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HOUSE BILL 1206

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State of Washington

63rd Legislature

2013 Regular Session

By Representatives Tharinger, Takko, Jinkins, Springer, Fitzgibbon, Upthegrove, Moeller, Riccelli, Hudgins, Tarleton, Liias, and Ryu

Read first time 01/18/13. Referred to Committee on Environment.

1 AN ACT Relating to changes to programs relevant to the department  
2 of ecology designed to create administrative flexibility; amending RCW  
3 43.21B.305, 70.93.200, 70.93.220, 70.93.250, 70.94.037, 70.95.130,  
4 70.95.140, 70.95.230, 70.95.290, 70.95.530, 70.95C.220, 70.95E.010,  
5 70.95E.040, 70.95I.080, 70.95J.025, 70.105.160, 70.105.180, and  
6 70.105.210; reenacting and amending RCW 43.21B.110, 43.21B.110, and  
7 43.21B.300; repealing RCW 70.93.090, 70.94.505, and 70.95.545;  
8 providing an effective date; and providing an expiration date.

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

10 **Sec. 1.** RCW 43.21B.110 and 2010 c 210 s 7 and 2010 c 84 s 2 are  
11 each reenacted and amended to read as follows:

12 (1) The hearings board shall only have jurisdiction to hear and  
13 decide appeals from the following decisions of the department, the  
14 director, local conservation districts, the air pollution control  
15 boards or authorities as established pursuant to chapter 70.94 RCW,  
16 local health departments, the department of natural resources, the  
17 department of fish and wildlife, and the parks and recreation  
18 commission:

1 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,  
2 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,  
3 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

4 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
5 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,  
6 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

7 (c) A final decision by the department or director made under  
8 chapter 183, Laws of 2009.

9 (d) Except as provided in RCW 90.03.210(2), the issuance,  
10 modification, or termination of any permit, certificate, or license by  
11 the department or any air authority in the exercise of its  
12 jurisdiction, including the issuance or termination of a waste disposal  
13 permit, the denial of an application for a waste disposal permit, the  
14 modification of the conditions or the terms of a waste disposal permit,  
15 or a decision to approve or deny an application for a solid waste  
16 permit exemption under RCW 70.95.300.

17 (e) Decisions of local health departments regarding the grant or  
18 denial of solid waste permits pursuant to chapter 70.95 RCW.

19 (f) Decisions of local health departments regarding the issuance  
20 and enforcement of permits to use or dispose of biosolids under RCW  
21 70.95J.080.

22 (g) Decisions of the department regarding waste-derived fertilizer  
23 or micronutrient fertilizer under RCW 15.54.820, and decisions of the  
24 department regarding waste-derived soil amendments under RCW 70.95.205.

25 (h) Decisions of local conservation districts related to the denial  
26 of approval or denial of certification of a dairy nutrient management  
27 plan; conditions contained in a plan; application of any dairy nutrient  
28 management practices, standards, methods, and technologies to a  
29 particular dairy farm; and failure to adhere to the plan review and  
30 approval timelines in RCW 90.64.026.

31 (i) Any other decision by the department or an air authority which  
32 pursuant to law must be decided as an adjudicative proceeding under  
33 chapter 34.05 RCW.

34 (j) Decisions of the department of natural resources, the  
35 department of fish and wildlife, and the department that are reviewable  
36 under chapter 76.09 RCW, and the department of natural resources'  
37 appeals of county, city, or town objections under RCW 76.09.050(7).

1 (k) Forest health hazard orders issued by the commissioner of  
2 public lands under RCW 76.06.180.

3 (l) Decisions of the department of fish and wildlife to issue,  
4 deny, condition, or modify a hydraulic project approval permit under  
5 chapter 77.55 RCW.

6 (m) Decisions of the department of natural resources that are  
7 reviewable under RCW 78.44.270.

8 (n) Decisions of a state agency that is an authorized public entity  
9 under RCW 79.100.010 to take temporary possession or custody of a  
10 vessel or to contest the amount of reimbursement owed that are  
11 reviewable under RCW 79.100.120.

12 (2) The following hearings shall not be conducted by the hearings  
13 board:

14 (a) Hearings required by law to be conducted by the shorelines  
15 hearings board pursuant to chapter 90.58 RCW.

16 (b) Hearings conducted by the department pursuant to RCW 70.94.332,  
17 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

18 (~~(c) Appeals of decisions by the department under RCW 90.03.110~~  
19 ~~and 90.44.220.~~

20 (~~(d)~~) Hearings conducted by the department to adopt, modify, or  
21 repeal rules.

22 (~~((e) Appeals of decisions by the department as provided in chapter~~  
23 ~~43.21B RCW.))~~

24 (3) Review of rules and regulations adopted by the hearings board  
25 shall be subject to review in accordance with the provisions of the  
26 administrative procedure act, chapter 34.05 RCW.

