
ENGROSSED SUBSTITUTE HOUSE BILL 2439

State of Washington

63rd Legislature

2014 Regular Session

By House Environment (originally sponsored by Representatives Takko, Fitzgibbon, Tharinger, Ryu, and Roberts; by request of Department of Ecology)

READ FIRST TIME 02/04/14.

1 AN ACT Relating to updating specified environmental statutes of the
2 department of ecology to improve efficiency and provide for increased
3 flexibility for local governments; amending RCW 43.21B.305, 43.21B.110,
4 43.21B.110, 70.95.130, 70.95.140, 70.95.230, 70.95.240, 70.95.300,
5 70.107.010, 70.107.030, 70.107.060, 90.56.060, and 90.58.190; creating
6 a new section; repealing RCW 43.21A.610, 43.21A.612, 43.21A.614,
7 43.21A.616, 43.21A.618, 43.21A.620, 43.21A.622, 43.21A.624, 43.21A.626,
8 43.21A.628, 43.21A.630, 43.21A.632, 43.21A.634, 43.21A.636, 43.21A.638,
9 43.21A.640, 43.21A.642, 70.95.205, 70.95.700, 70.107.040, 70.107.050,
10 and 90.56.335; providing an effective date; and providing an expiration
11 date.

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

13 **Sec. 1.** RCW 43.21B.305 and 2013 c 291 s 44 are each amended to
14 read as follows:

15 (~~(1)~~) In an appeal that involves a penalty of fifteen thousand
16 dollars or less, or that involves a derelict or abandoned vessel under
17 RCW 79.100.120, or an appeal of a corrective action order issued
18 pursuant to RCW 70.94.211, the appeal may be heard by one member of the
19 board or by an administrative appeals judge employed by the board,

1 whose decision shall be the final decision of the board. The board
2 shall define by rule alternative procedures to expedite appeals
3 involving penalties of fifteen thousand dollars or less ~~((or))~~,
4 involving a derelict or abandoned vessel, or involving an appeal of a
5 corrective action order issued pursuant to RCW 70.94.211. These
6 alternatives may include: Mediation, upon agreement of all parties;
7 submission of testimony by affidavit; or other forms that may lead to
8 less formal and faster resolution of appeals.

9 ~~((2) For appeals that involve a derelict or abandoned vessel under
10 RCW 79.100.120 only, an administrative law judge employed by the board
11 may be substituted for a board member under this section.))~~

12 **Sec. 2.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to
13 read as follows:

14 (1) The hearings board shall only have jurisdiction to hear and
15 decide appeals from the following decisions of the department, the
16 director, local conservation districts, the air pollution control
17 boards or authorities as established pursuant to chapter 70.94 RCW,
18 local health departments, the department of natural resources, the
19 department of fish and wildlife, the parks and recreation commission,
20 and authorized public entities described in chapter 79.100 RCW:

21 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
22 70.95.315, 70.95N.260, 70.105.080, 70.107.050, 70.240.050, 70.275.100,
23 70.275.110, 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600,
24 90.46.270, 90.48.144, 90.56.310, 90.56.330, ~~((and))~~ 90.64.102, and
25 90.76.080.

26 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
27 18.104.130, 43.27A.190, 70.94.211, 70.94.332, 70.94.640, 70.94.715,
28 70.95.315, 70.95C.230, 70.105.095, 86.16.020, 88.46.070, 90.03.665,
29 90.14.130, 90.46.250, 90.48.120, ~~((and))~~ 90.48.240, 90.56.330, and
30 90.64.040.

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

33 (d) Except as provided in RCW 90.03.210(2), the issuance,
34 modification, or termination of any permit, certificate, or license by
35 the department or any air authority in the exercise of its
36 jurisdiction, including the issuance or termination of a waste disposal
37 permit, the denial of an application for a waste disposal permit, the

1 modification of the conditions or the terms of a waste disposal permit,
2 ((~~or~~)) a decision to approve or deny a solid waste management plan
3 under RCW 70.95.094, an application for a solid waste permit exemption
4 under RCW 70.95.300, an application for a change under RCW 90.03.383,
5 or a permit to distribute reclaimed water under RCW 90.46.220.

6 (e) Decisions of local health departments regarding the grant or
7 denial of solid waste permits pursuant to chapter 70.95 RCW, including
8 appeals by the department as provided in RCW 70.95.185.

9 (f) Decisions of local health departments regarding the issuance
10 and enforcement of permits to use or dispose of biosolids under RCW
11 70.95J.080.

12 (g) Decisions of the department regarding waste-derived fertilizer
13 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
14 department regarding waste-derived soil amendments under RCW
15 ((~~70.95.205~~)) 70.95.300.

