

SSB 5170 - H COMM AMD
By Committee on Environment

NOT CONSIDERED 01/05/2018

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 70.105D.090 and 2003 c 39 s 30 are each amended to
4 read as follows:

5 (1) A person conducting an independent remedial action for which
6 the person has obtained a joint voluntary remedial action plan from
7 the department, a remedial action at a facility under a consent
8 decree, order, or agreed order, and the department when it conducts a
9 remedial action, are exempt from the procedural requirements of
10 chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW, and the
11 procedural requirements of any laws requiring or authorizing local
12 government permits or approvals for the remedial action. For a
13 remedial action conducted under a consent decree, order, or agreed
14 order, or when the department conducts a remedial action, the
15 department shall ensure compliance with the substantive provisions of
16 chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW, and the
17 substantive provisions of any laws requiring or authorizing local
18 government permits ((~~of~~)) or approvals. The department shall
19 establish procedures for ensuring that such remedial actions comply
20 with the substantive requirements adopted pursuant to such laws, and
21 shall consult with the state agencies and local governments charged
22 with implementing these laws. The procedures ensuring the compliance
23 of independent remedial actions for which a person has obtained a
24 joint voluntary remedial action plan must be consistent with section
25 9 of this act. The procedures shall provide an opportunity for
26 comment by the public and by the state agencies and local governments
27 that would otherwise implement the laws referenced in this section.
28 Nothing in this section is intended to prohibit implementing agencies
29 from charging a fee to the person conducting the remedial action to
30 defray the costs of services rendered relating to the substantive
31 requirements for the remedial action.

1 (2) An exemption in this section or in RCW 70.94.335, 70.95.270,
2 70.105.116, (~~77.55.030~~) 77.55.061, 90.48.039, and 90.58.355 shall
3 not apply if the department determines that the exemption would
4 result in loss of approval from a federal agency necessary for the
5 state to administer any federal law, including the federal resource
6 conservation and recovery act, the federal clean water act, the
7 federal clean air act, and the federal coastal zone management act.
8 Such a determination by the department shall not affect the
9 applicability of the exemptions to other statutes specified in this
10 section.

11 **Sec. 2.** RCW 70.105D.030 and 2013 2nd sp.s. c 1 s 6 are each
12 amended to read as follows:

13 (1) The department may exercise the following powers in addition
14 to any other powers granted by law:

15 (a) Investigate, provide for investigating, or require
16 potentially liable persons to investigate any releases or threatened
17 releases of hazardous substances, including but not limited to
18 inspecting, sampling, or testing to determine the nature or extent of
19 any release or threatened release. If there is a reasonable basis to
20 believe that a release or threatened release of a hazardous substance
21 may exist, the department's authorized employees, agents, or
22 contractors may enter upon any property and conduct investigations.
23 The department shall give reasonable notice before entering property
24 unless an emergency prevents such notice. The department may by
25 subpoena require the attendance or testimony of witnesses and the
26 production of documents or other information that the department
27 deems necessary;

28 (b) Conduct, provide for conducting, or require potentially
29 liable persons to conduct remedial actions (including investigations
30 under (a) of this subsection) to remedy releases or threatened
31 releases of hazardous substances. In carrying out such powers, the
32 department's authorized employees, agents, or contractors may enter
33 upon property. The department shall give reasonable notice before
34 entering property unless an emergency prevents such notice. In
35 conducting, providing for, or requiring remedial action, the
36 department shall give preference to permanent solutions to the
37 maximum extent practicable and shall provide for or require adequate
38 monitoring to ensure the effectiveness of the remedial action;

1 (c) Indemnify contractors retained by the department for carrying
2 out investigations and remedial actions, but not for any contractor's
3 reckless or willful misconduct;

4 (d) Carry out all state programs authorized under the federal
5 cleanup law and the federal resource, conservation, and recovery act,
6 42 U.S.C. Sec. 6901 et seq., as amended;

7 (e) Classify substances as hazardous substances for purposes of
8 RCW 70.105D.020 and classify substances and products as hazardous
9 substances for purposes of RCW 82.21.020(1);