27 **Sec. 2.** RCW 43.21B.110 and 2010 c 210 s 8 and 2010 c 84 s 3 are  
28 each reenacted and amended to read as follows:

29 (1) The hearings board shall only have jurisdiction to hear and  
30 decide appeals from the following decisions of the department, the  
31 director, local conservation districts, the air pollution control  
32 boards or authorities as established pursuant to chapter 70.94 RCW,  
33 local health departments, the department of natural resources, the  
34 department of fish and wildlife, and the parks and recreation  
35 commission:

36 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,

1 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,  
2 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

3 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
4 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,  
5 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

6 (c) Except as provided in RCW 90.03.210(2), the issuance,  
7 modification, or termination of any permit, certificate, or license by  
8 the department or any air authority in the exercise of its  
9 jurisdiction, including the issuance or termination of a waste disposal  
10 permit, the denial of an application for a waste disposal permit, the  
11 modification of the conditions or the terms of a waste disposal permit,  
12 or a decision to approve or deny an application for a solid waste  
13 permit exemption under RCW 70.95.300.

14 (d) Decisions of local health departments regarding the grant or  
15 denial of solid waste permits pursuant to chapter 70.95 RCW.

16 (e) Decisions of local health departments regarding the issuance  
17 and enforcement of permits to use or dispose of biosolids under RCW  
18 70.95J.080.

19 (f) Decisions of the department regarding waste-derived fertilizer  
20 or micronutrient fertilizer under RCW 15.54.820, and decisions of the  
21 department regarding waste-derived soil amendments under RCW 70.95.205.

22 (g) Decisions of local conservation districts related to the denial  
23 of approval or denial of certification of a dairy nutrient management  
24 plan; conditions contained in a plan; application of any dairy nutrient  
25 management practices, standards, methods, and technologies to a  
26 particular dairy farm; and failure to adhere to the plan review and  
27 approval timelines in RCW 90.64.026.

28 (h) Any other decision by the department or an air authority which  
29 pursuant to law must be decided as an adjudicative proceeding under  
30 chapter 34.05 RCW.

31 (i) Decisions of the department of natural resources, the  
32 department of fish and wildlife, and the department that are reviewable  
33 under chapter 76.09 RCW, and the department of natural resources'  
34 appeals of county, city, or town objections under RCW 76.09.050(7).

35 (j) Forest health hazard orders issued by the commissioner of  
36 public lands under RCW 76.06.180.

37 (k) Decisions of the department of fish and wildlife to issue,

1 deny, condition, or modify a hydraulic project approval permit under  
2 chapter 77.55 RCW.

3 (l) Decisions of the department of natural resources that are  
4 reviewable under RCW 78.44.270.

5 (m) Decisions of a state agency that is an authorized public entity  
6 under RCW 79.100.010 to take temporary possession or custody of a  
7 vessel or to contest the amount of reimbursement owed that are  
8 reviewable under RCW 79.100.120.

9 (2) The following hearings shall not be conducted by the hearings  
10 board:

11 (a) Hearings required by law to be conducted by the shorelines  
12 hearings board pursuant to chapter 90.58 RCW.

13 (b) Hearings conducted by the department pursuant to RCW 70.94.332,  
14 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

15 ~~((Appeals of decisions by the department under RCW 90.03.110  
16 and 90.44.220.~~

17 ~~(d))~~ Hearings conducted by the department to adopt, modify, or  
18 repeal rules.

19 ~~((e) Appeals of decisions by the department as provided in chapter  
20 43.21B RCW.))~~

21 (3) Review of rules and regulations adopted by the hearings board  
22 shall be subject to review in accordance with the provisions of the  
23 administrative procedure act, chapter 34.05 RCW.

24 **Sec. 3.** RCW 43.21B.300 and 2010 c 210 s 12 and 2010 c 84 s 4 are  
25 each reenacted and amended to read as follows:

26 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,  
27 70.95.315, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.46.270,  
28 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 90.76 RCW  
29 shall be imposed by a notice in writing, either by certified mail with  
30 return receipt requested or by personal service, to the person  
31 incurring the penalty from the department or the local air authority,  
32 describing the violation with reasonable particularity. For penalties  
33 issued by local air authorities, within thirty days after the notice is  
34 received, the person incurring the penalty may apply in writing to the  
35 authority for the remission or mitigation of the penalty. Upon receipt  
36 of the application, the authority may remit or mitigate the penalty  
37 upon whatever terms the authority in its discretion deems proper. The

1 authority may ascertain the facts regarding all such applications in  
2 such reasonable manner and under such rules as it may deem proper and  
3 shall remit or mitigate the penalty only upon a demonstration of  
4 extraordinary circumstances such as the presence of information or  
5 factors not considered in setting the original penalty.

