
SUBSTITUTE HOUSE BILL 2486

State of Washington**64th Legislature****2016 Regular Session**

By House Environment (originally sponsored by Representatives Fitzgibbon, Tharinger, Ryu, Van De Wege, and McBride; by request of Department of Ecology)

READ FIRST TIME 02/04/16.

1 AN ACT Relating to updating specified environmental statutes of
2 the department of ecology to improve efficiency and provide for
3 increased flexibility for local governments; amending RCW 43.21B.110,
4 43.21B.110, 70.95.240, 70.95.300, 70.95M.080, 70.105.095, 70.107.010,
5 70.107.030, 70.107.060, 70.240.050, 86.16.081, 90.56.060, 90.58.190,
6 and 70.275.050; reenacting and amending RCW 43.21B.300 and 90.58.090;
7 reenacting RCW 43.21B.005; creating a new section; repealing RCW
8 43.21A.610, 43.21A.612, 43.21A.614, 43.21A.616, 43.21A.618,
9 43.21A.620, 43.21A.622, 43.21A.624, 43.21A.626, 43.21A.628,
10 43.21A.630, 43.21A.632, 43.21A.634, 43.21A.636, 43.21A.638,
11 43.21A.640, 43.21A.642, 70.95.205, 70.95.700, 70.107.040, 70.107.050,
12 and 90.56.335; repealing 2010 1st sp.s. c 7 s 39 and 2010 c 84 s 4;
13 providing an effective date; and providing an expiration date.

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

15 **Sec. 1.** RCW 43.21B.005 and 2010 c 210 s 4 are each reenacted to
16 read as follows:

17 (1) There is created an environmental and land use hearings
18 office of the state of Washington. The environmental and land use
19 hearings office consists of the pollution control hearings board
20 created in RCW 43.21B.010, the shorelines hearings board created in
21 RCW 90.58.170, and the growth management hearings board created in

1 RCW 36.70A.250. The governor shall designate one of the members of
2 the pollution control hearings board or growth management hearings
3 board to be the director of the environmental and land use hearings
4 office during the term of the governor. Membership, powers,
5 functions, and duties of the pollution control hearings board, the
6 shorelines hearings board, and the growth management hearings board
7 shall be as provided by law.

8 (2) The director of the environmental and land use hearings
9 office may appoint one or more administrative appeals judges in cases
10 before the environmental boards and, with the consent of the chair of
11 the growth management hearings board, one or more hearing examiners
12 in cases before the land use board comprising the office. The
13 administrative appeals judges shall possess the powers and duties
14 conferred by the administrative procedure act, chapter 34.05 RCW,
15 have a demonstrated knowledge of environmental law, and shall be
16 admitted to the practice of law in the state of Washington. The
17 hearing examiners possess the powers and duties provided for in RCW
18 36.70A.270.

19 (3) Administrative appeals judges are not subject to chapter
20 41.06 RCW. The administrative appeals judges appointed under
21 subsection (2) of this section are subject to discipline and
22 termination, for cause, by the director of the environmental and land
23 use hearings office. Upon written request by the person so
24 disciplined or terminated, the director of the environmental and land
25 use hearings office shall state the reasons for such action in
26 writing. The person affected has a right of review by the superior
27 court of Thurston county on petition for reinstatement or other
28 remedy filed within thirty days of receipt of such written reasons.

29 (4) The director of the environmental and land use hearings
30 office may appoint, discharge, and fix the compensation of such
31 administrative or clerical staff as may be necessary.

32 (5) The director of the environmental and land use hearings
33 office may also contract for required services.

34 **Sec. 2.** RCW 43.21B.300 and 2010 c 210 s 12 are each reenacted
35 and amended to read as follows:

36 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
37 70.95.315, 70.95M.080, 70.95N.260, 70.105.080, ~~((70.107.050,))~~
38 70.105.095(2), 70.240.050, 70.275.100, 70.275.110, 86.16.081,
39 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, ~~((and))~~

1 90.56.330, and 90.64.102 and chapter 90.76 RCW shall be imposed by a
2 notice in writing, either by certified mail with return receipt
3 requested or by personal service, to the person incurring the penalty
4 from the department or the local air authority, describing the
5 violation with reasonable particularity. For penalties issued by
6 local air authorities, within thirty days after the notice is
7 received, the person incurring the penalty may apply in writing to
8 the authority for the remission or mitigation of the penalty. Upon
9 receipt of the application, the authority may remit or mitigate the
10 penalty upon whatever terms the authority in its discretion deems
11 proper. The authority may ascertain the facts regarding all such
12 applications in such reasonable manner and under such rules as it may
13 deem proper and shall remit or mitigate the penalty only upon a
14 demonstration of extraordinary circumstances such as the presence of
15 information or factors not considered in setting the original
16 penalty.

17 (2) Any penalty imposed under this section may be appealed to the
18 pollution control hearings board in accordance with this chapter if
19 the appeal is filed with the hearings board and served on the
20 department or authority thirty days after the date of receipt by the
21 person penalized of the notice imposing the penalty or thirty days
22 after the date of receipt of the notice of disposition by a local air
23 authority of the application for relief from penalty.