10 (f) Issue orders or enter into consent decrees or agreed orders
11 that include, or issue written opinions under (i) of this subsection
12 that may be conditioned upon, environmental covenants where necessary
13 to protect human health and the environment from a release or
14 threatened release of a hazardous substance from a facility. Prior to
15 establishing an environmental covenant under this subsection, the
16 department shall consult with and seek comment from a city or county
17 department with land use planning authority for real property subject
18 to the environmental covenant;

19 (g) Enforce the application of permanent and effective
20 institutional controls that are necessary for a remedial action to be
21 protective of human health and the environment and the notification
22 requirements established in RCW 70.105D.110, and impose penalties for
23 violations of that section consistent with RCW 70.105D.050;

24 (h) Require holders to conduct remedial actions necessary to
25 abate an imminent or substantial endangerment pursuant to RCW
26 70.105D.020(22)(b)(ii)(C);

27 (i) Provide informal advice and assistance to persons regarding
28 the administrative and technical requirements of this chapter. This
29 may include site-specific advice to persons who are conducting or
30 otherwise interested in independent remedial actions. It may also
31 include site-specific advice, and advice and assistance relating to
32 the requirements of RCW 70.105D.090 and chapters 70.94, 70.95,
33 70.105, 77.55, 90.48, and 90.58 RCW, to persons who are conducting or
34 otherwise interested in independent remedial actions for which the
35 person has obtained a joint voluntary remedial action plan from the
36 department. Any such advice or assistance shall be advisory only, and
37 shall not be binding on the department. As a part of providing this
38 advice and assistance for independent remedial actions, the
39 department may prepare written opinions regarding whether the
40 independent remedial actions or proposals for those actions meet the

1 substantive requirements of this chapter or whether the department
2 believes further remedial action is necessary at the facility.
3 Nothing in this chapter may be construed to preclude the department
4 from issuing a written opinion on whether further remedial action is
5 necessary at any portion of the real property located within a
6 facility, even if further remedial action is still necessary
7 elsewhere at the same facility. Such a written opinion on a portion
8 of a facility must also provide an opinion on the status of the
9 facility as a whole. The department may collect, from persons
10 requesting advice and assistance, the costs incurred by the
11 department in providing such advice and assistance; however, the
12 department shall, where appropriate, waive collection of costs in
13 order to provide an appropriate level of technical assistance in
14 support of public participation. The state, the department, and
15 officers and employees of the state are immune from all liability,
16 and no cause of action of any nature may arise from any act or
17 omission in providing, or failing to provide, informal advice and
18 assistance. The department must track the number of requests for
19 reviews of planned or completed independent remedial actions and
20 establish performance measures to track how quickly the department is
21 able to respond to those requests(~~(. By November 1, 2015, the~~
22 ~~department must submit to the governor and the appropriate~~
23 ~~legislative fiscal and policy committees a report on achieving the~~
24 ~~performance measures and provide recommendations for improving~~
25 ~~performance, including staffing needs));~~

26 (j) In fulfilling the objectives of this chapter, the department
27 shall allocate staffing and financial assistance in a manner that
28 considers both the reduction of human and environmental risks and the
29 land reuse potential and planning for the facilities to be cleaned
30 up. This does not preclude the department from allocating resources
31 to a facility based solely on human or environmental risks;

32 (k) Establish model remedies for common categories of facilities,
33 types of hazardous substances, types of media, or geographic areas to
34 streamline and accelerate the selection of remedies for routine types
35 of cleanups at facilities;

36 (i) When establishing a model remedy, the department shall:

37 (A) Identify the requirements for characterizing a facility to
38 select a model remedy, the applicability of the model remedy for use
39 at a facility, and monitoring requirements;

1 (B) Describe how the model remedy meets clean-up standards and
2 the requirements for selecting a remedy established by the department
3 under this chapter; and

4 (C) Provide public notice and an opportunity to comment on the
5 proposed model remedy and the conditions under which it may be used
6 at a facility;

7 (ii) When developing model remedies, the department shall solicit
8 and consider proposals from qualified persons. The proposals must, in
9 addition to describing the model remedy, provide the information
10 required under (k)(i)(A) and (B) of this subsection;

11 (iii) If a facility meets the requirements for use of a model
12 remedy, an analysis of the feasibility of alternative remedies is not
13 required under this chapter. For department-conducted and department-
14 supervised remedial actions, the department must provide public
15 notice and consider public comments on the proposed use of a model
16 remedy at a facility. The department may waive collection of its
17 costs for providing a written opinion under (i) of this subsection on
18 a cleanup that qualifies for and appropriately uses a model remedy;
19 and

20 (1) Take any other actions necessary to carry out the provisions
21 of this chapter, including the power to adopt rules under chapter
22 34.05 RCW.