6 (2) Any penalty imposed under this section may be appealed to the  
7 pollution control hearings board in accordance with this chapter if the  
8 appeal is filed with the hearings board and served on the department or  
9 authority thirty days after the date of receipt by the person penalized  
10 of the notice imposing the penalty or thirty days after the date of  
11 receipt of the notice of disposition by a local air authority of the  
12 application for relief from penalty.

13 (3) A penalty shall become due and payable on the later of:

14 (a) Thirty days after receipt of the notice imposing the penalty;

15 (b) Thirty days after receipt of the notice of disposition by a  
16 local air authority on application for relief from penalty, if such an  
17 application is made; or

18 (c) Thirty days after receipt of the notice of decision of the  
19 hearings board if the penalty is appealed.

20 (4) If the amount of any penalty is not paid to the department  
21 within thirty days after it becomes due and payable, the attorney  
22 general, upon request of the department, shall bring an action in the  
23 name of the state of Washington in the superior court of Thurston  
24 county, or of any county in which the violator does business, to  
25 recover the penalty. If the amount of the penalty is not paid to the  
26 authority within thirty days after it becomes due and payable, the  
27 authority may bring an action to recover the penalty in the superior  
28 court of the county of the authority's main office or of any county in  
29 which the violator does business. In these actions, the procedures and  
30 rules of evidence shall be the same as in an ordinary civil action.

31 (5) All penalties recovered shall be paid into the state treasury  
32 and credited to the general fund except those penalties imposed  
33 pursuant to RCW 18.104.155, which shall be credited to the reclamation  
34 account as provided in RCW 18.104.155(7), RCW 70.94.431, the  
35 disposition of which shall be governed by that provision, RCW  
36 70.105.080, which shall be credited to the (~~hazardous waste control~~  
37 ~~and elimination~~) state toxics control account created by RCW  
38 (~~(70.105.180)~~) 70.105D.070, RCW 90.56.330, which shall be credited to

1 the coastal protection fund created by RCW 90.48.390, and RCW  
2 90.76.080, which shall be credited to the underground storage tank  
3 account created by RCW 90.76.100.

4 **Sec. 4.** RCW 43.21B.305 and 2005 c 34 s 2 are each amended to read  
5 as follows:

6 In an appeal that involves a penalty of fifteen thousand dollars or  
7 less, the appeal may be heard by one member of the board or by an  
8 administrative law judge employed by the board, whose decision shall be  
9 the final decision of the board. The board shall define by rule  
10 alternative procedures to expedite appeals involving penalties of  
11 fifteen thousand dollars or less. These alternatives may include:  
12 Mediation, upon agreement of all parties; submission of testimony by  
13 affidavit; or other forms that may lead to less formal and faster  
14 resolution of appeals.

15 **Sec. 5.** RCW 70.93.200 and 1998 c 257 s 8 are each amended to read  
16 as follows:

17 In addition to the ~~((foregoing))~~ other provisions of this chapter,  
18 the department ~~((of ecology shall))~~ may, when the director determines  
19 that funding is available:

20 (1) Serve as the coordinating agency between the various industry  
21 organizations seeking to aid in the waste reduction, anti-litter, and  
22 recycling efforts;

23 (2) Serve as the coordinating and administrating agency for all  
24 state agencies and local governments receiving funds for waste  
25 reduction, litter control, and recycling under this chapter;

26 (3) Recommend to the governing bodies of all local governments that  
27 they adopt ordinances similar to the provisions of this chapter;

28 (4) Cooperate with all local governments to accomplish coordination  
29 of local waste reduction, anti-litter, and recycling efforts;

30 (5) Encourage, organize, and coordinate all voluntary local waste  
31 reduction, anti-litter, and recycling campaigns seeking to focus the  
32 attention of the public on the programs of this state to reduce waste,  
33 control and remove litter, and foster recycling;

34 (6) Investigate the availability of, and apply for funds available  
35 from any private or public source to be used in the program outlined in  
36 this chapter;

1 (7) Develop statewide programs by working with local governments,  
2 payers of the waste reduction, recycling, and litter control tax, and  
3 industry organizations that are active in waste reduction, anti-litter,  
4 and recycling efforts to increase public awareness of and participation  
5 in recycling and to stimulate and encourage local private recycling  
6 centers, public participation in recycling and research and development  
7 in the field of litter control, and recycling, removal, and disposal of  
8 litter-related recycling materials;

9 (8) Conduct a ~~((biennial))~~ periodic statewide litter survey  
10 targeted at litter composition, sources, demographics, and geographic  
11 trends; and

12 (9) Provide ~~((a biennial))~~, when requested by the governor or the  
13 legislature, a periodic summary of all waste reduction, litter control,  
14 and recycling efforts statewide including those of the department ~~((of~~  
15 ~~ecology))~~, and other state agencies and local governments funded for  
16 such programs under this chapter. ~~((This report is due to the~~  
17 ~~legislature in March of even-numbered years.))~~

18 **Sec. 6.** RCW 70.93.220 and 1998 c 257 s 6 are each amended to read  
19 as follows:

20 (1) The department ~~((of ecology))~~ is the coordinating and  
21 administrative agency working with the departments of natural  
22 resources, revenue, transportation, and corrections, and the parks and  
23 recreation commission in developing a biennial budget request for funds  
24 for the various agencies' litter collection programs.

