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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: Z-0808.1/12

ATTY/TYPIST: ML:seg

BRIEF DESCRIPTION: Transferring the low-level radioactive waste site use permit program from the department of ecology to the department of health.

1 AN ACT Relating to transferring the low-level radioactive waste  
2 site use permit program from the department of ecology to the  
3 department of health; amending RCW 43.200.015, 43.200.080, 43.200.170,  
4 43.200.180, 43.200.190, 43.200.200, 43.200.230, 70.98.030, 70.98.085,  
5 70.98.095, 70.98.098, and 70.98.130; adding a new section to chapter  
6 70.98 RCW; adding a new section to chapter 43.200 RCW; repealing RCW  
7 43.200.210; and providing an effective date.

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

9 **Sec. 1.** RCW 43.200.015 and 1989 c 322 s 1 are each amended to read  
10 as follows:

11 As used in this chapter, the following terms have the meanings  
12 indicated unless the context clearly requires otherwise.

13 (1) "High-level radioactive waste" means "high-level radioactive  
14 waste" as the term is defined in 42 U.S.C. Sec. 10101 (P.L. 97-425).

15 (2) "Low-level radioactive waste" means waste material that  
16 contains radioactive nuclides emitting primarily beta or gamma  
17 radiation, or both, in concentrations or quantities that exceed  
18 applicable federal or state standards for unrestricted release. Low-  
19 level waste does not include waste containing more than one hundred

1 nanocuries of transuranic contaminants per gram of material, nor spent  
2 nuclear fuel, nor material classified as either high-level radioactive  
3 waste or waste that is unsuited for disposal by near-surface burial  
4 under any applicable federal regulations.

5 (3) "Radioactive waste" means both high-level and low-level  
6 radioactive waste.

7 (4) "Spent nuclear fuel" means spent nuclear fuel as the term is  
8 defined in 42 U.S.C. Sec. 10101.

9 (5) "Department" means the department of ecology.

10 (6) "Commercial low-level radioactive waste disposal facility" has  
11 the same meaning as "facility" as defined in RCW 43.145.010.

12 **Sec. 2.** RCW 43.200.080 and 2003 1st sp.s. c 21 s 1 are each  
13 amended to read as follows:

14 The director of ecology shall, in addition to the powers and duties  
15 otherwise imposed by law, have the following special powers and duties:

16 (1) To fulfill the responsibilities of the state under the lease  
17 between the state of Washington and the federal government executed  
18 September 10, 1964, as amended, covering approximately one (~~thousand~~)  
19 hundred fifteen acres of land lying within the Hanford reservation near  
20 Richland, Washington. The department of ecology may sublease to  
21 private or public entities all or a portion of the land for specific  
22 purposes or activities which are determined, after public hearing, to  
23 be in agreement with the terms of the lease and in the best interests  
24 of the citizens of the state consistent with any criteria that may be  
25 developed as a requirement by the legislature;

26 (2) To assume the responsibilities of the state under the perpetual  
27 care agreement between the state of Washington and the federal  
28 government executed July 29, 1965, and the sublease between the state  
29 of Washington and the site operator of the (~~Hanford~~) commercial low-  
30 level radioactive waste disposal facility. In order to finance  
31 perpetual surveillance and maintenance under the agreement and ensure  
32 site closure under the sublease, the department of ecology shall impose  
33 and collect fees from parties holding radioactive materials for waste  
34 management purposes. The fees shall be established by rule adopted  
35 under chapter 34.05 RCW and shall be an amount determined by the  
36 department of ecology to be necessary to defray the estimated liability  
37 of the state. Such fees shall reflect equity between the disposal