23 (2) The department shall immediately implement all provisions of
24 this chapter to the maximum extent practicable, including
25 investigative and remedial actions where appropriate. The department
26 shall adopt, and thereafter enforce, rules under chapter 34.05 RCW
27 to:

28 (a) Provide for public participation, including at least (i)
29 public notice of the development of investigative plans or remedial
30 plans for releases or threatened releases and (ii) concurrent public
31 notice of all compliance orders, agreed orders, enforcement orders,
32 or notices of violation;

33 (b) Establish a hazard ranking system for hazardous waste sites;

34 (c) Provide for requiring the reporting by an owner or operator
35 of releases of hazardous substances to the environment that may be a
36 threat to human health or the environment within ninety days of
37 discovery, including such exemptions from reporting as the department
38 deems appropriate, however this requirement shall not modify any
39 existing requirements provided for under other laws;

1 (d) Establish reasonable deadlines not to exceed ninety days for
2 initiating an investigation of a hazardous waste site after the
3 department receives notice or otherwise receives information that the
4 site may pose a threat to human health or the environment and other
5 reasonable deadlines for remedying releases or threatened releases at
6 the site;

7 (e) Publish and periodically update minimum clean-up standards
8 for remedial actions at least as stringent as the clean-up standards
9 under section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621,
10 and at least as stringent as all applicable state and federal laws,
11 including health-based standards under state and federal law; and

12 (f) Apply industrial clean-up standards at industrial properties.
13 Rules adopted under this subsection shall ensure that industrial
14 properties cleaned up to industrial standards cannot be converted to
15 nonindustrial uses without approval from the department. The
16 department may require that a property cleaned up to industrial
17 standards is cleaned up to a more stringent applicable standard as a
18 condition of conversion to a nonindustrial use. Industrial clean-up
19 standards may not be applied to industrial properties where hazardous
20 substances remaining at the property after remedial action pose a
21 threat to human health or the environment in adjacent nonindustrial
22 areas.

23 (3) To achieve and protect the state's long-term ecological
24 health, the department shall plan to clean up hazardous waste sites
25 and prevent the creation of future hazards due to improper disposal
26 of toxic wastes at a pace that matches the estimated cash resources
27 in the state and local toxics control accounts and the environmental
28 legacy stewardship account created in RCW 70.105D.170. Estimated cash
29 resources must consider the annual cash flow requirements of major
30 projects that receive appropriations expected to cross multiple
31 biennia. To effectively monitor toxic accounts expenditures, the
32 department shall develop a comprehensive ten-year financing report
33 that identifies long-term remedial action project costs, tracks
34 expenses, and projects future needs.

35 (4) By November 1, 2016, the department must submit to the
36 governor and the appropriate legislative committees a report on the
37 status of developing model remedies and their use under this chapter.
38 The report must include: The number and types of model remedies
39 identified by the department under subsection (1)(k) of this section;
40 the number and types of model remedy proposals prepared by qualified

1 private sector engineers, consultants, or contractors that were
2 accepted or rejected under subsection (1)(k) of this section and the
3 reasons for rejection; and the success of model remedies in
4 accelerating the cleanup as measured by the number of jobs created by
5 the cleanup, where this information is available to the department,
6 acres of land restored, and the number and types of hazardous waste
7 sites successfully remediated using model remedies.

