subject to a civil penalty not to exceed one thousand
14 dollars for each violation. Each permit violation or each day of
15 continued development without a required permit constitutes a separate
16 violation.

17 (3) The penalty provided for in this section shall be imposed by a
18 notice in writing, either by certified mail with return receipt
19 requested or by personal service, to the person incurring the same from
20 the department or local government, describing the violation with
21 reasonable particularity and ordering the act or acts constituting the
22 violation or violations to cease and desist or, in appropriate cases,
23 requiring necessary corrective action to be taken within a specific and
24 reasonable time.

25 (4) Within thirty days after the notice is received, the person
26 incurring the penalty may apply in writing to the department for
27 remission or mitigation of the penalty. Upon receipt of the
28 application, the department or local government may remit or mitigate
29 the penalty upon whatever terms the department or local government in
30 its discretion deems proper. Any penalty imposed under this section by
31 the department is subject to review by the shorelines hearings board.
32 Any penalty imposed under this section by local government is subject
33 to review by the local government legislative authority. Any penalty
34 jointly imposed by the department and local government shall be
35 appealed to the shorelines hearings board.

36 NEW SECTION. **Sec. 24.** In addition to incurring civil liability
37 under section 23 of this act, any person found to have willfully

1 engaged in activities on the shorelines of the state in violation of
2 the provisions of this chapter or any of the master programs, rules, or
3 regulations adopted under this chapter is guilty of a gross
4 misdemeanor, and shall be punished by a fine of not less than twenty-
5 five dollars nor more than one thousand dollars or by imprisonment in
6 the county jail for not more than ninety days, or by both such fine and
7 imprisonment. However, the fine for the third and all subsequent
8 violations in any five-year period shall be not less than five hundred
9 dollars nor more than ten thousand dollars. Further, fines for
10 violations of section 42 of this act, or any rule adopted under section
11 42 of this act, shall be determined under section 43 of this act.

12 NEW SECTION. **Sec. 25.** Any person subject to the regulatory
13 program of this chapter who violates any provision of this chapter or
14 permit issued under this chapter is liable for all damage to public or
15 private property arising from the violation, including the cost of
16 restoring the affected area to its condition prior to violation. The
17 attorney general or local government attorney shall bring suit for
18 damages under this section on behalf of the state or local governments.
19 Private persons have the right to bring suit for damages under this
20 section on their own behalf and on the behalf of all persons similarly
21 situated. If liability has been established for the cost of restoring
22 an area affected by a violation the court shall make provision to
23 assure that restoration will be accomplished within a reasonable time
24 at the expense of the violator. In addition to such relief, including
25 money damages, the court in its discretion may award attorneys' fees
26 and costs of the suit to the prevailing party.

27 NEW SECTION. **Sec. 26.** In addition to any other powers granted
28 under this chapter, the department and local governments may:

29 (1) Acquire lands and easements within shorelines of the state by
30 purchase, lease, or gift, either alone or in concert with other
31 governmental entities, when necessary to achieve implementation of
32 master programs adopted under this chapter;

33 (2) Accept grants, contributions, and appropriations from any
34 agency, public or private, or individual for the purposes of this
35 chapter;

36 (3) Appoint advisory committees to assist in carrying out the
37 purposes of this chapter;

1 (4) Contract for professional or technical services required by it
2 which cannot be performed by its employees.

3 NEW SECTION. **Sec. 27.** The department is directed to cooperate
4 fully with local governments in discharging their responsibilities
5 under this chapter. Funds shall be available for distribution to local
6 governments on the basis of applications for preparation of master
7 programs. Such applications shall be submitted in accordance with
8 regulations developed by the department. The department is authorized
9 to make and administer grants within appropriations authorized by the
10 legislature to any local government within the state for the purpose of
11 developing a master shorelines program.

12 No grant shall be made in an amount in excess of the recipient's
13 contribution to the estimated cost of the program.