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

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

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

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

31 (4) If the amount of any penalty is not paid to the department
32 within thirty days after it becomes due and payable, the attorney
33 general, upon request of the department, shall bring an action in the
34 name of the state of Washington in the superior court of Thurston
35 county, or of any county in which the violator does business, to
36 recover the penalty. If the amount of the penalty is not paid to the
37 authority within thirty days after it becomes due and payable, the
38 authority may bring an action to recover the penalty in the superior
39 court of the county of the authority's main office or of any county
40 in which the violator does business. In these actions, the procedures

1 and rules of evidence shall be the same as in an ordinary civil
2 action.

3 (5) All penalties recovered shall be paid into the state treasury
4 and credited to the general fund except those penalties imposed
5 pursuant to RCW 18.104.155, which shall be credited to the
6 reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431,
7 the disposition of which shall be governed by that provision, RCW
8 70.95M.080, which shall be deposited in the state toxics control
9 account created in RCW 70.105D.070, RCW 70.95N.260, which shall be
10 deposited into the electronic products recycling account created in
11 RCW 70.95N.130, RCW 70.105.080, which shall be credited to the
12 hazardous waste control and elimination account created by RCW
13 70.105.180, RCW 70.240.050, which shall be credited to the state
14 toxics control account created in RCW 70.105D.070, RCW 90.56.330,
15 which shall be credited to the coastal protection fund created by RCW
16 90.48.390, and RCW 90.76.080, which shall be credited to the
17 underground storage tank account created by RCW 90.76.100.

18 **Sec. 3.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to
19 read as follows:

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

27 (a) Civil penalties imposed pursuant to chapter 70.95M RCW and
28 RCW 18.104.155, 70.94.431, 70.95.315, 70.95N.260, 70.105.080,
29 ((70.107.050,)) 70.105.095(2), 70.240.050, 70.275.100, 70.275.110,
30 76.09.170, 77.55.291, 78.44.250, 86.16.081, 88.46.090, 90.03.600,
31 90.46.270, 90.48.144, 90.56.310, 90.56.330, ((and)) 90.64.102, and
32 90.76.080.

33 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
34 18.104.130, 43.27A.190, 70.94.211, 70.94.332, 70.94.640, 70.94.715,
35 70.95.315, 70.95C.230, 70.105.095, 86.16.020, 88.46.070, 90.03.665,
36 90.14.130, 90.46.250, 90.48.120, ((and)) 90.48.240, 90.56.330, and
37 90.64.040.

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

1 (d) Except as provided in RCW 90.03.210(2), the issuance,
2 modification, or termination of any permit, certificate, or license
3 by the department or any air authority in the exercise of its
4 jurisdiction, including the issuance or termination of a waste
5 disposal permit, the denial of an application for a waste disposal
6 permit, the modification of the conditions or the terms of a waste
7 disposal permit, ~~((or))~~ a decision to approve or deny a solid waste
8 management plan under RCW 70.95.094, approval or denial of an
9 application for a ~~((solid waste permit exemption))~~ beneficial use
10 determination under RCW 70.95.300, an application for a change under
11 RCW 90.03.383, or a permit to distribute reclaimed water under RCW
12 90.46.220.

13 (e) Decisions of local health departments regarding the ~~((grant))~~
14 granting or denial of solid waste permits pursuant to chapter 70.95
15 RCW, including appeals by the department as provided in RCW
16 70.95.185.

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

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

24 (h) Decisions of local conservation districts related to the
25 denial of approval or denial of certification of a dairy nutrient
26 management plan; conditions contained in a plan; application of any
27 dairy nutrient management practices, standards, methods, and
28 technologies to a particular dairy farm; and failure to adhere to the
29 plan review and approval timelines in RCW 90.64.026 as provided in
30 RCW 90.64.028.

31 (i) Any other decision by the department or an air authority
32 which pursuant to law must be decided as an adjudicative proceeding
33 under 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
36 reviewable under chapter 76.09 RCW, and the department of natural
37 resources' appeals of county, city, or town objections under RCW
38 76.09.050(7).

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

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

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

6 (n) Decisions of an authorized public entity under RCW 79.100.010
7 to take temporary possession or custody of a vessel or to contest the
8 amount of reimbursement owed that are reviewable by the hearings
9 board under RCW 79.100.120.

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

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

14 (b) Hearings conducted by the department pursuant to RCW
15 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
16 90.44.180.

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

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

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. 4.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to
25 read as follows:

26 (1) The hearings board shall only have jurisdiction to hear and
27 decide appeals from the following decisions of the department, the
28 director, local conservation districts, the air pollution control
29 boards or authorities as established pursuant to chapter 70.94 RCW,
30 local health departments, the department of natural resources, the
31 department of fish and wildlife, the parks and recreation commission,
32 and authorized public entities described in chapter 79.100 RCW:

33 (a) Civil penalties imposed pursuant to chapter 70.95M RCW and
34 RCW 18.104.155, 70.94.431, 70.95.315, 70.95N.260, 70.105.080,
35 ((70.107.050,)) 70.105.095(2), 70.240.050, 70.275.100, 70.275.110,
36 76.09.170, 77.55.291, 78.44.250, 86.16.081, 88.46.090, 90.03.600,
37 90.46.270, 90.48.144, 90.56.310, 90.56.330, ((and)) 90.64.102, and
38 90.76.080.