16 (h) Decisions of local conservation districts related to the denial
17 of approval or denial of certification of a dairy nutrient management
18 plan; conditions contained in a plan; application of any dairy nutrient
19 management practices, standards, methods, and technologies to a
20 particular dairy farm; and failure to adhere to the plan review and
21 approval timelines in RCW 90.64.026 as provided in RCW 90.64.028.

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

25 (j) Decisions of the department of natural resources, the
26 department of fish and wildlife, and the department that are reviewable
27 under chapter 76.09 RCW, and the department of natural resources'
28 appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

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

36 (n) Decisions of an authorized public entity under RCW 79.100.010
37 to take temporary possession or custody of a vessel or to contest the

1 amount of reimbursement owed that are reviewable by the hearings board
2 under RCW 79.100.120.

3 (2) The following hearings shall not be conducted by the hearings
4 board:

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

7 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
8 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

9 (c) Appeals of decisions by the department under RCW 90.03.110 and
10 90.44.220.

11 (d) Hearings conducted by the department to adopt, modify, or
12 repeal rules.

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

16 **Sec. 3.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to
17 read as follows:

18 (1) The hearings board shall only have jurisdiction to hear and
19 decide appeals from the following decisions of the department, the
20 director, local conservation districts, the air pollution control
21 boards or authorities as established pursuant to chapter 70.94 RCW,
22 local health departments, the department of natural resources, the
23 department of fish and wildlife, the parks and recreation commission,
24 and authorized public entities described in chapter 79.100 RCW:

25 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
26 70.95.315, 70.95N.260, 70.105.080, 70.107.050, 70.240.050, 70.275.100,
27 70.275.110, 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600,
28 90.46.270, 90.48.144, 90.56.310, 90.56.330, (~~and~~) 90.64.102, and
29 90.76.080.

30 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
31 18.104.130, 43.27A.190, 70.94.211, 70.94.332, 70.95.315, 70.95C.230,
32 70.105.095, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250,
33 90.48.120, (~~and~~) 90.48.240, 90.56.330, and 90.64.040.

34 (c) Except as provided in RCW 90.03.210(2), the issuance,
35 modification, or termination of any permit, certificate, or license by
36 the department or any air authority in the exercise of its
37 jurisdiction, including the issuance or termination of a waste disposal

1 permit, the denial of an application for a waste disposal permit, the
2 modification of the conditions or the terms of a waste disposal permit,
3 (~~(or)~~) a decision to approve or deny a solid waste management plan
4 under RCW 70.95.094, an application for a solid waste permit exemption
5 under RCW 70.95.300, an application for a change under RCW 90.03.383,
6 or a permit to distribute reclaimed water under RCW 90.46.220.

7 (d) Decisions of local health departments regarding the grant or
8 denial of solid waste permits pursuant to chapter 70.95 RCW, including
9 appeals by the department as provided in RCW 70.95.185.

10 (e) Decisions of local health departments regarding the issuance
11 and enforcement of permits to use or dispose of biosolids under RCW
12 70.95J.080.

13 (f) Decisions of the department regarding waste-derived fertilizer
14 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
15 department regarding waste-derived soil amendments under RCW
16 (~~(70.95.205)~~) 70.95.300.

17 (g) Decisions of local conservation districts related to the denial
18 of approval or denial of certification of a dairy nutrient management
19 plan; conditions contained in a plan; application of any dairy nutrient
20 management practices, standards, methods, and technologies to a
21 particular dairy farm; and failure to adhere to the plan review and
22 approval timelines in RCW 90.64.026 as provided in RCW 90.64.028.

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

26 (i) Decisions of the department of natural resources, the
27 department of fish and wildlife, and the department that are reviewable
28 under chapter 76.09 RCW, and the department of natural resources'
29 appeals of county, city, or town objections under RCW 76.09.050(7).

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

32 (k) Decisions of the department of fish and wildlife to issue,
33 deny, condition, or modify a hydraulic project approval permit under
34 chapter 77.55 RCW.

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

37 (m) Decisions of an authorized public entity under RCW 79.100.010

1 to take temporary possession or custody of a vessel or to contest the
2 amount of reimbursement owed that are reviewable by the hearings board
3 under RCW 79.100.120.

4 (2) The following hearings shall not be conducted by the hearings
5 board:

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

8 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
9 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

10 (c) Appeals of decisions by the department under RCW 90.03.110 and
11 90.44.220.

12 (d) Hearings conducted by the department to adopt, modify, or
13 repeal rules.