8 (5) Before September 20th of each even-numbered year, the
9 department shall:

10 (a) Develop a comprehensive ten-year financing report in
11 coordination with all local governments with clean-up
12 responsibilities that identifies the projected biennial hazardous
13 waste site remedial action needs that are eligible for funding from
14 the state and local toxics control account and the environmental
15 legacy stewardship account;

16 (b) Work with local governments to develop working capital
17 reserves to be incorporated in the ten-year financing report;

18 (c) Identify the projected remedial action needs for orphaned,
19 abandoned, and other clean-up sites that are eligible for funding
20 from the state toxics control account;

21 (d) Project the remedial action need, cost, revenue, and any
22 recommended working capital reserve estimate to the next biennium's
23 long-term remedial action needs from both the local and state toxics
24 control account and the environmental legacy stewardship account, and
25 submit this information to the appropriate standing fiscal and
26 environmental committees of the senate and house of representatives.
27 This submittal must also include a ranked list of such remedial
28 action projects for both accounts. The submittal must also identify
29 separate budget estimates for large, multibiennia clean-up projects
30 that exceed ten million dollars. The department shall prepare its
31 ten-year capital budget plan that is submitted to the office of
32 financial management to reflect the separate budget estimates for
33 these large clean-up projects and include information on the
34 anticipated private and public funding obligations for completion of
35 the relevant projects.

36 (6) By December 1st of each odd-numbered year, the department
37 must provide the legislature and the public a report of the
38 department's activities supported by appropriations from the state
39 and local toxics control accounts and the environmental legacy
40 stewardship account. The report must be prepared and displayed in a

1 manner that allows the legislature and the public to easily determine
2 the statewide and local progress made in cleaning up hazardous waste
3 sites under this chapter. The report must include, at a minimum:

4 (a) The name, location, hazardous waste ranking, and a short
5 description of each site on the hazardous sites list, and the date
6 the site was placed on the hazardous waste sites list; and

7 (b) For sites where there are state contracts, grants, loans, or
8 direct investments by the state:

9 (i) The amount of money from the state and local toxics control
10 accounts and the environmental legacy stewardship account used to
11 conduct remedial actions at the site and the amount of that money
12 recovered from potentially liable persons;

13 (ii) The actual or estimated start and end dates and the actual
14 or estimated expenditures of funds authorized under this chapter for
15 the following project phases:

16 (A) Emergency or interim actions, if needed;

17 (B) Remedial investigation;

18 (C) Feasibility study and selection of a remedy;

19 (D) Engineering design and construction of the selected remedy;

20 (E) Operation and maintenance or monitoring of the constructed
21 remedy; and

22 (F) The final completion date.

23 (7) The department shall establish a program to identify
24 potential hazardous waste sites and to encourage persons to provide
25 information about hazardous waste sites.

26 (8) For all facilities where an environmental covenant has been
27 required under subsection (1)(f) of this section, including all
28 facilities where the department has required an environmental
29 covenant under an order, agreed order, or consent decree, or as a
30 condition of a written opinion issued under the authority of
31 subsection (1)(i) of this section, the department shall periodically
32 review the environmental covenant for effectiveness. Except as
33 otherwise provided in (c) of this subsection, the department shall
34 conduct a review at least once every five years after an
35 environmental covenant is recorded.

36 (a) The review shall consist of, at a minimum:

37 (i) A review of the title of the real property subject to the
38 environmental covenant to determine whether the environmental
39 covenant was properly recorded and, if applicable, amended or
40 terminated;

1 (ii) A physical inspection of the real property subject to the
2 environmental covenant to determine compliance with the environmental
3 covenant, including whether any development or redevelopment of the
4 real property has violated the terms of the environmental covenant;
5 and

6 (iii) A review of the effectiveness of the environmental covenant
7 in limiting or prohibiting activities that may interfere with the
8 integrity of the remedial action or that may result in exposure to or
9 migration of hazardous substances. This shall include a review of
10 available monitoring data.

11 (b) If an environmental covenant has been amended or terminated
12 without proper authority, or if the terms of an environmental
13 covenant have been violated, or if the environmental covenant is no
14 longer effective in limiting or prohibiting activities that may
15 interfere with the integrity of the remedial action or that may
16 result in exposure to or migration of hazardous substances, then the
17 department shall take any and all appropriate actions necessary to
18 ensure compliance with the environmental covenant and the policies
19 and requirements of this chapter.