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 18.104.130, 43.27A.190, 70.94.211, 70.94.332, 70.95.315, 70.95C.230,
3 70.105.095, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250,
4 90.48.120, (~~and~~) 90.48.240, 90.56.330, and 90.64.040.

5 (c) Except as provided in RCW 90.03.210(2), the issuance,
6 modification, or termination of any permit, certificate, or license
7 by the department or any air authority in the exercise of its
8 jurisdiction, including the issuance or termination of a waste
9 disposal permit, the denial of an application for a waste disposal
10 permit, the modification of the conditions or the terms of a waste
11 disposal permit, (~~or~~) a decision to approve or deny a solid waste
12 management plan under RCW 70.95.094, an application for a (~~solid~~
13 ~~waste permit exemption~~) beneficial use determination under RCW
14 70.95.300, an application for a change under RCW 90.03.383, or a
15 permit to distribute reclaimed water under RCW 90.46.220.

16 (d) Decisions of local health departments regarding the (~~grant~~)
17 granting or denial of solid waste permits pursuant to chapter 70.95
18 RCW, including appeals by the department as provided in RCW
19 70.95.185.

20 (e) Decisions of local health departments regarding the issuance
21 and enforcement of permits to use or dispose of biosolids under RCW
22 70.95J.080.

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

27 (g) Decisions of local conservation districts related to the
28 denial of approval or denial of certification of a dairy nutrient
29 management plan; conditions contained in a plan; application of any
30 dairy nutrient management practices, standards, methods, and
31 technologies to a particular dairy farm; and failure to adhere to the
32 plan review and approval timelines in RCW 90.64.026 as provided in
33 RCW 90.64.028.

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

37 (i) Decisions of the department of natural resources, the
38 department of fish and wildlife, and the department that are
39 reviewable under chapter 76.09 RCW, and the department of natural

1 resources' appeals of county, city, or town objections under RCW
2 76.09.050(7).

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

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

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

10 (m) Decisions of an authorized public entity under RCW 79.100.010
11 to take temporary possession or custody of a vessel or to contest the
12 amount of reimbursement owed that are reviewable by the hearings
13 board under RCW 79.100.120.

14 (2) The following hearings shall not be conducted by the hearings
15 board:

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

18 (b) Hearings conducted by the department pursuant to RCW
19 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
20 90.44.180.

21 (c) Appeals of decisions by the department under RCW 90.03.110
22 and 90.44.220.

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

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

28 **Sec. 5.** RCW 70.95.240 and 2011 c 279 s 1 are each amended to
29 read as follows:

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

38 (2) This section does not:

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

5 (b) Apply to a person using a (~~waste-derived soil amendment~~)
6 solid waste that has been approved by the department under RCW
7 (~~70.95.205~~) 70.95.300; or

8 (c) Apply to the application of commercial fertilizer that has
9 been registered with the department of agriculture as provided in RCW
10 15.54.325, and that is applied in accordance with the standards
11 established in RCW 15.54.800(3).

12 (3)(a) It is a class 3 civil infraction as defined in RCW
13 7.80.120 for a person to litter in an amount less than or equal to
14 one cubic foot.

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

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

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

31 (iv) A jurisdictional health department receiving all or a
32 portion of a litter cleanup restitution payment must use the payment
33 as follows:

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

37 (B) One-half of the payment must be used to assist property
38 owners located within the jurisdiction of the health department with
39 the removal and proper disposal of litter in instances when the

1 person responsible for the illegal dumping of the solid waste cannot
2 be determined.

3 (v) The court may, in addition to the litter cleanup restitution
4 payment, order the person to remove and properly dispose of the
5 litter from the property, with prior permission of the legal owner
6 or, in the case of public property, of the agency managing the
7 property. The court may suspend or modify the litter cleanup
8 restitution payment for a first-time offender under this section if
9 the person removes and properly disposes of the litter.

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

12 (ii) A person found to have littered in an amount greater than
13 one cubic yard shall also pay a litter cleanup restitution payment.
14 This payment must be the greater of twice the actual cost of removing
15 and properly disposing of the litter, or one hundred dollars per
16 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
22 assisted a person with littering on the landowner's property, the
23 landowner is not entitled to any restitution ordered by the court and
24 the full 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
27 portion of a litter cleanup restitution payment must use the payment
28 as follows:

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

32 (B) One-half of the payment must be used to assist property
33 owners located within the jurisdiction of the health department with
34 the removal and proper disposal of litter in instances when the
35 person responsible for the illegal dumping of the solid waste cannot
36 be 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
39 litter from the property, with prior permission of the legal owner
40 or, in the case of public property, of the agency managing the

1 property. The court may suspend or modify the litter cleanup
2 restitution payment for a first-time offender under this section if
3 the person removes and properly disposes of the litter.

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

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

14 **Sec. 6.** RCW 70.95.300 and 1998 c 156 s 2 are each amended to
15 read as follows:

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

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

1 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
5 uses by approving an application for such an exemption. The
6 department shall establish by rule procedures under which a person
7 may apply to the department for such an exemption. The rules shall
8 establish criteria for providing such an exemption, which shall
9 include, but not be limited to: (a) ~~The ((material))~~ solid waste will
10 be beneficially used or reused; ~~((and))~~ (b) the beneficial use or
11 reuse of the material will not present threats to human health or the
12 environment; and (c) for solid waste to be applied to the land as a
13 soil amendment, analytical data showing that the solid waste meets
14 standards established under RCW 15.54.800(3). Rules adopted under
15 this subsection shall identify the information that an application
16 shall contain. Persons seeking such an exemption shall apply to the
17 department under the procedures established by the rules adopted
18 under this subsection.