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

17 **Sec. 4.** RCW 70.95.130 and 1969 ex.s. c 134 s 13 are each amended
18 to read as follows:

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

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. 5.** 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))~~) to be
8 determined by the director up to twenty-five percent of the estimated
9 cost of such planning. Any federal planning aid made directly to a
10 county or city shall not be considered either a state or local
11 contribution in determining local matching requirements. Counties and
12 cities may meet their share of planning costs by cash and contributed
13 services.

14 **Sec. 6.** RCW 70.95.230 and 1969 ex.s. c 134 s 23 are each amended
15 to read as follows:

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

22 **Sec. 7.** RCW 70.95.240 and 2011 c 279 s 1 are each amended to read
23 as follows:

24 (1) Except as otherwise provided in this section or at a solid
25 waste disposal site for which there is a valid permit, after the
26 adoption of regulations or ordinances by any county, city, or
27 jurisdictional board of health providing for the issuance of permits as
28 provided in RCW 70.95.160, it is unlawful for any person to dump or
29 deposit or permit the dumping or depositing of any solid waste onto or
30 under the surface of the ground or into the waters of this state.

31 (2) This section does not:

32 (a) Prohibit a person from dumping or depositing solid waste
33 resulting from his or her own activities onto or under the surface of
34 ground owned or leased by him or her when such action does not violate
35 statutes or ordinances, or create a nuisance;

1 (b) Apply to a person using a waste-derived soil amendment that has
2 been approved by the department under RCW ((70.95.205)) 70.95.300; or

3 (c) Apply to the application of commercial fertilizer that has been
4 registered with the department of agriculture as provided in RCW
5 15.54.325, and that is applied in accordance with the standards
6 established in RCW 15.54.800(3).

7 (3)(a) It is a class 3 civil infraction as defined in RCW 7.80.120
8 for a person to litter in an amount less than or equal to one cubic
9 foot.

10 (b)(i) It is a misdemeanor for a person to litter in an amount
11 greater than one cubic foot but less than one cubic yard.

12 (ii) A person found to have littered in an amount greater than one
13 cubic foot, but less than one cubic yard, shall also pay a litter
14 cleanup restitution payment. This payment must be the greater of twice
15 the actual cost of removing and properly disposing of the litter, or
16 fifty dollars per cubic foot of litter.

17 (iii) The court shall distribute one-half of the restitution
18 payment to the landowner where the littering occurred and one-half of
19 the restitution payment to the jurisdictional health department
20 investigating the incident. If the landowner provided written
21 permission authorizing the littering on his or her property or assisted
22 a person with littering on the landowner's property, the landowner is
23 not entitled to any restitution ordered by the court and the full
24 litter cleanup restitution payment must be provided to the
25 jurisdictional health department investigating the incident.

26 (iv) A jurisdictional health department receiving all or a portion
27 of a litter cleanup restitution payment must use the payment as
28 follows:

29 (A) One-half of the payment may be used by the jurisdictional
30 health department in the fulfillment of its responsibilities under this
31 chapter; and

32 (B) One-half of the payment must be used to assist property owners
33 located within the jurisdiction of the health department with the
34 removal and proper disposal of litter in instances when the person
35 responsible for the illegal dumping of the solid waste cannot be
36 determined.

37 (v) The court may, in addition to the litter cleanup restitution
38 payment, order the person to remove and properly dispose of the litter

1 from the property, with prior permission of the legal owner or, in the
2 case of public property, of the agency managing the property. The
3 court may suspend or modify the litter cleanup restitution payment for
4 a first-time offender under this section if the person removes and
5 properly disposes of the litter.

6 (c)(i) It is a gross misdemeanor for a person to litter in an
7 amount of one cubic yard or more.

8 (ii) A person found to have littered in an amount greater than one
9 cubic yard shall also pay a litter cleanup restitution payment. This
10 payment must be the greater of twice the actual cost of removing and
11 properly disposing of the litter, or one hundred dollars per cubic foot
12 of litter.

13 (iii) The court shall distribute one-half of the restitution
14 payment to the landowner where the littering occurred and one-half of
15 the restitution payment to the jurisdictional health department
16 investigating the incident. If the landowner provided written
17 permission authorizing the littering on his or her property or assisted
18 a person with littering on the landowner's property, the landowner is
19 not entitled to any restitution ordered by the court and the full
20 litter cleanup restitution payment must be provided to the
21 jurisdictional health department investigating the incident.

22 (iv) A jurisdictional health department receiving all or a portion
23 of a litter cleanup restitution payment must use the payment as
24 follows:

25 (A) One-half of the payment may be used by the jurisdictional
26 health department in the fulfillment of its responsibilities under this
27 chapter; and

28 (B) One-half of the payment must be used to assist property owners
29 located within the jurisdiction of the health department with the
30 removal and proper disposal of litter in instances when the person
31 responsible for the illegal dumping of the solid waste cannot be
32 determined.