14 NEW SECTION. **Sec. 28.** The state, through the department and the
15 attorney general, shall represent its interest before water resource
16 regulation management, development, and use agencies of the United
17 States, including among others, the federal power commission,
18 environmental protection agency, corps of engineers, department of the
19 interior, department of agriculture, and the atomic energy commission,
20 before interstate agencies and the courts with regard to activities or
21 uses of shorelines of the state and the program of this chapter. Where
22 federal or interstate agency plans, activities, or procedures conflict
23 with state policies, all reasonable steps available shall be taken by
24 the state to preserve the integrity of its policies.

25 NEW SECTION. **Sec. 29.** (1) Nothing in this chapter constitutes
26 authority for requiring or ordering the removal of any structures,
27 improvements, docks, fills, or developments placed in navigable waters
28 prior to December 4, 1969, and the consent and authorization of the
29 state of Washington to the impairment of public rights of navigation,
30 and corollary rights incidental thereto, caused by the retention and
31 maintenance of the structures, improvements, docks, fills, or
32 developments are granted. However, the consent given in this section
33 shall not relate to any structures, improvements, docks, fills, or
34 developments placed on tidelands, shorelands, or beds underlying the
35 waters that are in trespass or in violation of state law.

1 (2) Nothing in this section shall be construed as altering or
2 abridging any private right of action, other than a private right that
3 is based upon the impairment of public rights consented to in
4 subsection (1) of this section.

5 (3) Nothing in this section shall be construed as altering or
6 abridging the authority of the state or local governments to suppress
7 or abate nuisances or to abate pollution.

8 (4) Subsection (1) of this section applies to any case pending in
9 the courts of this state on June 1, 1971, relating to the removal of
10 structures, improvements, docks, fills, or developments based on the
11 impairment of public navigational rights.

12 NEW SECTION. **Sec. 30.** The provisions of this chapter are
13 applicable to those counties and public and municipal corporations that
14 have chosen to manage shorelines under this chapter and to all
15 shorelines of the state owned or administered by them.

16 NEW SECTION. **Sec. 31.** The restrictions imposed by this chapter
17 shall be considered by the county assessor in establishing the fair
18 market value of the property.

19 NEW SECTION. **Sec. 32.** The department is designated the state
20 agency responsible for the program of regulation of the shorelines of
21 the state, including coastal shorelines and the shorelines of the inner
22 tidal waters of the state, and is authorized to cooperate with the
23 federal government and sister states and to receive benefits of any
24 statutes of the United States whenever enacted that relate to the
25 programs of this chapter.

26 NEW SECTION. **Sec. 33.** Additional shorelines of the state shall be
27 designated shorelines of state-wide significance only by affirmative
28 action of the legislature.

29 The director may however, from time to time, recommend to the
30 legislature areas of the shorelines of the state that have state-wide
31 significance relating to special economic, ecological, educational,
32 developmental, recreational, or aesthetic values to be designated as
33 shorelines of state-wide significance.

34 Prior to making any such recommendation the director shall hold a
35 public hearing in the county or counties where the shoreline under

1 consideration is located. It is the duty of the county commissioners
2 of each county where such a hearing is conducted to submit their views
3 with regard to a proposed designation to the director at such date as
4 the director determines but in no event shall the date be later than
5 sixty days after the public hearing in the county.

6 NEW SECTION. **Sec. 34.** No permit shall be issued under this
7 chapter for any new or expanded building or structure of more than
8 thirty-five feet above average grade level on shorelines of the state
9 that will obstruct the view of a substantial number of residences on
10 areas adjoining the shorelines except where a master program does not
11 prohibit the same and then only when overriding considerations of the
12 public interest will be served.