20 (c) For facilities where an environmental covenant required by
21 the department under subsection (1)(f) of this section was required
22 before July 1, 2007, the department shall:

23 (i) Enter all required information about the environmental
24 covenant into the registry established under RCW 64.70.120 by June
25 30, 2008;

26 (ii) For those facilities where more than five years has elapsed
27 since the environmental covenant was required and the department has
28 yet to conduct a review, conduct an initial review according to the
29 following schedule:

30 (A) By December 30, 2008, fifty facilities;

31 (B) By June 30, 2009, fifty additional facilities; and

32 (C) By June 30, 2010, the remainder of the facilities;

33 (iii) Once this initial review has been completed, conduct
34 subsequent reviews at least once every five years.

35 **Sec. 3.** RCW 70.94.335 and 1994 c 257 s 15 are each amended to
36 read as follows:

37 The procedural requirements of this chapter shall not apply to
38 any person conducting an independent remedial action for which a
39 person has obtained a joint voluntary remedial action plan, a

1 remedial action at a facility pursuant to a consent decree, order, or
2 agreed order issued pursuant to chapter 70.105D RCW, or to the
3 department of ecology when it conducts a remedial action under
4 chapter 70.105D RCW. Except for independent remedial actions for
5 which a person has obtained a joint voluntary remedial action plan,
6 the department of ecology shall ensure compliance with the
7 substantive requirements of this chapter through the consent decree,
8 order, or agreed order issued pursuant to chapter 70.105D RCW, or
9 during the department-conducted remedial action, through the
10 procedures developed by the department pursuant to RCW 70.105D.090.

11 **Sec. 4.** RCW 70.95.270 and 1994 c 257 s 16 are each amended to
12 read as follows:

13 The procedural requirements of this chapter shall not apply to
14 any person conducting an independent remedial action for which a
15 person has obtained a joint voluntary remedial action plan, a
16 remedial action at a facility pursuant to a consent decree, order, or
17 agreed order issued pursuant to chapter 70.105D RCW, or to the
18 department of ecology when it conducts a remedial action under
19 chapter 70.105D RCW. Except for independent remedial actions for
20 which a person has obtained a joint voluntary remedial action plan,
21 the department of ecology shall ensure compliance with the
22 substantive requirements of this chapter through the consent decree,
23 order, or agreed order issued pursuant to chapter 70.105D RCW, or
24 during the department-conducted remedial action, through the
25 procedures developed by the department pursuant to RCW 70.105D.090.

26 **Sec. 5.** RCW 70.105.116 and 1994 c 257 s 17 are each amended to
27 read as follows:

28 The procedural requirements of this chapter shall not apply to
29 any person conducting an independent remedial action for which a
30 person has obtained a joint voluntary remedial action plan, a
31 remedial action at a facility pursuant to a consent decree, order, or
32 agreed order issued pursuant to chapter 70.105D RCW, or to the
33 department of ecology when it conducts a remedial action under
34 chapter 70.105D RCW. Except for independent remedial actions for
35 which a person has obtained a joint voluntary remedial action plan,
36 the department of ecology shall ensure compliance with the
37 substantive requirements of this chapter through the consent decree,
38 order, or agreed order issued pursuant to chapter 70.105D RCW, or

1 during the department-conducted remedial action, through the
2 procedures developed by the department pursuant to RCW 70.105D.090.

3 **Sec. 6.** RCW 77.55.061 and 1994 c 257 s 18 are each amended to
4 read as follows:

5 The procedural requirements of this chapter shall not apply to
6 any person conducting an independent remedial action for which a
7 person has obtained a joint voluntary remedial action plan, a
8 remedial action at a facility pursuant to a consent decree, order, or
9 agreed order issued pursuant to chapter 70.105D RCW, or to the
10 department of ecology when it conducts a remedial action under
11 chapter 70.105D RCW. Except for independent remedial actions for
12 which a person has obtained a joint voluntary remedial action plan,
13 the department of ecology shall ensure compliance with the
14 substantive requirements of this chapter through the consent decree,
15 order, or agreed order issued pursuant to chapter 70.105D RCW, or
16 during the department-conducted remedial action, through the
17 procedures developed by the department pursuant to RCW 70.105D.090.