1 facilities of this and other states. A site closure account and a  
2 perpetual surveillance and maintenance account ~~((is))~~ are hereby  
3 created in the state treasury. Site use permit fees collected by the  
4 department of health under RCW 70.98.085(3) must be deposited in the  
5 site closure account and must be used as specified in RCW 70.98.085(3).  
6 Funds in the site closure account other than site use permit fee funds  
7 shall be exclusively available to reimburse, to the extent that moneys  
8 are available in the account, the site operator for its costs plus a  
9 reasonable profit as agreed by the operator and the state, or to  
10 reimburse the state licensing agency and any agencies under contract to  
11 the state licensing agency for their costs in final closure and  
12 decommissioning of the ~~((Hanford))~~ commercial low-level radioactive  
13 waste disposal facility. If a balance remains in the account after  
14 satisfactory performance of closure and decommissioning, this balance  
15 shall be transferred to the perpetual surveillance and maintenance  
16 account. The perpetual surveillance and maintenance account shall be  
17 used exclusively by the state to meet post-closure surveillance and  
18 maintenance costs, or for otherwise satisfying surveillance and  
19 maintenance obligations. Appropriations are required to permit  
20 expenditures and payment of obligations from the site closure account  
21 and the perpetual surveillance and maintenance account. ~~((All moneys,~~  
22 ~~including earnings from the investment of balances in the site closure~~  
23 ~~and the perpetual surveillance and maintenance account, less the~~  
24 ~~allocation to the state treasurer's service fund, pursuant to RCW~~  
25 ~~43.08.190 accruing under the authority of this section shall be~~  
26 ~~directed to the site closure account until December 31, 1992.~~  
27 ~~Thereafter receipts including earnings from the investment of balances~~  
28 ~~in the site closure and the perpetual surveillance and maintenance~~  
29 ~~account, less the allocation to the state treasurer's service fund,~~  
30 ~~pursuant to RCW 43.08.190))~~ Receipts shall be directed to the site  
31 closure account and the perpetual surveillance and maintenance account  
32 as specified by the department. Additional moneys specifically  
33 appropriated by the legislature or received from any public or private  
34 source may be placed in the site closure account and the perpetual  
35 surveillance and maintenance account. During the 2003-2005 fiscal  
36 biennium, the legislature may transfer up to thirteen million eight  
37 hundred thousand dollars from the site closure account to the general  
38 fund;

1 (3)(a) Subject to the conditions in (b) of this subsection, on July  
2 1, 2008, and each July 1st thereafter, the treasurer shall transfer  
3 from the perpetual surveillance and maintenance account to the site  
4 closure account the sum of nine hundred sixty-six thousand dollars.  
5 The nine hundred sixty-six thousand dollars transferred on July 1,  
6 2009, and thereafter shall be adjusted to a level equal to the  
7 percentage increase in the United States implicit price deflator for  
8 personal consumption. The last transfer under this section shall occur  
9 on July 1, 2033.

10 (b) The transfer in (a) of this subsection shall occur only if  
11 written agreement is reached between the state department of ecology  
12 and the United States department of energy pursuant to section 6 of the  
13 perpetual care agreement dated July 29, 1965, between the United States  
14 atomic energy commission and the state of Washington. If agreement  
15 cannot be reached between the state department of ecology and the  
16 United States department of energy by June 1, 2008, the treasurer shall  
17 transfer the funds from the general fund to the site closure account  
18 according to the schedule in (a) of this subsection.

19 (c) If for any reason the ((Hanford)) commercial low-level  
20 radioactive waste disposal facility is closed to further disposal  
21 operations during or after the 2003-2005 biennium and before 2033, then  
22 the amount remaining to be repaid from the 2003-2005 transfer of  
23 thirteen million eight hundred thousand dollars from the site closure  
24 account shall be transferred by the treasurer from the general fund to  
25 the site closure account to fund the closure and decommissioning of the  
26 facility. The treasurer shall transfer to the site closure account in  
27 full the amount remaining to be repaid upon written notice from the  
28 secretary of health that the department of health has authorized  
29 closure or that disposal operations have ceased. The treasurer shall  
30 complete the transfer within sixty days of written notice from the  
31 secretary of health.