13 NEW SECTION. **Sec. 35.** All state agencies, counties, and public
14 and municipal corporations shall review administrative and management
15 policies, regulations, plans, and ordinances relative to lands under
16 their respective jurisdictions adjacent to the shorelines of the state
17 so as to achieve a use policy on the land consistent with the policy of
18 this chapter, the guidelines, and the master programs for the
19 shorelines of the state. The department may develop recommendations
20 for land use control for the lands. Local governments shall, in
21 developing use regulations for such areas, take into consideration any
22 recommendations developed by the department as well as any other state
23 agencies or units of local government.

24 NEW SECTION. **Sec. 36.** Nothing in this chapter affects any rights
25 established by treaty to which the United States is a party.

26 NEW SECTION. **Sec. 37.** The procedural requirements of this chapter
27 do not apply to any person conducting a remedial action at a facility
28 under a consent decree, order, or agreed order issued under chapter
29 70.105D RCW, or to the department when it conducts a remedial action
30 under chapter 70.105D RCW. The department shall ensure compliance with
31 the substantive requirements of this chapter through the consent
32 decree, order, or agreed order issued under chapter 70.105D RCW, or
33 during the department-conducted remedial action, through the procedures
34 developed by the department under RCW 70.105D.090.

1 NEW SECTION. **Sec. 38.** Nothing in this chapter obviates any
2 requirement to obtain any permit, certificate, license, or approval
3 from any state agency or local government.

4 NEW SECTION. **Sec. 39.** All state and local agencies with authority
5 under this chapter to issue permits or other authorizations in
6 connection with emergency water withdrawals and facilities authorized
7 under RCW 43.83B.410 shall expedite the processing of the permits or
8 authorizations in keeping with the emergency nature of such requests
9 and shall provide a decision to the applicant within fifteen calendar
10 days of the date of application.

11 NEW SECTION. **Sec. 40.** The department by rule shall adopt a manual
12 for the delineation of wetlands under this chapter that implements and
13 is consistent with the 1987 manual in use on January 1, 1995, by the
14 United States army corps of engineers and the United States
15 environmental protection agency. If the corps of engineers and the
16 environmental protection agency adopt changes to or a different manual,
17 the department shall consider those changes and may adopt rules
18 implementing those changes.

19 NEW SECTION. **Sec. 41.** Watershed restoration projects as defined
20 in RCW 89.08.460 are exempt from the requirement to obtain a
21 substantial development permit. Local government shall review the
22 projects for consistency with the locally adopted shoreline master
23 program in an expeditious manner and shall issue its decision along
24 with any conditions within forty-five days of receiving a complete
25 consolidated application form from the applicant. No fee may be
26 charged for accepting and processing applications for watershed
27 restoration projects as used in this section.

28 NEW SECTION. **Sec. 42.** (1) As used in this section:

29 (a) "Exploration activity" means reconnaissance or survey work
30 related to gathering information about geologic features and formations
31 underlying or adjacent to marine waters;

32 (b) "Marine waters" include the waters of Puget Sound north to the
33 Canadian border, the waters of the Strait of Juan de Fuca, the waters
34 between the western boundary of the state and the ordinary high water
35 mark, and related bays and estuaries;

1 (c) "Vessel" includes ships, boats, barges, or any other floating
2 craft.

3 (2) A person desiring to perform oil or natural gas exploration
4 activities by vessel located on or within marine waters of the state
5 shall first obtain a permit from the department. The department may
6 approve an application for a permit only if it determines that the
7 proposed activity will not:

8 (a) Interfere materially with the normal public uses of the marine
9 waters of the state;

10 (b) Interfere with activities authorized by a permit issued under
11 section 15(2) of this act;

12 (c) Injure the marine biota, beds, or tidelands of the waters;

13 (d) Violate water quality standards established by the department;

14 or

15 (e) Create a public nuisance.

16 (3) Decisions on an application under subsection (2) of this
17 section are subject to review only by the pollution control hearings
18 board under chapter 43.21B RCW.

19 (4) This section does not apply to activities conducted by an
20 agency of the United States or the state of Washington.

21 (5) This section does not lessen, reduce, or modify section 19 of
22 this act.