25 (2) Funds may be used to meet the needs of efficient and effective  
26 litter collection and illegal dumping programs identified by the  
27 various agencies. The department shall develop criteria for evaluating  
28 the effectiveness and efficiency of the waste reduction, litter  
29 control, and recycling programs being administered by the various  
30 agencies listed in RCW 70.93.180, and shall distribute funds according  
31 to the effectiveness and efficiency of those programs. In addition,  
32 the department shall approve funding requests for efficient and  
33 effective waste reduction, litter control, and recycling programs,  
34 provide funds, and monitor the results of all agency programs.

35 (3) All agencies are responsible for reporting information on their  
36 litter collection programs~~((7))~~ as requested by the department ~~((of~~



1 ecology. ~~Beginning in the year 2000, this information shall be~~  
2 ~~provided to the department by March of even numbered years. In 1998,~~  
3 ~~this information shall be provided by July 1st.~~

4 ~~(4) By December 1998, and in every even numbered year thereafter,~~  
5 ~~the department shall provide a report to the legislature summarizing~~  
6 ~~biennial waste reduction, litter control, and recycling activities by~~  
7 ~~state agencies and submitting the coordinated litter budget request of~~  
8 ~~all agencies)).~~

9 **Sec. 7.** RCW 70.93.250 and 2002 c 175 s 46 are each amended to read  
10 as follows:

11 (1) The department shall provide funding to local units of  
12 government to establish, conduct, and evaluate community restitution  
13 and other programs for waste reduction, litter and illegal dump  
14 cleanup, and recycling. Programs eligible for funding under this  
15 section shall include, but not be limited to, programs established  
16 pursuant to RCW 72.09.260.

17 (2) Funds may be offered for costs associated with community waste  
18 reduction, litter cleanup and prevention, and recycling activities.  
19 The funding program must be flexible, allowing local governments to use  
20 funds broadly to meet their needs to reduce waste, control litter and  
21 illegal dumping, and promote recycling. Local governments are required  
22 to contribute resources or in-kind services. The department shall  
23 evaluate funding requests from local government according to the same  
24 criteria as those developed in RCW 70.93.220, provide funds according  
25 to the effectiveness and efficiency of local government litter control  
26 programs, and monitor the results of all local government programs  
27 under this section.

28 (3) Local governments shall report information as requested by the  
29 department in funding agreements entered into by the department and a  
30 local government. ~~((The department shall report to the appropriate~~  
31 ~~standing committees of the legislature by December of even numbered~~  
32 ~~years on the effectiveness of local government waste reduction, litter,~~  
33 ~~and recycling programs funded under this section.))~~

34 **Sec. 8.** RCW 70.94.037 and 1991 c 199 s 219 are each amended to  
35 read as follows:

36 In areas subject to a state implementation plan, no state agency,

1 metropolitan planning organization, or local government shall approve  
2 or fund a transportation plan, program, or project within or that  
3 affects a nonattainment area unless a determination has been made that  
4 the plan, program, or project conforms with the state implementation  
5 plan for air quality as required by the federal clean air act.

6 Conformity determination shall be made by the state or local  
7 government or metropolitan planning organization administering or  
8 developing the plan, program, or project.

9 ~~((No later than eighteen months after May 15, 1991,))~~ The director  
10 of the department ~~((of ecology))~~ and the secretary of transportation,  
11 in consultation with other state, regional, and local agencies as  
12 appropriate, shall adopt by rule criteria and guidance for  
13 demonstrating and assuring conformity of plans, programs, and projects  
14 that are wholly or partially federally funded.

15 A project with a scope that is limited to preservation or  
16 maintenance, or both, shall be exempted from a conformity determination  
17 requirement.