32 (d) To the extent that money in the site closure account together  
33 with the amount of money identified for repayment to the site closure  
34 account, pursuant to (a) through (c) of this subsection, equals or  
35 exceeds the cost estimate approved by the department of health for  
36 closure and decommissioning of the facility, the money in the site  
37 closure account together with the amount of money identified for

1 repayment to the site closure account shall constitute adequate  
2 financial assurance for purposes of the department of health financial  
3 assurance requirements;

4 (4) To assure maintenance of such insurance coverage by state  
5 licensees, lessees, or sublessees as will adequately, in the opinion of  
6 the director, protect the citizens of the state against nuclear  
7 accidents or incidents that may occur on privately or state-controlled  
8 nuclear facilities;

9 ~~(5) ((To institute a user permit system and issue site use permits,~~  
10 ~~consistent with regulatory practices, for generators, packagers, or~~  
11 ~~brokers using the Hanford low level radioactive waste disposal~~  
12 ~~facility. The costs of administering the user permit system shall be~~  
13 ~~borne by the applicants for site use permits. The site use permit fee~~  
14 ~~shall be set at a level that is sufficient to fund completely the~~  
15 ~~executive and legislative participation in activities related to the~~  
16 ~~Northwest Interstate Compact on Low Level Radioactive Waste Management;~~

17 ~~(6))~~ To make application for or otherwise pursue any federal funds  
18 to which the state may be eligible, through the federal resource  
19 conservation and recovery act or any other federal programs, for the  
20 management, treatment or disposal, and any remedial actions, of wastes  
21 that are both radioactive and hazardous at all ((Hanford)) commercial  
22 low-level radioactive waste disposal facilities; and

23 ((+7)) (6) To develop contingency plans for duties and options for  
24 the department and other state agencies related to the ((Hanford))  
25 commercial low-level radioactive waste disposal facility based on  
26 various projections of annual levels of waste disposal. These plans  
27 shall include an analysis of expected revenue to the state in various  
28 taxes and funds related to low-level radioactive waste disposal and the  
29 resulting implications that any increase or decrease in revenue may  
30 have on state agency duties or responsibilities. The plans shall be  
31 updated annually.

32 **Sec. 3.** RCW 43.200.170 and 1990 c 21 s 3 are each amended to read  
33 as follows:

34 The governor may assess surcharges and penalty surcharges on the  
35 disposal of waste at the ((Hanford)) commercial low-level radioactive  
36 waste disposal facility. The surcharges may be imposed up to the  
37 maximum extent permitted by federal law. Ten dollars per cubic foot of

1 the moneys received under this section shall be transmitted monthly to  
2 the site closure account established under RCW 43.200.080. The rest of  
3 the moneys received under this section shall be deposited in the  
4 general fund.

5 **Sec. 4.** RCW 43.200.180 and 1998 c 245 s 81 are each amended to  
6 read as follows:

7 Except as provided in chapter 70.98 RCW related to administration  
8 of a user permit system, the department of ecology shall be the state  
9 agency responsible for implementation of the federal low-level  
10 radioactive waste policy amendments act of 1985, including:

11 (1) Collecting and administering the surcharge assessed by the  
12 governor under RCW 43.200.170;

13 (2) Collecting low-level radioactive waste data from disposal  
14 facility operators, generators, intermediate handlers, and the federal  
15 department of energy;

16 (3) Developing and operating a computerized information system to  
17 manage low-level radioactive waste data;

18 (4) Denying and reinstating access to the ((Hanford)) commercial  
19 low-level radioactive waste disposal facility pursuant to the authority  
20 granted under federal law;

21 (5) Administering and/or monitoring (a) the maximum waste volume  
22 levels for the ((Hanford)) commercial low-level radioactive waste  
23 disposal facility, (b) reactor waste allocations, (c) priority  
24 allocations under the Northwest Interstate Compact on Low-Level  
25 Radioactive Waste Management, and (d) adherence by other states and  
26 compact regions to federal statutory deadlines; and

27 (6) Coordinating the state's low-level radioactive waste disposal  
28 program with similar programs in other states.

29 **Sec. 5.** RCW 43.200.190 and 1998 c 245 s 82 are each amended to  
30 read as follows:

31 The department of ecology shall perform studies, by contract or  
32 otherwise, to define site closure and perpetual care and maintenance  
33 requirements for the ((Hanford)) commercial low-level radioactive waste  
34 disposal facility and to assess the adequacy of insurance coverage for  
35 general liability, radiological liability, and transportation liability  
36 for the facility.