23 (6) The department may adopt rules necessary to implement this
24 section.

25 (7) The attorney general shall enforce this section.

26 NEW SECTION. **Sec. 43.** (1) Except as provided in RCW 43.05.060
27 through 43.05.080 and 43.05.150, a person who violates section 42 of
28 this act, or any rule adopted under section 42 of this act, is subject
29 to a penalty in an amount of up to five thousand dollars a day for
30 every such violation. Each and every such violation is a separate and
31 distinct offense, and in case of a continuing violation, every day's
32 continuance is a separate and distinct violation. Every act of
33 commission or omission that procures, aids, or abets in the violation
34 is considered a violation under the provisions of this section and
35 subject to the penalty provided for in this section.

36 (2) The penalty shall be imposed by a notice in writing, either by
37 certified mail with return receipt requested or by personal service, to
38 the person incurring the penalty from the director or the director's

1 representative describing the violation with reasonable particularity.
2 The director or the director's representative may, upon written
3 application therefor received within fifteen days after notice imposing
4 any penalty is received by the person incurring the penalty, and when
5 deemed to carry out the purposes of this chapter, remit or mitigate any
6 penalty provided for in this section upon such terms as he or she deems
7 proper, and has authority to ascertain the facts upon all such
8 applications in such manner and under such regulations as he or she may
9 deem proper.

10 (3) Any person incurring any penalty under this section may appeal
11 the penalty to the hearings board as provided for in chapter 43.21B
12 RCW. Such appeals shall be filed within thirty days of receipt of
13 notice imposing any penalty unless an application for remission or
14 mitigation is made to the department. When an application for
15 remission or mitigation is made, such appeals shall be filed within
16 thirty days of receipt of notice from the director or the director's
17 representative setting forth the disposition of the application. Any
18 penalty imposed under this section becomes due and payable thirty days
19 after receipt of a notice imposing the same unless application for
20 remission or mitigation is made or an appeal is filed. When an
21 application for remission or mitigation is made, any penalty incurred
22 under this section becomes due and payable thirty days after receipt of
23 notice setting forth the disposition of the application unless an
24 appeal is filed from the disposition. Whenever an appeal of any
25 penalty incurred under this section is filed, the penalty becomes due
26 and payable only upon completion of all review proceedings and the
27 issuance of a final order confirming the penalty in whole or in part.

28 (4) If the amount of any penalty is not paid to the department
29 within thirty days after it becomes due and payable, the attorney
30 general, upon the request of the director, shall bring an action in the
31 name of the state of Washington in the superior court of Thurston
32 county or of any county in which the violator may do business, to
33 recover such penalty. In all such actions the procedure and rules of
34 evidence shall be the same as an ordinary civil action except as
35 otherwise provided in this chapter. All penalties recovered under this
36 section shall be paid into the state treasury and credited to the
37 general fund.

1 NEW SECTION. **Sec. 44.** The department shall consult with affected
2 state agencies, local governments, Indian tribes, and the public prior
3 to responding to federal coastal zone management consistency
4 certifications for uses and activities occurring on the federal outer
5 continental shelf.

6 NEW SECTION. **Sec. 45.** With respect to the national scenic area,
7 as defined in the Columbia River Gorge national scenic area act, P.L.
8 99-663, the exercise of any power or authority by a local government or
9 the department under this chapter is subject to and in conformity with
10 the requirements of chapter 43.97 RCW, including the management plan
11 regulations and ordinances adopted by the Columbia River Gorge
12 commission under the compact.

13 NEW SECTION. **Sec. 46.** This chapter is exempted from the rule of
14 strict construction and shall be liberally construed to give full
15 effect to the objectives and purposes for which it was enacted.

16 NEW SECTION. **Sec. 47.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 48.** Sections 4 through 46 of this act
21 constitute a new chapter in Title 90 RCW.

22 NEW SECTION. **Sec. 49.** This act takes effect July 1, 1998.

--- END ---