18 **Sec. 9.** RCW 70.95.130 and 1969 ex.s. c 134 s 13 are each amended  
19 to read as follows:

20 Any county may apply to the department on a form prescribed thereby  
21 for financial aid for the preparation and implementation of the  
22 comprehensive county plan for solid waste management required by RCW  
23 70.95.080. Any city electing to prepare an independent city plan, a  
24 joint city plan, or a joint county-city plan for solid waste management  
25 for inclusion in the county comprehensive plan may apply for financial  
26 aid for such purpose through the county. Every city application for  
27 financial aid for planning shall be filed with the county auditor and  
28 shall be included as a part of the county's application for financial  
29 aid. ~~((Any city preparing an independent plan shall provide for  
30 disposal sites wholly within its jurisdiction.))~~

31 The department shall allocate to the counties and cities applying  
32 for financial aid for planning, such funds as may be available pursuant  
33 to legislative appropriations or from any federal grants for such  
34 purpose.

35 The department shall determine priorities and allocate available  
36 funds among the counties and cities applying for aid according to  
37 criteria established by regulations of the department considering

1 population, urban development, environmental effects of waste disposal,  
2 existing waste handling practices, and the local justification of their  
3 proposed expenditures.

4 **Sec. 10.** RCW 70.95.140 and 1969 ex.s. c 134 s 14 are each amended  
5 to read as follows:

6 Counties and cities shall match their planning and implementation  
7 aid allocated by the director by an amount (~~(not less than)~~) up to  
8 twenty-five percent of the estimated cost of such planning. Any  
9 federal planning aid made directly to a county or city shall not be  
10 considered either a state or local contribution in determining local  
11 matching requirements. Counties and cities may meet their share of  
12 planning costs by cash and contributed services.

13 **Sec. 11.** RCW 70.95.230 and 1969 ex.s. c 134 s 23 are each amended  
14 to read as follows:

15 The jurisdictional health department applying for state assistance  
16 for the enforcement of this chapter shall match such aid allocated by  
17 the department in an amount (~~(not less than)~~) up to twenty-five percent  
18 of the total amount spent for such enforcement activity during the  
19 year. The local share of enforcement costs may be met by cash and  
20 contributed services.

21 **Sec. 12.** RCW 70.95.290 and 1988 c 184 s 3 are each amended to read  
22 as follows:

23 (1) The evaluation of the solid waste stream required in RCW  
24 70.95.280 shall include the following elements:

25 (a) The department shall determine which management method for each  
26 category of solid waste will have the least environmental impact; and

27 (b) The department shall evaluate the costs of various management  
28 options for each category of solid waste, including a review of market  
29 availability, and shall take into consideration the economic impact on  
30 affected parties;

31 (c) Based on the results of (a) and (b) of this subsection, the  
32 department shall determine the best management for each category of  
33 solid waste. Different management methods for the same categories of  
34 waste may be developed for different parts of the state.

1 (2) The department shall give priority to evaluating categories of  
2 solid waste that, in relation to other categories of solid waste,  
3 comprise a large volume of the solid waste stream or present a high  
4 potential of harm to human health. ~~((At a minimum the following  
5 categories of waste shall be evaluated:~~

6 ~~(a) By January 1, 1989, yard waste and other biodegradable  
7 materials, paper products, disposable diapers, and batteries; and~~

8 ~~(b) By January 1, 1990, metals, glass, plastics, styrofoam or rigid  
9 lightweight cellular polystyrene, and tires.))~~

10 **Sec. 13.** RCW 70.95.530 and 2009 c 261 s 5 are each amended to read  
11 as follows:

12 (1) Moneys in the waste tire removal account may be appropriated to  
13 the department of ecology:

14 (a) To provide for funding to state and local governments for the  
15 removal of discarded vehicle tires from unauthorized tire dump sites;  
16 and

17 (b) To accomplish the other purposes of RCW 70.95.020 as they  
18 relate to waste tire cleanup under this chapter.

19 (2) In spending funds in the account under this section, the  
20 department of ecology shall identify communities with the most severe  
21 problems with waste tires and provide funds first to those communities  
22 to remove accumulations of waste tires.

23 (3) ~~((On September 1st of even-numbered years,))~~ The department of  
24 ecology shall ~~((provide a report to the house [of representatives] and  
25 senate transportation committees on the progress being made on the  
26 cleanup of unauthorized waste tire piles in the state and efforts  
27 underway to prevent the formation of future unauthorized waste tire  
28 piles. The report must detail any additional unauthorized waste tire  
29 piles discovered since the last report and present a plan to clean up  
30 these new unauthorized waste tire piles if they have not already done  
31 so, as well as include a listing of authorized waste tire piles and  
32 transporters. The report must also include the status of funds  
33 available to the program and a needs assessment of the program. On  
34 September 1, 2010, the department shall also make recommendations to  
35 the committees for an ongoing program to prevent the formation of  
36 future unauthorized waste tire piles. Such a program, if required,  
37 must include joint efforts with local governments and the tire~~

1 industry)) include in the program's annual report a summary of state  
2 and local government efforts funded using the waste tire removal  
3 account. The department shall provide on its web site a list of  
4 authorized waste tire storage sites and transporters.