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

38 ~~((+4))~~ (5) The department shall establish procedures by rule for
39 providing to the public and the solid waste industry notice of and an

1 opportunity to comment on each application or proposal for an
2 exemption under (~~(subsection (2) of)~~) this section.

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

12 (~~((6))~~) (7) This section shall not be deemed to invalidate the
13 exemptions or determinations of nonapplicability in the department's
14 solid waste rules as they exist on June 11, 1998, which exemptions
15 and determinations are recognized and confirmed subject to the
16 department's continuing authority to modify or revoke those
17 exemptions or determinations by rule.

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

21 **Sec. 7.** RCW 70.95M.080 and 2003 c 260 s 9 are each amended to
22 read as follows:

23 A violation of this chapter is punishable by a civil penalty not
24 to exceed one thousand dollars for each violation in the case of a
25 first violation. Repeat violators are liable for a civil penalty not
26 to exceed five thousand dollars for each repeat violation. Penalties
27 collected under this section must be deposited in the state toxics
28 control account created in RCW 70.105D.070. The penalties provided in
29 this section must be imposed pursuant to RCW 43.21B.300 and may be
30 appealed to the pollution control hearings board.

31 **Sec. 8.** RCW 70.105.095 and 2012 c 117 s 417 are each amended to
32 read as follows:

33 (1) Whenever on the basis on any information the department
34 determines that a person has violated or is about to violate any
35 provision of this chapter, the department may issue an order
36 requiring compliance either immediately or within a specified period
37 of time. The order shall be delivered by registered mail or
38 personally to the person against whom the order is directed.

1 (2) Any person who fails to take corrective action as specified
2 in a compliance order shall be liable for a civil penalty of not more
3 than ten thousand dollars for each day of continued noncompliance. In
4 addition, the department may suspend or revoke any permits and/or
5 certificates issued under the provisions of this chapter to a person
6 who fails to comply with an order directed against him or her.

7 (3) Any order or penalty may be appealed pursuant to RCW
8 43.21B.310.

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

11 The legislature finds that inadequately controlled noise
12 adversely affects the health, safety and welfare of the people, the
13 value of property, and the quality of the environment. (~~Antinoise~~
14 ~~measures of the past have not adequately protected against the~~
15 ~~invasion of these interests by noise. There is a need, therefore, for~~
16 ~~an expansion of efforts statewide directed toward the abatement and~~
17 ~~control of noise, considering the social and economic impact upon the~~
18 ~~community and the state.)) The purpose of this chapter is to provide
19 authority for ((such an expansion of efforts, supplementing existing
20 programs in the field)) local governments to adopt and enforce
21 regulations on noise.~~

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

24 The department (~~is empowered as follows:~~
25 (1) ~~The department, after consultation with state agencies~~
26 ~~expressing an interest therein, shall adopt, by rule, maximum noise~~
27 ~~levels permissible)) shall adopt rules setting model standards for
28 noise control regulation by local governments in identified
29 environments in order to protect against adverse ((affects)) effects
30 of noise on the health, safety, and welfare of the people, the value
31 of property, and the quality of environment(~~:- PROVIDED, That in so~~
32 ~~doing)).~~ The department shall take ((also)) into account the economic
33 and practical benefits to be derived from the use of various products
34 in each such environment, whether the source of the noise or the use
35 of such products in each environment is permanent or temporary in
36 nature, and the state of technology relative to the control of noise
37 generated by all such sources of the noise or the products.~~

1 ~~((2) At any time after the adoption of maximum noise levels~~
2 ~~under subsection (1) of this section the department shall, in~~
3 ~~consultation with state agencies and local governments expressing an~~
4 ~~interest therein, adopt rules, consistent with the Federal Noise~~
5 ~~Control Act of 1972 (86 Stat. 1234; 42 U.S.C. Sec. 4901-4918 and 49~~
6 ~~U.S.C. Sec. 1431), for noise abatement and control in the state~~
7 ~~designed to achieve compliance with the noise level adopted in~~
8 ~~subsection (1) of this section, including reasonable implementation~~
9 ~~schedules where appropriate, to insure that the maximum noise levels~~
10 ~~are not exceeded and that application of the best practicable noise~~
11 ~~control technology and practice is provided. These rules may include,~~
12 ~~but shall not be limited to:~~

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

15 ~~(b) Use standards regulating, as to time and place, the operation~~
16 ~~of individual products which produce noise above specified levels~~
17 ~~considering frequency spectrum and duration: PROVIDED, The rules~~
18 ~~shall provide for temporarily exceeding those standards for stated~~
19 ~~purposes; and~~

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

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

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

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

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

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

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

4 (2) Nothing in this chapter shall deny, abridge or alter any
5 powers, duties, and functions relating to noise abatement and control
6 now or hereafter vested in any state agency, nor shall this chapter
7 be construed as granting jurisdiction over the industrial safety and
8 health of employees in workplaces of the state, as now or hereafter
9 vested in the department of labor and industries.