18 **Sec. 7.** RCW 90.48.039 and 1994 c 257 s 19 are each amended to
19 read as follows:

20 The procedural requirements of this chapter shall not apply to
21 any person conducting an independent remedial action for which a
22 person has obtained a joint voluntary remedial action plan, a
23 remedial action at a facility pursuant to a consent decree, order, or
24 agreed order issued pursuant to chapter 70.105D RCW, or to the
25 department of ecology when it conducts a remedial action under
26 chapter 70.105D RCW. Except for independent remedial actions for
27 which a person has obtained a joint voluntary remedial action plan,
28 the department of ecology shall ensure compliance with the
29 substantive requirements of this chapter through the consent decree,
30 order, or agreed order issued pursuant to chapter 70.105D RCW, or
31 during the department-conducted remedial action, through the
32 procedures developed by the department pursuant to RCW 70.105D.090.

33 **Sec. 8.** RCW 90.58.355 and 2015 3rd sp.s. c 15 s 9 are each
34 amended to read as follows:

35 Requirements to obtain a substantial development permit,
36 conditional use permit, variance, letter of exemption, or other

1 review conducted by a local government to implement this chapter do
2 not apply to:

3 (1) Any person conducting an independent remedial action for
4 which a person has obtained a joint voluntary remedial action plan, a
5 remedial action at a facility pursuant to a consent decree, order, or
6 agreed order issued pursuant to chapter 70.105D RCW, or to the
7 department of ecology when it conducts a remedial action under
8 chapter 70.105D RCW. Except for independent remedial actions for
9 which a person has obtained a joint voluntary remedial action plan,
10 the department must ensure compliance with the substantive
11 requirements of this chapter through the consent decree, order, or
12 agreed order issued pursuant to chapter 70.105D RCW, or during the
13 department-conducted remedial action, through the procedures
14 developed by the department pursuant to RCW 70.105D.090;

15 (2) Any person installing site improvements for storm water
16 treatment in an existing boatyard facility to meet requirements of a
17 national pollutant discharge elimination system storm water general
18 permit. The department must ensure compliance with the substantive
19 requirements of this chapter through the review of engineering
20 reports, site plans, and other documents related to the installation
21 of boatyard storm water treatment facilities; or

22 (3) The department of transportation projects and activities that
23 meet the conditions of RCW 90.58.356.

24 NEW SECTION. Sec. 9. A new section is added to chapter 70.105D
25 RCW to read as follows:

26 (1) By January 1, 2019, the department shall establish a program
27 for independent remedial action with a joint voluntary remedial
28 action plan that addresses applicable state and local land use and
29 environmental statutes, administrative rules, ordinances, and
30 development regulations. Participation in such a program is voluntary
31 on the part of the person conducting an independent remedial action.

32 (2) The joint voluntary remedial action plan must describe, at a
33 minimum, the site-specific requirements associated with the
34 following:

- 35 (a) Water discharge permits issued under chapter 90.48 RCW;
36 (b) Air emissions permits issued under chapter 70.94 RCW;
37 (c) Solid waste permits issued under chapter 70.95 RCW;
38 (d) Hazardous waste permits issued under chapter 70.105 RCW;

1 (e) Hydraulic project approval permits issued under chapter 77.55
2 RCW;

3 (f) Development permits issued under chapter 90.58 RCW; and

4 (g) Permits issued under any land use or environmental laws
5 requiring or authorizing local government permits or approvals.

6 (3)(a) As part of the joint voluntary remedial action plan
7 process, the department shall develop a consolidated application to
8 be used by the person conducting the independent remedial action to
9 communicate relevant details concerning the independent remedial
10 action and the property that is the subject of the independent
11 remedial action.

12 (b) For each joint voluntary remedial action plan, the department
13 shall forward the information included in the consolidated
14 application to all appropriate local governments. The local
15 governments have thirty days in which to communicate to the
16 department the site-specific requirements associated with any
17 statutes, administrative rules, ordinances, or development
18 regulations administered by the local governments.

19 (c) The department shall use the information included in the
20 consolidated application to provide the person conducting the
21 independent remedial action with a joint voluntary remedial action
22 plan that addresses the state and local land use and environmental
23 statutes, administrative rules, ordinances, and development
24 regulations applicable to the property that is the subject of the
25 independent remedial action, including the information received from
26 local governments concerning any site-specific requirements
27 associated with any statutes, administrative rules, ordinances, or
28 development regulations administered by the local governments.