5 **Sec. 14.** RCW 70.95C.220 and 2005 c 274 s 338 are each amended to  
6 read as follows:

7 (1) The department may review a plan, executive summary, or an  
8 annual progress report to determine whether the plan, executive  
9 summary, or annual progress report is adequate pursuant to the rules  
10 developed under this section and with the provisions of RCW 70.95C.200.  
11 In determining the adequacy of any plan, executive summary, or annual  
12 progress report, the department shall base its determination solely on  
13 whether the plan, executive summary, or annual progress report is  
14 complete and prepared in accordance with the provisions of RCW  
15 70.95C.200.

16 (2) Plans developed under RCW 70.95C.200 shall be retained at the  
17 facility of the hazardous substance user or hazardous waste generator  
18 preparing a plan. The plan is not a public record under the public  
19 records act, chapter 42.56 RCW. A user or generator required to  
20 prepare a plan shall permit the director or a representative of the  
21 director to review the plan to determine its adequacy. No visit made  
22 by the director or a representative of the director to a facility for  
23 the purposes of this subsection may be regarded as an inspection or  
24 investigation, and no notices or citations may be issued, nor any civil  
25 penalty assessed, upon such a visit.

26 (3) If a hazardous substance user or hazardous waste generator  
27 fails to complete an adequate plan, executive summary, or annual  
28 progress report, the department shall notify the user or generator of  
29 the inadequacy, identifying specific deficiencies. For the purposes of  
30 this section, a deficiency may include failure to develop a plan,  
31 failure to submit an executive summary pursuant to the schedule  
32 provided in RCW 70.95C.200(5), and failure to submit an annual progress  
33 report pursuant to the rules developed under RCW 70.95C.200(6). The  
34 department shall specify a reasonable time frame, of not less than  
35 ninety days, within which the user or generator shall complete a  
36 modified plan, executive summary, or annual progress report addressing  
37 the specified deficiencies.

1 (4) If the department determines that a modified plan, executive  
2 summary, or annual progress report is inadequate, the department may,  
3 within its discretion, either require further modification or enter an  
4 order pursuant to subsection (5)(a) of this section.

5 (5)(a) If, after having received a list of specified deficiencies  
6 from the department, a hazardous substance user or hazardous waste  
7 generator required to prepare a plan fails to complete modification of  
8 a plan, executive summary, or annual progress report within the time  
9 period specified by the department, the department may enter an order  
10 pursuant to chapter 34.05 RCW finding the user or generator not in  
11 compliance with the requirements of RCW 70.95C.200. When the order is  
12 final, the department shall (~~notify the department of revenue to~~)  
13 charge a penalty fee. The penalty fee shall be the greater of one  
14 thousand dollars or three times the amount of the user's or generator's  
15 previous year's fee, in addition to the current year's fee. If no fee  
16 was assessed the previous year, the penalty shall be the greater of one  
17 thousand dollars or three times the amount of the current year's fee.  
18 The penalty assessed under this subsection shall be collected each year  
19 after the year for which the penalty was assessed until an adequate  
20 plan or executive summary is completed.

21 (b) If a hazardous substance user or hazardous waste generator  
22 required to prepare a plan fails to complete an adequate plan,  
23 executive summary, or annual progress report after the department has  
24 levied against the user or generator the penalty provided in (a) of  
25 this subsection, the user or generator shall be required to pay a  
26 surcharge to the department whenever the user or generator disposes of  
27 a hazardous waste at any hazardous waste incinerator or hazardous waste  
28 landfill facility located in Washington state, until a plan, executive  
29 summary, or annual progress report is completed and determined to be  
30 adequate by the department. The surcharge shall be equal to three  
31 times the fee charged for disposal. The department shall furnish the  
32 incinerator and landfill facilities in this state with a list of  
33 environmental protection agency/state identification numbers of the  
34 hazardous waste generators that are not in compliance with the  
35 requirements of RCW 70.95C.200.

36 **Sec. 15.** RCW 70.95E.010 and 1995 c 207 s 1 are each amended to  
37 read as follows:

1 ((As used in this chapter, the following terms have the meanings  
2 indicated)) The definitions in this section apply throughout this  
3 chapter unless the context clearly requires otherwise.

4 (1) "Dangerous waste" shall have the same definition as set forth  
5 in RCW 70.105.010((+5)) (1) and shall include those wastes designated  
6 as dangerous by rules adopted pursuant to chapter 70.105 RCW.

7 (2) "Department" means the department of ecology.

8 (3) "EPA/state identification number" means the number assigned by  
9 the EPA (environmental protection agency) or by the department ((of  
10 ecology)) to each generator and/or transporter and treatment, storage,  
11 and/or disposal facility.