10 (3) ~~((Standards and other control measures adopted by the
11 department under this chapter shall be exclusive except as
12 hereinafter provided.))~~ A local government may impose limits or
13 control sources differing from those adopted ~~((or controlled))~~ by the
14 department ~~((upon a finding that such requirements are necessitated
15 by special conditions. Noise limiting requirements of local
16 government which differ from those adopted or controlled by the
17 department shall be invalid unless first approved by the department.
18 If the department of ecology fails to approve or disapprove standards
19 submitted by local governmental jurisdictions within ninety days of
20 submittal, such standards shall be deemed approved. If disapproved,
21 the local government may appeal the decision to the pollution control
22 hearings board which shall decide the appeal on the basis of the
23 provisions of this chapter, and the applicable regulations, together
24 with such briefs, testimony, and oral argument as the hearings board
25 in its discretion may require. The department determination of
26 whether to grant approval shall depend on the reasonableness and
27 practicability of compliance. Particular attention shall be given to
28 stationary sources located near jurisdictional boundaries, and
29 temporary noise producing operations which may operate across one or
30 more jurisdictional boundaries)) pursuant to RCW 70.107.030.~~

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

36 **Sec. 12.** RCW 70.240.050 and 2008 c 288 s 7 are each amended to
37 read as follows:

38 (1) A manufacturer of products that are restricted under this
39 chapter must notify persons that sell the manufacturer's products in

1 this state about the provisions of this chapter no less than ninety
2 days prior to the effective date of the restrictions.

3 (2) A manufacturer that produces, sells, or distributes a product
4 prohibited from manufacture, sale, or distribution in this state
5 under this chapter shall recall the product and reimburse the
6 retailer or any other purchaser for the product.

7 (3) A manufacturer of children's products in violation of this
8 chapter is subject to a civil penalty not to exceed five thousand
9 dollars for each violation in the case of a first offense.
10 Manufacturers who are repeat violators are subject to a civil penalty
11 not to exceed ten thousand dollars for each repeat offense. Penalties
12 collected under this section must be deposited in the state toxics
13 control account created in RCW 70.105D.070. The penalties provided in
14 this section must be imposed pursuant to RCW 43.21B.300 and may be
15 appealed to the pollution control hearings board.

16 (4) Retailers who unknowingly sell products that are restricted
17 from sale under this chapter are not liable under this chapter.

18 **Sec. 13.** RCW 86.16.081 and 1995 c 403 s 634 are each amended to
19 read as follows:

20 (1) Except as provided in RCW 43.05.060 through 43.05.080 and
21 43.05.150, the attorney general or the attorney for the local
22 government shall bring such injunctive, declaratory, or other actions
23 as are necessary to ensure compliance with this chapter.

24 (2) Any person who fails to comply with this chapter shall also
25 be subject to a civil penalty not to exceed one thousand dollars for
26 each violation. Each violation or each day of noncompliance shall
27 constitute a separate violation.

28 (3) The penalty provided for in this section (~~shall~~) must be
29 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 same from the department or local government,~~
32 ~~describing the violation with reasonable particularity and ordering~~)
33 and must be imposed consistent with the procedures of RCW 43.21B.300.
34 The notice in writing must also order the act or acts constituting
35 the violation or violations to cease and desist or, in appropriate
36 cases, (~~requiring~~) must require necessary corrective action to be
37 taken within a specific and reasonable time.

38 (4) Any penalty imposed pursuant to this section by the
39 department shall be subject to review by the pollution control

1 hearings board under chapter 43.21B RCW. Any penalty imposed pursuant
2 to this section by local government shall be subject to review by the
3 local government legislative authority. Any penalty jointly imposed
4 by the department and local government shall be appealed to the
5 pollution control hearings board under chapter 43.21B RCW.

6 **Sec. 14.** RCW 90.56.060 and 2010 1st sp.s. c 7 s 73 are each
7 amended to read as follows:

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

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

20 (a) Take into consideration the elements of oil spill prevention
21 and contingency plans approved or submitted for approval pursuant to
22 this chapter and chapter 88.46 RCW and oil and hazardous substance
23 spill contingency plans prepared pursuant to other state or federal
24 law or prepared by federal agencies and regional entities;

25 (b) State the respective responsibilities as established by
26 relevant statutes and rules of each of the following in the
27 prevention of and the assessment, containment, and cleanup of a worst
28 case spill of oil or hazardous substances into the environment of the
29 state: (i) State agencies; (ii) local governments; (iii) appropriate
30 federal agencies; (iv) facility operators; (v) property owners whose
31 land or other property may be affected by the oil or hazardous
32 substance spill; and (vi) other parties identified by the department
33 as having an interest in or the resources to assist in the
34 containment and cleanup of an oil or hazardous substance spill;

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

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

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

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

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

7 (3) In preparing and updating the state master plan, the
8 department shall:

9 (a) Consult with federal, provincial, municipal, and community
10 officials, other state agencies, the state of Oregon, and with
11 representatives of affected regional organizations;

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

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

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

20 ~~(4) ((The department shall evaluate the functions of advisory~~
21 ~~committees created by the department regarding oil spill prevention,~~
22 ~~preparedness, and response programs, and shall revise or eliminate~~
23 ~~those functions which are no longer necessary.))~~ The state master
24 plan prepared and updated under this chapter may be identical or a
25 component of a plan prepared by a regional entity under federal law,
26 as long as the plan submitted by a regional entity also meets the
27 requirements of this chapter.