33 (v) The court may, in addition to the litter cleanup restitution
34 payment, order the person to remove and properly dispose of the litter
35 from the property, with prior permission of the legal owner or, in the
36 case of public property, of the agency managing the property. The
37 court may suspend or modify the litter cleanup restitution payment for

1 a first-time offender under this section if the person removes and
2 properly disposes of the litter.

3 (4) If a junk vehicle is abandoned in violation of this chapter,
4 RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and
5 the penalties that may be imposed against the person who abandoned the
6 vehicle.

7 (5) When enforcing this section, the enforcing authority must take
8 reasonable action to determine and identify the person responsible for
9 illegally dumping solid waste before requiring the owner or lessee of
10 the property where illegal dumping of solid waste has occurred to
11 remove and properly dispose of the litter on the site.

12 **Sec. 8.** RCW 70.95.300 and 1998 c 156 s 2 are each amended to read
13 as follows:

14 (1) The department may by rule (~~(exempt)~~) establish administrative
15 procedures governing the process to propose and approve exempting a
16 solid waste from the permitting requirements of this chapter for one or
17 more beneficial uses. In (~~(adopting such rules)~~) exempting such uses,
18 the department shall specify both the solid waste that is exempted from
19 the permitting requirements and the beneficial use or uses for which
20 the solid waste is so exempted. The department shall consider: (a)
21 Whether the (~~(material)~~) solid waste will be beneficially used or
22 reused; and (b) whether the beneficial use or reuse of the (~~(material)~~)
23 solid waste will present threats to human health or the environment.

24 (2) When the department proposes to exempt from the permitting
25 requirements of this chapter one or more beneficial use or uses of a
26 solid waste, the department shall forward a copy of the complete
27 proposal to all jurisdictional health departments for review and
28 comment. Within forty-five days, the jurisdictional health departments
29 shall forward to the department their comments and any other
30 information they deem relevant to the department's decision whether or
31 not to adopt the proposal. If the proposal is adopted by the
32 department, the solid waste is exempt from the permitting requirements
33 of this chapter when used anywhere in the state in the manner approved
34 by the department. If the composition, use, or reuse of the solid
35 waste changes, or the management, storage, or end use constitutes a
36 threat to human health or the environment, the exemption may be

1 terminated and use of the solid waste remains subject to the permitting
2 requirements of this chapter.

3 (3) The department may also exempt a solid waste from the
4 permitting requirements of this chapter for one or more beneficial uses
5 by approving an application for such an exemption. The department
6 shall establish by rule procedures under which a person may apply to
7 the department for such an exemption. The rules shall establish
8 criteria for providing such an exemption, which shall include, but not
9 be limited to: (a) The ~~((material))~~ solid waste will be beneficially
10 used or reused; ~~((and))~~ (b) the beneficial use or reuse of the material
11 will not present threats to human health or the environment; and (c)
12 for solid waste to be applied to the land as a soil amendment,
13 analytical data showing that the solid waste meets standards
14 established under RCW 15.54.800(3). Rules adopted under this
15 subsection shall identify the information that an application shall
16 contain. Persons seeking such an exemption shall apply to the
17 department under the procedures established by the rules adopted under
18 this subsection.

19 ~~((+3))~~ (4) After receipt of an application filed under rules
20 adopted under ~~((subsection (2) of))~~ this section, the department shall
21 review the application to determine whether it is complete, and forward
22 a copy of the completed application to all jurisdictional health
23 departments for review and comment. Within forty-five days, the
24 jurisdictional health departments shall forward to the department their
25 comments and any other information they deem relevant to the
26 department's decision to approve or disapprove the application. Every
27 complete application shall be approved or disapproved by the department
28 within ninety days of receipt. If the application is approved by the
29 department, the solid waste is exempt from the permitting requirements
30 of this chapter when used anywhere in the state in the manner approved
31 by the department. If the composition, use, or reuse of the solid
32 waste ~~((is not consistent with the terms and conditions of the~~
33 ~~department's approval of the application,))~~ changes, or the management,
34 storage, or end use constitutes a threat to human health or the
35 environment, the exemption may be terminated and the use of the solid
36 waste remains subject to the permitting requirements of this chapter.

37 ~~((+4))~~ (5) The department shall establish procedures by rule for

1 providing to the public and the solid waste industry notice of and an
2 opportunity to comment on each application or proposal for an exemption
3 under (~~(subsection (2) of)~~) this section.