12 (4) "Extremely hazardous waste" ((shall have)) has the same  
13 definition as ((set forth)) that term is defined in RCW  
14 70.105.010((+6)) and shall specifically include those wastes  
15 designated as extremely hazardous by rules adopted pursuant to chapter  
16 70.105 RCW.

17 (5) "Fee" means the annual fees imposed under this chapter.

18 (6) "Generate" means any act or process which produces hazardous  
19 waste or first causes a hazardous waste to become subject to  
20 regulation.

21 (7) "Hazardous waste" means and includes all dangerous and  
22 extremely hazardous wastes but for the purposes of this chapter  
23 excludes all radioactive wastes or substances composed of both  
24 radioactive and hazardous components.

25 (8) "Hazardous waste generator" means all persons whose primary  
26 business activities are identified by the department to generate any  
27 quantity of hazardous waste in the calendar year for which the fee is  
28 imposed.

29 (9) "Person" means an individual, trust, firm, joint stock company,  
30 partnership, association, state, public or private or municipal  
31 corporation, commission, political subdivision of a state, interstate  
32 body, the federal government including any agency or officer thereof,  
33 and any Indian tribe or authorized tribal organization.

34 (10) "Price deflator" means the figures reported by the United  
35 States department of commerce bureau of economic analysis((7)) on the  
36 table for "Implicit Price Deflator for Gross ((National)) Domestic  
37 Product." ((for "Government Purchases of Goods and Services,") The  
38 department must use a price deflator for "State and Local Government."

1 If a "State and Local Government" figure is not included on the table,  
2 the department must use a price deflator figure applicable to general  
3 government.

4 (11) "Recycled for beneficial use" means the use of hazardous  
5 waste, either before or after reclamation, as a substitute for a  
6 commercial product or raw material, but does not include: (a) Use  
7 constituting disposal; (b) incineration; or (c) use as a fuel.

8 (12) "Waste generation site" means any geographical area that has  
9 been assigned an EPA/state identification number.

10 **Sec. 16.** RCW 70.95E.040 and 1990 c 114 s 14 are each amended to  
11 read as follows:

12 On an annual basis, the department shall adjust the fees provided  
13 for in RCW 70.95E.020 and 70.95E.030, including the maximum annual fee,  
14 and maximum total fees, by conducting the calculation in subsection (1)  
15 of this section and taking the actions set forth in subsection (2) of  
16 this section:

17 (1) In (~~November~~) March of each year, the fees, annual fee, and  
18 maximum total fees imposed in RCW 70.95E.020 and 70.95E.030, or as  
19 subsequently adjusted by this section, shall be multiplied by a factor  
20 equal to the (~~most current quarterly~~) "price deflator" for the most  
21 recently completed calendar year available, divided by the "price  
22 deflator" used in the numerator the (~~previous~~) preceding year.  
23 (~~However, the "price deflator" used in the denominator for the first~~  
24 ~~adjustment shall be defined by the second quarter "price deflator" for~~  
25 ~~1990.~~)

26 (2) Each year by (~~March~~) April 1st the fee schedule, as adjusted  
27 in subsection (1) of this section, will be published. The department  
28 will round the published fees to the nearest dollar.

29 **Sec. 17.** RCW 70.95I.080 and 1986 c 37 s 1 are each amended to read  
30 as follows:

31 (~~By January 1, 1987, the state fire protection board, in~~  
32 ~~cooperation with~~) The department (~~of ecology,~~) shall (~~develop~~)  
33 maintain, as necessary, a statewide standard for the placement of  
34 above-ground tanks to collect used oil from private individuals for  
35 recycling purposes.



1           **Sec. 18.** RCW 70.95J.025 and 1997 c 398 s 1 are each amended to  
2 read as follows:

3           (1) The department shall establish annual fees to collect expenses  
4 for issuing and administering biosolids permits under this chapter. An  
5 initial fee schedule shall be established by rule and shall be adjusted  
6 no more often than once every two years. This fee schedule applies to  
7 all permits, regardless of date of issuance, and fees shall be assessed  
8 prospectively. Fees shall be established in amounts to recover  
9 expenses incurred by the department in processing permit applications  
10 and modifications, reviewing related plans and documents, monitoring,  
11 evaluating, conducting inspections, overseeing performance of delegated  
12 program elements, providing technical assistance and supporting  
13 overhead expenses that are directly related to these activities.

14           (2) The annual fee paid by a permittee for any permit issued under  
15 this chapter shall be determined by the number of residences or  
16 residential equivalents contributing to the permittee's biosolids  
17 management system. If residences or residential equivalents cannot be  
18 determined or reasonably estimated, fees shall be based on other  
19 appropriate criteria.

20           (3) The biosolids permit account is created in the state treasury.  
21 All receipts from fees under this section must be deposited into the  
22 account. Moneys in the account may be spent only after appropriation.  
23 Expenditures from the account may be used only for the purposes of  
24 administering permits under this chapter.