28 **Sec. 15.** RCW 90.58.090 and 2011 c 353 s 14 and 2011 c 277 s 2
29 are each reenacted and amended to read as follows:

30 (1) A master program, segment of a master program, or an
31 amendment to a master program shall become effective when approved by
32 the department as provided in subsection (7) of this section. Within
33 the time period provided in RCW 90.58.080, each local government
34 shall have submitted a master program, either totally or by segments,
35 for all shorelines of the state within its jurisdiction to the
36 department for review and approval.

37 The department shall strive to achieve final action on a
38 submitted master program within one hundred eighty days of receipt

1 and shall post an annual assessment related to this performance
2 benchmark on the agency web site.

3 (2) Upon receipt of a proposed master program or amendment, the
4 department shall:

5 (a) Provide notice to and opportunity for written comment by all
6 interested parties of record as a part of the local government review
7 process for the proposal and to all persons, groups, and agencies
8 that have requested in writing notice of proposed master programs or
9 amendments generally or for a specific area, subject matter, or
10 issue. The comment period shall be at least thirty days, unless the
11 department determines that the level of complexity or controversy
12 involved supports a shorter period;

13 (b) In the department's discretion, conduct a public hearing
14 during the thirty-day comment period in the jurisdiction proposing
15 the master program or amendment;

16 (c) Within fifteen days after the close of public comment,
17 request the local government to review the issues identified by the
18 public, interested parties, groups, and agencies and provide a
19 written response as to how the proposal addresses the identified
20 issues;

21 (d) Within thirty days after receipt of the local government
22 response pursuant to (c) of this subsection, make written findings
23 and conclusions regarding the consistency of the proposal with the
24 policy of RCW 90.58.020 and the applicable guidelines, provide a
25 response to the issues identified in (c) of this subsection, and
26 either approve the proposal as submitted, recommend specific changes
27 necessary to make the proposal approvable, or deny approval of the
28 proposal in those instances where no alteration of the proposal
29 appears likely to be consistent with the policy of RCW 90.58.020 and
30 the applicable guidelines. The written findings and conclusions shall
31 be provided to the local government, and made available to all
32 interested persons, parties, groups, and agencies of record on the
33 proposal;

34 (e) If the department recommends changes to the proposed master
35 program or amendment, within thirty days after the department mails
36 the written findings and conclusions to the local government, the
37 local government may:

38 (i) Agree to the proposed changes by written notice to the
39 department; or

1 (ii) Submit an alternative proposal. If, in the opinion of the
2 department, the alternative is consistent with the purpose and intent
3 of the changes originally submitted by the department and with this
4 chapter it shall approve the changes and provide notice to all
5 recipients of the written findings and conclusions. If the department
6 determines the proposal is not consistent with the purpose and intent
7 of the changes proposed by the department, the department may
8 resubmit the proposal for public and agency review pursuant to this
9 section or reject the proposal.

10 (3) The department shall approve the segment of a master program
11 relating to shorelines unless it determines that the submitted
12 segments are not consistent with the policy of RCW 90.58.020 and the
13 applicable guidelines.

14 (4) The department shall approve the segment of a master program
15 relating to critical areas as defined by RCW 36.70A.030(5) provided
16 the master program segment is consistent with RCW 90.58.020 (~~and~~),
17 applicable shoreline guidelines, and (~~if the segment provides a~~
18 ~~level of protection of critical areas at least equal to that provided~~
19 ~~by the local government's critical areas ordinances adopted and~~
20 ~~thereafter amended pursuant to RCW 36.70A.060(2)) RCW 36.70A.480.~~

21 (5) The department shall approve those segments of the master
22 program relating to shorelines of statewide significance only after
23 determining the program provides the optimum implementation of the
24 policy of this chapter to satisfy the statewide interest. If the
25 department does not approve a segment of a local government master
26 program relating to a shoreline of statewide significance, the
27 department may develop and by rule adopt an alternative to the local
28 government's proposal.

29 (6) In the event a local government has not complied with the
30 requirements of RCW 90.58.070 it may thereafter upon written notice
31 to the department elect to adopt a master program for the shorelines
32 within its jurisdiction, in which event it shall comply with the
33 provisions established by this chapter for the adoption of a master
34 program for such shorelines.

35 Upon approval of such master program by the department it shall
36 supersede such master program as may have been adopted by the
37 department for such shorelines.

38 (7) A master program or amendment to a master program takes
39 effect when and in such form as approved or adopted by the
40 department. The effective date is fourteen days from the date of the

1 department's written notice of final action to the local government
2 stating the department has approved or rejected the proposal. For
3 master programs adopted by rule, the effective date is governed by
4 RCW 34.05.380. The department's written notice to the local
5 government must conspicuously and plainly state that it is the
6 department's final decision and that there will be no further
7 modifications to the proposal.

8 (a) Shoreline master programs that were adopted by the department
9 prior to July 22, 1995, in accordance with the provisions of this
10 section then in effect, shall be deemed approved by the department in
11 accordance with the provisions of this section that became effective
12 on that date.