4 (~~((5) Any jurisdictional health department or applicant))~~ (6) Any
5 aggrieved party may appeal the decision of the department to approve or
6 disapprove an application or adopt a proposal under (~~(subsection (3)~~
7 ~~of)~~) this section. The appeal shall be made to the pollution control
8 hearings board by filing with the hearings board a notice of appeal
9 within thirty days of the decision of the department. The hearings
10 board's review of the decision shall be made in accordance with chapter
11 43.21B RCW and any subsequent appeal of a decision of the board shall
12 be made in accordance with RCW 43.21B.180.

13 (~~((6))~~) (7) This section shall not be deemed to invalidate the
14 exemptions or determinations of nonapplicability in the department's
15 solid waste rules as they exist on June 11, 1998, which exemptions and
16 determinations are recognized and confirmed subject to the department's
17 continuing authority to modify or revoke those exemptions or
18 determinations by rule.

19 (8) Nothing in this section applies to biosolids or sewage sludge
20 as defined under chapters 70.95 and 70.95J RCW or the rules adopted
21 under chapters 70.95 and 70.95J RCW.

22 **Sec. 9.** RCW 70.107.010 and 1974 ex.s. c 183 s 1 are each amended
23 to read as follows:

24 The legislature finds that inadequately controlled noise adversely
25 affects the health, safety and welfare of the people, the value of
26 property, and the quality of the environment. (~~(Antinoise measures of~~
27 ~~the past have not adequately protected against the invasion of these~~
28 ~~interests by noise. There is a need, therefore, for an expansion of~~
29 ~~efforts statewide directed toward the abatement and control of noise,~~
30 ~~considering the social and economic impact upon the community and the~~
31 ~~state.)) The purpose of this chapter is to provide authority for
32 (~~(such an expansion of efforts, supplementing existing programs in the~~
33 ~~field))~~ local governments to adopt and enforce regulations on noise.~~

34 **Sec. 10.** RCW 70.107.030 and 2011 c 171 s 107 are each amended to
35 read as follows:

36 The department (~~(is empowered as follows:~~

1 ~~(1) — The — department, — after — consultation — with — state — agencies~~
2 ~~expressing — an — interest — therein, — shall — adopt, — by — rule, — maximum — noise~~
3 ~~levels — permissible))~~ shall adopt rules setting model standards for
4 noise control regulation by local governments in identified
5 environments in order to protect against adverse ~~((affects))~~ effects of
6 noise on the health, safety, and welfare of the people, the value of
7 property, and the quality of environment ~~((: — PROVIDED, — That — in — so~~
8 ~~doing))~~. The department shall take ~~((also))~~ into account the economic
9 and practical benefits to be derived from the use of various products
10 in each such environment, whether the source of the noise or the use of
11 such products in each environment is permanent or temporary in nature,
12 and the state of technology relative to the control of noise generated
13 by all such sources of the noise or the products.

14 ~~((2) At any time after the adoption of maximum noise levels under~~
15 ~~subsection (1) of this section the department shall, in consultation~~
16 ~~with state agencies and local governments expressing an interest~~
17 ~~therein, adopt rules, consistent with the Federal Noise Control Act of~~
18 ~~1972 (86 Stat. 1234; 42 U.S.C. Sec. 4901-4918 and 49 U.S.C. Sec. 1431),~~
19 ~~for noise abatement and control in the state designed to achieve~~
20 ~~compliance with the noise level adopted in subsection (1) of this~~
21 ~~section, — including — reasonable — implementation — schedules — where~~
22 ~~appropriate, to insure that the maximum noise levels are not exceeded~~
23 ~~and that application of the best practicable noise control technology~~
24 ~~and practice is provided. — These rules may include, but shall not be~~
25 ~~limited to:~~

26 ~~(a) Performance standards setting allowable noise limits for the~~
27 ~~operation of products which produce noise;~~

28 ~~(b) Use standards regulating, as to time and place, the operation~~
29 ~~of individual products which produce noise above specified levels~~
30 ~~considering frequency spectrum and duration: — PROVIDED, The rules shall~~
31 ~~provide for temporarily exceeding those standards for stated purposes;~~
32 ~~and~~

33 ~~(c) Public information requirements dealing with disclosure of~~
34 ~~levels and characteristics of noise produced by products.~~

35 ~~(3) — The — department — may, — as — desirable — in — the — performance — of — its~~
36 ~~duties — under — this — chapter, — conduct — surveys, — studies — and — public~~
37 ~~education programs, and enter into contracts.~~

1 ~~(4) The department is authorized to apply for and accept moneys~~
2 ~~from the federal government and other sources to assist in the~~
3 ~~implementation of this chapter.~~

4 ~~(5) The legislature recognizes that the operation of motor vehicles~~
5 ~~on public highways as defined in RCW 46.09.310 contributes~~
6 ~~significantly to environmental noise levels and directs the department,~~
7 ~~in exercising the rule-making authority under the provisions of this~~
8 ~~section, to give first priority to the adoption of motor vehicle noise~~
9 ~~performance standards.~~

10 ~~(6) Noise levels and rules adopted by the department pursuant to~~
11 ~~this chapter shall not be effective prior to March 31, 1975.)~~

12 **Sec. 11.** RCW 70.107.060 and 1987 c 103 s 1 are each amended to
13 read as follows:

14 (1) Nothing in this chapter shall be construed to deny, abridge or
15 alter alternative rights of action or remedies in equity or under
16 common law or statutory law, criminal or civil.