29 (4) Beginning January 1, 2019, any person wishing to conduct an
30 independent remedial action has the option of completing a
31 consolidated application under subsection (3) of this section and
32 receiving from the department a joint voluntary remedial action plan.

33 (5) A person who obtains a joint voluntary remedial action plan
34 from the department is exempt from the procedural requirements of
35 chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW, and the
36 procedural requirements of any laws requiring or authorizing local
37 government permits or approvals for the remedial action.

38 (6) A joint voluntary remedial action plan neither reduces nor
39 enlarges a person's legal obligations under any state and local land
40 use and environmental statute, administrative rule, ordinance, or

1 development regulation applicable to the property that is the subject
2 of the independent remedial action. A joint voluntary remedial action
3 plan may not serve as the basis of a cause of action under this
4 chapter or under any state or local land use or environmental
5 statute, administrative rule, ordinance, or development regulation
6 that may be addressed in the joint voluntary remedial action plan."

7 Correct the title.

EFFECT: (1) Limits, to independent remedial actions for which a person has obtained a joint voluntary remedial action plan from the Department of Ecology (Ecology), the exemption from the procedural requirements of the following environmental laws: The Washington Clean Air Act, the Solid Waste Management—Reduction and Recycling Act, the Hazardous Waste Management Act, Construction Projects in State Waters, the Water Pollution Control Act, and the Shoreline Management Act.

(2) Authorizes Ecology to offer site-specific technical advice and assistance regarding the substantive requirements of the environmental laws listed above to persons who are conducting an independent remedial action after obtaining a joint voluntary remedial action plan from Ecology.

(3) Directs Ecology to establish, by January 1, 2019, an optional program for persons conducting independent remedial actions, that describes in a joint voluntary remedial action plan the applicable state and local environmental and land use statutes, administrative rules, ordinances, and development regulations applicable to a particular independent remedial action. Beginning January 1, 2019, a person wishing to conduct an independent remedial action will have the option of obtaining a joint voluntary remedial action plan from Ecology.

(a) The joint voluntary remedial action plan must describe, at a minimum, the site-specific requirements associated with permits issued under the Washington Clean Air Act, the Solid Waste Management—Reduction and Recycling Act, the Hazardous Waste Management Act, Construction Projects in State Waters, the Water Pollution Control Act, and the Shoreline Management Act, as well as any permits issued under any land use or environmental laws that require or authorize local government permits or approvals.

(b) As part of the joint voluntary remedial action plan, Ecology must develop a consolidated application to be used by the person conducting the independent remedial action, to communicate relevant details concerning the action and the subject property.

(c) Ecology must communicate the information in the consolidated application to appropriate local governments, who will then have 30 days to communicate to Ecology the site-specific requirements associated with any statutes, administrative rules, ordinances, or development regulations administered by the local government.

(d) Ecology must use the information from the consolidated application, as well as the information received from local governments in response to the consolidated application, to provide the person conducting the independent remedial action with a joint voluntary remedial action plan that addresses the state and local land use and environmental statutes, administrative rules,

ordinances, and development regulations applicable to the property that is the subject of the independent remedial action.

(4) Modifies each of the environmental laws listed above to specify that the procedural requirements of each of the laws do not apply to a person conducting an independent remedial action for which the person has obtained a joint voluntary remedial action plan from Ecology.

(5) Specifies, in each of the environmental laws listed above, that Ecology is not responsible for ensuring that independent remedial actions for which a person has obtained a joint voluntary remedial action plan from Ecology comply with the substantive requirements of each of the laws.

(6) Specifies that a joint voluntary remedial action plan neither enlarges nor reduces a person's legal obligations under any state and local land use and environmental statute, administrative rule, ordinance, or development regulation applicable to the property that is the subject of the independent remedial action.

(7) Specifies that a joint voluntary remedial action plan may not serve as the basis of a cause of action under the Model Toxics Control Act or under any state or local land use or environmental statute, administrative rule, ordinance, or development regulation that may be addressed in the joint voluntary remedial action plan.

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