1       **Sec. 6.** RCW 43.200.200 and 1998 c 245 s 83 are each amended to  
2 read as follows:

3       (1) The director of the department of ecology (~~(shall)~~) may  
4 periodically review the potential for bodily injury and property damage  
5 arising from the transportation and disposal of commercial low-level  
6 radioactive waste under permits issued by the state.

7       ~~(2) ((The director may require permit holders to demonstrate  
8 financial assurance in an amount that is adequate to protect the state  
9 and its citizens from all claims, suits, losses, damages, or expenses  
10 on account of injuries to persons and property damage arising or  
11 growing out of the transportation or disposal of commercial low-level  
12 radioactive waste. The financial assurance may be in the form of  
13 insurance, cash deposits, surety bonds, corporate guarantees, and other  
14 acceptable instruments or guarantees determined by the director to be  
15 acceptable evidence of financial assurance.~~

16       ~~(3))~~ In making the determination of the appropriate level of  
17 financial assurance, the director shall consider:

18       (a) The nature and purpose of the activity and its potential for  
19 injury and damages to or claims against the state and its citizens;

20       (b) The current and cumulative manifested volume and radioactivity  
21 of waste being packaged, transported, buried, or otherwise handled;

22       (c) The location where the waste is being packaged, transported,  
23 buried, or otherwise handled, including the proximity to the general  
24 public and geographic features such as geology and hydrology, if  
25 relevant; and

26       (d) The legal defense cost, if any, that will be paid from the  
27 required financial assurance amount.

28       ~~((4) The director may establish different levels of required  
29 financial assurance for various classes of permit holders.~~

30       ~~(5) The director shall establish by rule the instruments or  
31 mechanisms by which a permit applicant or holder may demonstrate  
32 financial assurance as required by RCW 43.200.210.)~~

33       **Sec. 7.** RCW 43.200.230 and 1991 c 272 s 16 are each amended to  
34 read as follows:

35       The director of the department of ecology shall require that  
36 generators of waste pay a fee for each cubic foot of waste disposed at  
37 any facility in the state equal to six dollars and fifty cents. The

1 fee shall be imposed specifically on the generator of the waste and  
2 shall not be considered to apply in any way to the low-level site  
3 operator's disposal activities. The fee shall be allocated in  
4 accordance with RCW 43.200.233 and 43.200.235. (~~This subsection shall~~  
5 ~~be invalidated and the authorization to collect a surcharge removed if~~  
6 ~~the legislature or any administrative agency of the state of Washington~~  
7 ~~prior to January 1, 1993, (1) imposes fees, assessments, or charges~~  
8 ~~other than perpetual care and maintenance, site surveillance, and site~~  
9 ~~closing fees currently applicable to the Hanford commercial low-level~~  
10 ~~waste site operator's activities, (2) imposes any additional fees,~~  
11 ~~assessments, or charges on generators using the Hanford commercial low-~~  
12 ~~level waste site, or (3) increases any existing fees, assessments, or~~  
13 ~~charges.)) Failure to comply with this section may result in denial or  
14 suspension of the generator's site use permit pursuant to RCW  
15 70.98.085.~~

16 **Sec. 8.** RCW 70.98.030 and 1991 c 3 s 355 are each amended to read  
17 as follows:

18 (1) "By-product material" means any radioactive material (except  
19 special nuclear material) yielded in or made radioactive by exposure to  
20 the radiation incident to the process of producing or utilizing special  
21 nuclear material.

22 (2) "Ionizing radiation" means gamma rays and x-rays, alpha and  
23 beta particles, high-speed electrons, neutrons, protons, and other  
24 atomic or subatomic particles; but not sound or radio waves, or  
25 visible, infrared, or ultraviolet light.

26 (3)(a) "General license" means a license effective pursuant to  
27 rules promulgated by the state radiation control agency, without the  
28 filing of an application, to transfer, acquire, own, possess, or use  
29 quantities of, or devices or equipment utilizing, by-product, source,  
30 special nuclear materials, or other radioactive material occurring  
31 naturally or produced artificially.