13 (b) The department shall maintain a record of each master
14 program, the action taken on any proposal for adoption or amendment
15 of the master program, and any appeal of the department's action. The
16 department's approved document of record constitutes the official
17 master program.

18 (8) Promptly after approval or disapproval of a local
19 government's shoreline master program or amendment, the department
20 shall publish a notice consistent with RCW 36.70A.290 that the
21 shoreline master program or amendment has been approved or
22 disapproved. This notice must be filed for all shoreline master
23 programs or amendments. If the notice is for a local government that
24 does not plan under RCW 36.70A.040, the department must, on the day
25 the notice is published, notify the legislative authority of the
26 applicable local government by telephone or electronic means,
27 followed by written communication as necessary, to ensure that the
28 local government has received the full written decision of the
29 approval or disapproval.

30 **Sec. 16.** RCW 90.58.190 and 2012 c 172 s 1 are each amended to
31 read 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
37 government planning under RCW 36.70A.040 shall be appealed to the
38 growth management hearings board by filing a petition as provided in
39 RCW 36.70A.290.

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

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

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

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

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

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

34 (c) In an appeal relating to shorelines of statewide
35 significance, the shorelines hearings board shall uphold the decision
36 by the department unless the board determines, by clear and
37 convincing evidence that the decision of the department is
38 noncompliant with the policy of RCW 90.58.020 or the applicable
39 guidelines, or chapter 43.21C RCW as it relates to the adoption of
40 master programs and amendments under this chapter.

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

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

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

19 **Sec. 17.** RCW 70.275.050 and 2014 c 119 s 5 are each amended to
20 read as follows:

21 (1) Each stewardship organization must recommend to the
22 department an environmental handling charge to be added to the price
23 of each mercury-containing light sold in or into the state of
24 Washington for sale at retail. The environmental handling charge must
25 be designed to provide revenue necessary and sufficient to cover all
26 administrative and operational costs associated with the stewardship
27 program described in the department-approved product stewardship plan
28 for that organization, including the department's annual fee required
29 by subsection (5) of this section, and a prudent reserve. The
30 stewardship organization must consult with collectors, retailers,
31 recyclers, and each of its participating producers in developing its
32 recommended environmental handling charge. The environmental handling
33 charge may, but is not required to, vary by the type of mercury-
34 containing light. In developing its recommended environmental
35 handling charge, the stewardship organization must take into
36 consideration and report to the department:

37 (a) The anticipated number of mercury-containing lights that will
38 be sold to covered entities in the state at retail during the
39 relevant period;

1 (b) The number of unwanted mercury-containing lights delivered
2 from covered entities expected to be recycled during the relevant
3 period;

4 (c) The operational costs of the stewardship organization as
5 described in RCW 70.275.030(2);

6 (d) The administrative costs of the stewardship organization
7 including the department's annual fee, described in subsection (5) of
8 this section; and

9 (e) The cost of other stewardship program elements including
10 public outreach.

11 (2) The department must review, adjust if necessary, and approve
12 the stewardship organization's recommended environmental handling
13 charge within sixty days of submittal. In making its determination,
14 the department shall review the product stewardship plan and may
15 consult with the producers, the stewardship organization, retailers,
16 collectors, recyclers, and other entities.

17 (3) No sooner than January 1, 2015:

18 (a) The mercury-containing light environmental handling charge
19 must be added to the purchase price of all mercury-containing lights
20 sold to Washington retailers for sale at retail, and each Washington
21 retailer shall add the charge to the purchase price of all mercury-
22 containing lights sold at retail in this state, and the producer
23 shall remit the environmental handling charge to the stewardship
24 organization in the manner provided for in the stewardship plan; or

25 (b) Each Washington retailer must add the mercury-containing
26 light environmental handling charge to the purchase price of all
27 mercury-containing lights sold at retail in this state, where the
28 retailer, by voluntary binding agreement with the producer, arranges
29 to remit the environmental handling charge to the stewardship
30 organization on behalf of the producer in the manner provided for in
31 the stewardship plan. Producers may not require retailers to opt for
32 this provision via contract, marketing practice, or any other means.
33 The stewardship organization must allow retailers to retain a portion
34 of the environmental handling charge as reimbursement for any costs
35 associated with the collection and remittance of the charge.

36 (4) At any time, a stewardship organization may submit to the
37 department a recommendation for an adjusted environmental handling
38 charge for the department's review, adjustment, if necessary, and
39 approval under subsection (2) of this section to ensure that there is
40 sufficient revenue to fund the cost of the program, current deficits,

1 or projected needed reserves for the next year. The department must
2 review the stewardship organization's recommended environmental
3 handling charge and must adjust or approve the recommended charge
4 within thirty days of submittal if the department determines that the
5 charge is reasonably designed to meet the criteria described in
6 subsection (1) of this section.

7 (5) (~~Beginning~~) (a) On March 1, 2015, and (~~each year~~
8 ~~thereafter~~) March 1, 2016, each stewardship organization shall pay
9 to the department an annual fee equivalent to five thousand dollars
10 for each participating producer to cover the department's
11 administrative and enforcement costs.

