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ENGROSSED SUBSTITUTE HOUSE BILL 2844

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State of Washington

57th Legislature

2002 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville, Schoesler, Romero, Chandler, Jarrett, Reardon, Gombosky, Morris, Sehlin, Lantz, Conway, Kenney, Santos, Ogden, Bush, Schual-Berke, Kessler, Chase, Rockefeller, Simpson, McDermott and Kagi)

Read first time . Referred to Committee on .

1 AN ACT Relating to environmental excellence program agreements;  
2 amending RCW 43.21K.160; adding new sections to chapter 43.21K RCW; and  
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the  
6 legislation passed in 1997 that created a voluntary program authorizing  
7 environmental excellence program agreements with persons regulated by  
8 the environmental laws of Washington state was intended to provide  
9 flexibility to the regulated community without adversely affecting the  
10 state's environmental protection standards. However, the low number of  
11 environmental excellence program agreements entered into since 1997 has  
12 been disappointing.

13 (2) The legislature further finds that in light of the low  
14 participation rates, and the development of similar programs in other  
15 states since 1997, the environmental excellence program should be  
16 evaluated in an effort to identify and eliminate current barriers that  
17 are discouraging the execution of environmental excellence program  
18 agreements.

1 (3) The authority for the department of ecology to enter into  
2 environmental excellence program agreements terminates June 30, 2002.  
3 The legislature finds that this date should be extended in order to  
4 continue the environmental excellence program and to provide time for  
5 the legislature to evaluate and act on any necessary changes to the  
6 program that will encourage increased participation.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21K RCW  
8 to read as follows:

9 Citizens of the state of Washington have the following rights when  
10 asking for a permit, license, or permission to engage in a lawful  
11 activity:

12 (1) The right to a date in time for a decision on permits;

13 (2) The right to a defined amount of information required to award  
14 a permit by a permitting authority before any application for permits  
15 can be accepted; and

16 (3) The right to know the maximum amount of costs in fees, studies,  
17 or public processes that will be incurred by the permit applicant.

18 **Sec. 3.** RCW 43.21K.160 and 1997 c 381 s 19 are each amended to  
19 read as follows:

20 The authority of a director to enter into a new environmental  
21 excellence program agreement program shall be terminated June 30,  
22 ((2002)) 2012. Environmental excellence program agreements entered  
23 into before June 30, ((2002)) 2012, shall remain in force and effect  
24 subject to the provisions of this chapter.

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.21K RCW  
26 to read as follows:

27 (1) In addition to any termination provisions contained in an  
28 environmental excellence program agreement, a director of an agency may  
29 terminate an environmental excellence program agreement in whole or in  
30 part with respect to a legal requirement administered by that agency,  
31 if the director finds: (a) That after notice and a reasonable  
32 opportunity to cure, the covered facility is in violation of a material  
33 requirement of the agreement; (b) that the facility has repeatedly  
34 violated any requirements of the agreement; (c) that the operation of  
35 the facility under the agreement has caused endangerment to public  
36 health or the environment that cannot be remedied by modification of

1 the agreement; or (d) that the facility has failed to make substantial  
2 progress in achieving the voluntary goals identified under RCW  
3 43.21K.050(4), and these goals are material to the overall objectives  
4 of the agreement.

5 (2) A director of an agency terminating an environmental excellence  
6 program agreement in any respect must provide each of the parties to  
7 the agreement with a written notice of that action specifying the  
8 extent to which the environmental excellence program agreement is to be  
9 terminated, the factual and legal basis for termination, and a  
10 description of the opportunity for judicial review of the decision to  
11 terminate the environmental excellence program agreement.

12 (3) If a director terminates less than the entire environmental  
13 excellence program agreement, the owner or operator of the covered  
14 facility may elect to terminate the entire agreement as it applies to  
15 the facility.

16 (4) If a director decides to terminate an environmental excellence  
17 program agreement because the facility has not been able to meet the  
18 legal requirements established under the agreement, or because  
19 operation of the facility under the agreement has caused endangerment  
20 to public health or the environment, as provided in subsection (1)(c)  
21 of this section, the director may establish in the notice of  
22 termination: (a) Practical interim requirements for the facility that  
23 are no less stringent than the legal requirements that would apply to  
24 the facility in the absence of the agreement; and (b) a practical  
25 schedule of compliance for meeting the interim requirements. The  
26 interim requirements and schedule of compliance shall be subject to  
27 judicial review under the provisions of RCW 43.21K.090(4). The  
28 facility must comply with the interim requirements established under  
29 this subsection after they are final and no longer subject to judicial  
30 review until applicable permits or permit modifications have been  
31 issued under RCW 43.21K.100.

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