17 (2) Nothing in this chapter shall deny, abridge or alter any
18 powers, duties, and functions relating to noise abatement and control
19 now or hereafter vested in any state agency, nor shall this chapter be
20 construed as granting jurisdiction over the industrial safety and
21 health of employees in workplaces of the state, as now or hereafter
22 vested in the department of labor and industries.

23 (3) ~~((Standards and other control measures adopted by the~~
24 ~~department under this chapter shall be exclusive except as hereinafter~~
25 ~~provided.))~~ A local government may impose limits or control sources
26 differing from those adopted ~~((or controlled))~~ by the department ~~((upon~~
27 ~~a finding that such requirements are necessitated by special~~
28 ~~conditions. Noise limiting requirements of local government which~~
29 ~~differ from those adopted or controlled by the department shall be~~
30 ~~invalid unless first approved by the department. If the department of~~
31 ~~ecology fails to approve or disapprove standards submitted by local~~
32 ~~governmental jurisdictions within ninety days of submittal, such~~
33 ~~standards shall be deemed approved. If disapproved, the local~~
34 ~~government may appeal the decision to the pollution control hearings~~
35 ~~board which shall decide the appeal on the basis of the provisions of~~
36 ~~this chapter, and the applicable regulations, together with such~~
37 ~~briefs, testimony, and oral argument as the hearings board in its~~

1 ~~discretion may require. The department determination of whether to~~
2 ~~grant approval shall depend on the reasonableness and practicability of~~
3 ~~compliance. Particular attention shall be given to stationary sources~~
4 ~~located near jurisdictional boundaries, and temporary noise producing~~
5 ~~operations which may operate across one or more jurisdictional~~
6 ~~boundaries)) pursuant to RCW 70.107.030.~~

7 (4) In carrying out the rule-making authority provided in this
8 chapter, the department shall follow the procedures of the
9 administrative procedure act, chapter 34.05 RCW, and shall take care
10 that no rules adopted purport to exercise any powers preempted by the
11 United States under federal law.

12 **Sec. 12.** RCW 90.56.060 and 2010 1st sp.s. c 7 s 73 are each
13 amended to read as follows:

14 (1) The department shall prepare and annually update a statewide
15 master oil and hazardous substance spill prevention and contingency
16 plan. In preparing the plan, the department shall consult with an
17 advisory committee representing diverse interests concerned with oil
18 and hazardous substance spills, including the United States coast
19 guard, the federal environmental protection agency, state agencies,
20 local governments, port districts, private facilities, environmental
21 organizations, oil companies, shipping companies, containment and
22 cleanup contractors, tow companies, and hazardous substance
23 manufacturers.

24 (2) The state master plan prepared under this section shall at a
25 minimum:

26 (a) Take into consideration the elements of oil spill prevention
27 and contingency plans approved or submitted for approval pursuant to
28 this chapter and chapter 88.46 RCW and oil and hazardous substance
29 spill contingency plans prepared pursuant to other state or federal law
30 or prepared by federal agencies and regional entities;

31 (b) State the respective responsibilities as established by
32 relevant statutes and rules of each of the following in the prevention
33 of and the assessment, containment, and cleanup of a worst case spill
34 of oil or hazardous substances into the environment of the state: (i)
35 State agencies; (ii) local governments; (iii) appropriate federal
36 agencies; (iv) facility operators; (v) property owners whose land or
37 other property may be affected by the oil or hazardous substance spill;

1 and (vi) other parties identified by the department as having an
2 interest in or the resources to assist in the containment and cleanup
3 of an oil or hazardous substance spill;

4 (c) State the respective responsibilities of the parties identified
5 in (b) of this subsection in an emergency response;

6 (d) Identify actions necessary to reduce the likelihood of spills
7 of oil and hazardous substances;

8 (e) Identify and obtain mapping of environmentally sensitive areas
9 at particular risk to oil and hazardous substance spills;

10 (f) Establish an incident command system for responding to oil and
11 hazardous substances spills; and

12 (g) Establish a process for immediately notifying affected tribes
13 of any oil spill.