12 (b) Beginning March 1, 2017, and each year thereafter, each
13 stewardship organization shall pay to the department an annual fee of
14 up to five thousand dollars, as determined annually by the department
15 upon consultation with all stewardship organizations under this
16 chapter, for each participating producer to cover the department's
17 administrative and enforcement costs.

18 (c) The amount paid under this section must be deposited into the
19 product stewardship programs account created in RCW 70.275.130.

20 NEW SECTION. Sec. 18. Section 3 of this act expires June 30,
21 2019.

22 NEW SECTION. Sec. 19. Section 4 of this act takes effect June
23 30, 2019.

24 NEW SECTION. Sec. 20. On the effective date of this section,
25 the state treasurer shall transfer any money remaining in the vessel
26 response account to the state toxics control account created in RCW
27 70.105D.070.

28 NEW SECTION. Sec. 21. The following acts or parts of acts are
29 each repealed:

30 (1) RCW 43.21A.610 (Steam electric generating plant—Study—
31 Construction) and 2009 c 549 s 5088, 1988 c 127 s 10, & 1965 c 8 s
32 43.21.250;

33 (2) RCW 43.21A.612 (Steam electric generating plant—Statement of
34 intention—Construction by public utility, operating agency, or the
35 department, procedure—Powers of director of community, trade, and

1 economic development) and 1995 c 399 s 68, 1988 c 127 s 11, 1985 c
2 466 s 49, & 1965 c 8 s 43.21.260;

3 (3) RCW 43.21A.614 (Steam electric generating plant—Powers of
4 director in constructing, operating and maintaining) and 1988 c 127 s
5 12 & 1965 c 8 s 43.21.270;

6 (4) RCW 43.21A.616 (Steam electric generating plant—Eminent
7 domain) and 1988 c 127 s 13 & 1965 c 8 s 43.21.280;

8 (5) RCW 43.21A.618 (Steam electric generating plant—State not
9 financially obligated—Separation and expenditure of funds) and 1988 c
10 127 s 14 & 1965 c 8 s 43.21.290;

11 (6) RCW 43.21A.620 (Steam electric generating plant—Revenue bonds
12 and warrants) and 2009 c 549 s 5089, 1988 c 127 s 15, & 1965 c 8 s
13 43.21.300;

14 (7) RCW 43.21A.622 (Steam electric generating plant—Special funds
15 —Payment of bonds, interest) and 1988 c 127 s 16 & 1965 c 8 s
16 43.21.310;

17 (8) RCW 43.21A.624 (Steam electric generating plant—
18 Considerations in issuance of bonds, limitations) and 1988 c 127 s 17
19 & 1965 c 8 s 43.21.320;

20 (9) RCW 43.21A.626 (Steam electric generating plant—Resolution
21 authorizing issuance of bonds, contents, covenants) and 1988 c 127 s
22 18 & 1965 c 8 s 43.21.330;

23 (10) RCW 43.21A.628 (Steam electric generating plant—Sale of
24 bonds) and 1988 c 127 s 19, 1970 ex.s. c 56 s 61, 1969 ex.s. c 232 s
25 32, & 1965 c 8 s 43.21.340;

26 (11) RCW 43.21A.630 (Steam electric generating plant—Examination,
27 registration of bonds by state auditor—Defects, irregularities) and
28 2009 c 549 s 5090 & 1965 c 8 s 43.21.350;

29 (12) RCW 43.21A.632 (Steam electric generating plant—Rates or
30 charges) and 1988 c 127 s 20 & 1965 c 8 s 43.21.360;

31 (13) RCW 43.21A.634 (Steam electric generating plant—Refunding
32 revenue bonds) and 1988 c 127 s 21 & 1965 c 8 s 43.21.370;

33 (14) RCW 43.21A.636 (Steam electric generating plant—Signatures
34 on bonds) and 1965 c 8 s 43.21.380;

35 (15) RCW 43.21A.638 (Steam electric generating plant—Provisions
36 of law, resolution, a contract with bondholder—Enforcement) and 1988
37 c 127 s 22 & 1965 c 8 s 43.21.390;

38 (16) RCW 43.21A.640 (Steam electric generating plant—Bonds are
39 legal security, investment, negotiable) and 1965 c 8 s 43.21.400;

1 (17) RCW 43.21A.642 (Steam electric generating plant—Director not
2 authorized to acquire other facilities or engage in retail
3 distribution) and 1988 c 127 s 23 & 1965 c 8 s 43.21.410;
4 (18) RCW 70.95.205 (Exemption from solid waste permit
5 requirements—Waste-derived soil amendments—Application—Revocation
6 of exemption—Appeal) and 1998 c 36 s 18;
7 (19) RCW 70.95.700 (Solid waste incineration or energy recovery
8 facility—Environmental impact statement requirements) and 1989 c 431
9 s 55;
10 (20) RCW 70.107.040 (Technical advisory committee) and 1975-'76
11 2nd ex.s. c 34 s 164 & 1974 ex.s. c 183 s 4;
12 (21) RCW 70.107.050 (Civil penalties) and 1987 c 103 s 2 & 1974
13 ex.s. c 183 s 5;
14 (22) RCW 90.56.335 (Vessel response account—Dedicated rescue tug)
15 and 2003 c 264 s 3;
16 (23) 2010 1st sp.s. c 7 s 39; and
17 (24) 2010 c 84 s 4.

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