25           (4) ~~((The department shall present a biennial progress report on  
26 the use of moneys from the biosolids permit account to the legislature.  
27 The first report is due on or before December 31, 1998, and thereafter  
28 on or before December 31st of odd-numbered years. The report shall  
29 consist of information on fees collected, actual expenses incurred, and  
30 anticipated expenses for the current and following fiscal years.~~

31           (5)) The department shall work with the regulated community and  
32 local health departments to study the feasibility of modifying the fee  
33 schedule to support delegated local health departments and reduce local  
34 health department fees paid by biosolids permittees.

35           **Sec. 19.** RCW 70.105.160 and 2010 1st sp.s. c 7 s 89 are each  
36 amended to read as follows:

37           The department shall conduct a study to determine the best

1 management practices for categories of waste for the priority waste  
2 management methods established in RCW 70.105.150, with due  
3 consideration in the course of the study to sound environmental  
4 management and available technology. As an element of the study, the  
5 department shall review methods that will help achieve the priority of  
6 RCW 70.105.150(1)(a), waste reduction. Before issuing any proposed  
7 rules, the department shall conduct public hearings regarding the best  
8 management practices for the various waste categories studied by the  
9 department. After conducting the study, the department shall prepare  
10 new rules or modify existing rules as appropriate to promote  
11 implementation of the priorities established in RCW 70.105.150 for  
12 management practices which assure use of sound environmental management  
13 techniques and available technology. The preliminary study shall be  
14 completed by July 1, 1986, and the rules shall be adopted by July 1,  
15 1987.

16 The studies shall be updated at least once every five years. The  
17 funding for these studies shall be from the (~~hazardous waste control~~  
18 ~~and elimination~~) state toxics control account, subject to legislative  
19 appropriation.

20 **Sec. 20.** RCW 70.105.180 and 1985 c 57 s 70 are each amended to  
21 read as follows:

22 All fines and penalties collected under this chapter shall be  
23 deposited in the (~~hazardous waste control and elimination~~) state  
24 toxics control account(~~(, which is hereby created in the state~~  
25 ~~treasury. Moneys in the account collected from fines and penalties~~  
26 ~~shall be expended exclusively by the department of ecology for the~~  
27 ~~purposes of chapter 70, Laws of 1983 1st ex. sess., subject to~~  
28 ~~legislative appropriation. Other sources of funds deposited in this~~  
29 ~~account may also be used for the purposes of chapter 70, Laws of 1983~~  
30 ~~1st ex. sess. All earnings of investments of balances in the hazardous~~  
31 ~~waste control and elimination account shall be credited to the general~~  
32 ~~fund)).~~

33 **Sec. 21.** RCW 70.105.210 and 1989 1st ex.s. c 13 s 2 are each  
34 amended to read as follows:

35 (~~By May 31, 1990,~~) The department shall (~~develop and adopt~~)  
36 maintain criteria for the siting of hazardous waste management

1 facilities. These criteria will be part of the state hazardous waste  
2 management plan as described in RCW 70.105.200. To the extent  
3 practical, these criteria shall be designed to minimize the short-term  
4 and long-term risks and costs that may result from hazardous waste  
5 management facilities. These criteria may vary by type of facilities  
6 and may consider natural site characteristics and engineered  
7 protection. Criteria may be established for:

- 8 (1) Geology;
- 9 (2) Surface and groundwater hydrology;
- 10 (3) Soils;
- 11 (4) Flooding;
- 12 (5) Climatic factors;
- 13 (6) Unique or endangered flora and fauna;
- 14 (7) Transportation routes;
- 15 (8) Site access;
- 16 (9) Buffer zones;
- 17 (10) Availability of utilities and public services;
- 18 (11) Compatibility with existing uses of land;
- 19 (12) Shorelines and wetlands;
- 20 (13) Sole-source aquifers;
- 21 (14) Natural hazards; and
- 22 (15) Other factors as determined by the department.

23 NEW SECTION. **Sec. 22.** Section 1 of this act expires June 30,  
24 2019.

25 NEW SECTION. **Sec. 23.** Section 2 of this act takes effect June 30,  
26 2019.

27 NEW SECTION. **Sec. 24.** The following acts or parts of acts are  
28 each repealed:

- 29 (1) RCW 70.93.090 (Litter receptacles--Use of anti-litter symbol--  
30 Distribution--Placement--Violations--Penalties) and 1998 c 257 s 4,  
31 1979 c 94 s 5, & 1971 ex.s. c 307 s 9;
- 32 (2) RCW 70.94.505 (Woodsmoke emissions--Work group) and 2007 c 339  
33 s 3; and

1 (3) RCW 70.95.545 (Tire recycling--Report) and 2002 c 299 s 9.

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