14 (3) In preparing and updating the state master plan, the department
15 shall:

16 (a) Consult with federal, provincial, municipal, and community
17 officials, other state agencies, the state of Oregon, and with
18 representatives of affected regional organizations;

19 (b) Submit the draft plan to the public for review and comment; and

20 (c) ~~((Submit to the appropriate standing committees of the
21 legislature for review, not later than November 1st of each year, the
22 plan and any annual revision of the plan; and~~

23 ~~(d))~~ Require or schedule unannounced oil spill drills as required
24 by RCW 90.56.260 to test the sufficiency of oil spill contingency plans
25 approved under RCW 90.56.210.

26 ~~((4) The department shall evaluate the functions of advisory
27 committees created by the department regarding oil spill prevention,
28 preparedness, and response programs, and shall revise or eliminate
29 those functions which are no longer necessary.))~~

30 **Sec. 13.** RCW 90.58.190 and 2012 c 172 s 1 are each amended to read
31 as follows:

32 (1) The appeal of the department's decision to adopt a master
33 program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(5) is
34 governed by RCW 34.05.510 through 34.05.598.

35 (2)(a) The department's final decision to approve or reject a
36 proposed master program or master program amendment by a local

1 government planning under RCW 36.70A.040 shall be appealed to the
2 growth management hearings board by filing a petition as provided in
3 RCW 36.70A.290.

4 (b) If the appeal to the growth management hearings board concerns
5 shorelines, the growth management hearings board shall review the
6 proposed master program or amendment solely for compliance with the
7 requirements of this chapter, the policy of RCW 90.58.020 and the
8 applicable guidelines, the internal consistency provisions of RCW
9 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter
10 43.21C RCW as it relates to the adoption of master programs and
11 amendments under chapter 90.58 RCW.

12 (c) If the appeal to the growth management hearings board concerns
13 a shoreline of statewide significance, the board shall uphold the
14 decision by the department unless the board, by clear and convincing
15 evidence, determines that the decision of the department is
16 noncompliant with the policy of RCW 90.58.020 or the applicable
17 guidelines, or chapter 43.21C RCW as it relates to the adoption of
18 master programs and amendments under this chapter.

19 (d) The appellant has the burden of proof in all appeals to the
20 growth management hearings board under this subsection.

21 (e) Any party aggrieved by a final decision of the growth
22 management hearings board under this subsection may appeal the decision
23 to superior court as provided in RCW 36.70A.300.

24 (3)(a) The department's final decision to approve or reject a
25 proposed master program or master program amendment by a local
26 government not planning under RCW 36.70A.040 shall be appealed to the
27 shorelines hearings board by filing a petition within thirty days of
28 the date that the department publishes notice of its final decision
29 under RCW 90.58.090(8).

30 (b) In an appeal relating to shorelines, the shorelines hearings
31 board shall review the proposed master program or master program
32 amendment and, after full consideration of the presentations of the
33 parties, shall determine the validity of the local government's master
34 program or amendment in light of the policy of RCW 90.58.020 and the
35 applicable guidelines, and chapter 43.21C RCW as it relates to the
36 adoption of master programs and amendments under this chapter.

37 (c) In an appeal relating to shorelines of statewide significance,
38 the shorelines hearings board shall uphold the decision by the

1 department unless the board determines, by clear and convincing
2 evidence that the decision of the department is noncompliant with the
3 policy of RCW 90.58.020 or the applicable guidelines, or chapter 43.21C
4 RCW as it relates to the adoption of master programs and amendments
5 under this chapter.

6 (d) Review by the shorelines hearings board shall be considered an
7 adjudicative proceeding under chapter 34.05 RCW, the administrative
8 procedure act. The appellant shall have the burden of proof in all
9 such reviews.

10 (e) Whenever possible, the review by the shorelines hearings board
11 shall be heard within the county where the land subject to the proposed
12 master program or master program amendment is primarily located. The
13 department and any party aggrieved by a final decision of the hearings
14 board may appeal the decision to superior court as provided in chapter
15 34.05 RCW.

16 ~~((4) A master program amendment shall become effective after the
17 approval of the department or after the decision of the growth
18 management hearings board or shorelines hearings board to uphold the
19 master program or master program amendment, provided that either the
20 growth management hearings board or the shorelines hearings board may
21 remand the master program or master program amendment to the local
22 government or the department for modification prior to the final
23 adoption of the master program or master program amendment.))~~

24 NEW SECTION. **Sec. 14.** Section 2 of this act expires June 30,
25 2019.

26 NEW SECTION. **Sec. 15.** Section 3 of this act takes effect June 30,
27 2019.

28 NEW SECTION. **Sec. 16.** On the effective date of this section, the
29 state treasurer shall transfer any money remaining in the vessel
30 response account to the coastal protection fund created in RCW
31 90.48.390.

32 NEW SECTION. **Sec. 17.** The following acts or parts of acts are
33 each repealed:

- 1 (1) RCW 43.21A.610 (Steam electric generating plant--Study--
2 Construction) and 2009 c 549 s 5088, 1988 c 127 s 10, & 1965 c 8 s
3 43.21.250;
- 4 (2) RCW 43.21A.612 (Steam electric generating plant--Statement of
5 intention--Construction by public utility, operating agency, or the
6 department, procedure--Powers of director of community, trade, and
7 economic development) and 1995 c 399 s 68, 1988 c 127 s 11, 1985 c 466
8 s 49, & 1965 c 8 s 43.21.260;
- 9 (3) RCW 43.21A.614 (Steam electric generating plant--Powers of
10 director in constructing, operating and maintaining) and 1988 c 127 s
11 12 & 1965 c 8 s 43.21.270;
- 12 (4) RCW 43.21A.616 (Steam electric generating plant--Eminent
13 domain) and 1988 c 127 s 13 & 1965 c 8 s 43.21.280;
- 14 (5) RCW 43.21A.618 (Steam electric generating plant--State not
15 financially obligated--Separation and expenditure of funds) and 1988 c
16 127 s 14 & 1965 c 8 s 43.21.290;
- 17 (6) RCW 43.21A.620 (Steam electric generating plant--Revenue bonds
18 and warrants) and 2009 c 549 s 5089, 1988 c 127 s 15, & 1965 c 8 s
19 43.21.300;
- 20 (7) RCW 43.21A.622 (Steam electric generating plant--Special
21 funds--Payment of bonds, interest) and 1988 c 127 s 16 & 1965 c 8 s
22 43.21.310;
- 23 (8) RCW 43.21A.624 (Steam electric generating plant--Considerations
24 in issuance of bonds, limitations) and 1988 c 127 s 17 & 1965 c 8 s
25 43.21.320;
- 26 (9) RCW 43.21A.626 (Steam electric generating plant--Resolution
27 authorizing issuance of bonds, contents, covenants) and 1988 c 127 s 18
28 & 1965 c 8 s 43.21.330;
- 29 (10) RCW 43.21A.628 (Steam electric generating plant--Sale of
30 bonds) and 1988 c 127 s 19, 1970 ex.s. c 56 s 61, 1969 ex.s. c 232 s
31 32, & 1965 c 8 s 43.21.340;
- 32 (11) RCW 43.21A.630 (Steam electric generating plant--Examination,
33 registration of bonds by state auditor--Defects, irregularities) and
34 2009 c 549 s 5090 & 1965 c 8 s 43.21.350;
- 35 (12) RCW 43.21A.632 (Steam electric generating plant--Rates or
36 charges) and 1988 c 127 s 20 & 1965 c 8 s 43.21.360;
- 37 (13) RCW 43.21A.634 (Steam electric generating plant--Refunding
38 revenue bonds) and 1988 c 127 s 21 & 1965 c 8 s 43.21.370;

1 (14) RCW 43.21A.636 (Steam electric generating plant--Signatures on
2 bonds) and 1965 c 8 s 43.21.380;
3 (15) RCW 43.21A.638 (Steam electric generating plant--Provisions of
4 law, resolution, a contract with bondholder--Enforcement) and 1988 c
5 127 s 22 & 1965 c 8 s 43.21.390;
6 (16) RCW 43.21A.640 (Steam electric generating plant--Bonds are
7 legal security, investment, negotiable) and 1965 c 8 s 43.21.400;
8 (17) RCW 43.21A.642 (Steam electric generating plant--Director not
9 authorized to acquire other facilities or engage in retail
10 distribution) and 1988 c 127 s 23 & 1965 c 8 s 43.21.410;
11 (18) RCW 70.95.205 (Exemption from solid waste permit
12 requirements--Waste-derived soil amendments--Application--Revocation of
13 exemption--Appeal) and 1998 c 36 s 18;
14 (19) RCW 70.95.700 (Solid waste incineration or energy recovery
15 facility--Environmental impact statement requirements) and 1989 c 431
16 s 55;
17 (20) RCW 70.107.040 (Technical advisory committee) and 1975-'76 2nd
18 ex.s. c 34 s 164 & 1974 ex.s. c 183 s 4;
19 (21) RCW 70.107.050 (Civil penalties) and 1987 c 103 s 2 & 1974
20 ex.s. c 183 s 5; and
21 (22) RCW 90.56.335 (Vessel response account--Dedicated rescue tug)
22 and 2003 c 264 s 3.

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