32 (b) "Specific license" means a license, issued after application to  
33 use, manufacture, produce, transfer, receive, acquire, own, or possess  
34 quantities of, or devices or equipment utilizing by-product, source,  
35 special nuclear materials, or other radioactive materials occurring  
36 naturally or produced artificially.

1 (4) "Person" means any individual, corporation, partnership, firm,  
2 association, trust, estate, public or private institution, group,  
3 agency, political subdivision of this state, any other state or  
4 political subdivision or agency thereof, and any legal successor,  
5 representative, agent, or agency of the foregoing, other than the  
6 United States Atomic Energy Commission, or any successor thereto, and  
7 other than federal government agencies licensed by the United States  
8 Atomic Energy Commission, or any successor thereto.

9 (5) "Source material" means (a) uranium, thorium, or any other  
10 material which is determined by the United States Nuclear Regulatory  
11 Commission or its successor pursuant to the provisions of section 61 of  
12 the United States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec.  
13 209) to be source material; or (b) ores containing one or more of the  
14 foregoing materials, in such concentration as the commission may by  
15 regulation determine from time to time.

16 (6) "Special nuclear material" means (a) plutonium, uranium  
17 enriched in the isotope 233 or in the isotope 235, and any other  
18 material which the United States Nuclear Regulatory Commission or its  
19 successor, pursuant to the provisions of section 51 of the United  
20 States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2071),  
21 determines to be special nuclear material, but does not include source  
22 material; or (b) any material artificially enriched by any of the  
23 foregoing, but does not include source material.

24 (7) "Registration" means registration with the state department of  
25 health by any person possessing a source of ionizing radiation in  
26 accordance with rules adopted by the department of health.

27 (8) "Radiation source" means any type of device or substance which  
28 is capable of producing or emitting ionizing radiation.

29 (9) "Site use permit" means a permit, issued after application, to  
30 use the commercial low-level radioactive waste disposal facility.

31 **Sec. 9.** RCW 70.98.085 and 1990 c 21 s 7 are each amended to read  
32 as follows:

33 (1) The agency is empowered to administer a user permit system and  
34 issue site use permits for generators, packagers, or brokers to use the  
35 commercial low-level radioactive waste disposal facility. The agency  
36 may issue a site use permit consistent with the requirements of this  
37 chapter and the rules adopted under it and the requirements of the

1 Northwest Interstate Compact on Low-Level Radioactive Waste Management  
2 under chapter 43.145 RCW. The agency may deny an application for a  
3 site use permit or modify, suspend ((and reinstate)), or revoke a site  
4 use permit((s consistent with current regulatory practices and in  
5 coordination with the department of ecology, for generators, packagers,  
6 or brokers using the Hanford low-level radioactive waste disposal  
7 facility)) in any case in which it finds that the permit was obtained  
8 by fraud or there is or has been a failure, refusal, or inability to  
9 comply with the requirements of this chapter or rules adopted under  
10 this chapter or the requirements of the Northwest Interstate Compact on  
11 Low-Level Radioactive Waste Management under chapter 43.145 RCW. The  
12 agency may also deny or suspend a site use permit for failure to comply  
13 with RCW 43.200.230.

14 (2) Any permit issued by the department of ecology for a site use  
15 permit pursuant to chapter 43.200 RCW is valid until the first  
16 expiration date that occurs after July 1, 2012.

17 (3) The agency shall collect a fee from the applicants for site use  
18 permits that is sufficient to fund the costs to the agency to  
19 administer the user permit system. The site use permit fee must be set  
20 at a level that is also sufficient to fund state participation in  
21 activities related to the Northwest Interstate Compact on Low-Level  
22 Radioactive Waste Management under chapter 43.145 RCW. The site use  
23 permit fees must be deposited in the site closure account established  
24 in RCW 43.200.080(2). Appropriations to the department of health or  
25 the department of ecology are required to permit expenditures using  
26 site use permit fee funds from the site closure account.

27 (4) The agency shall collect a surveillance fee as an added charge  
28 on each cubic foot of low-level radioactive waste disposed of at the  
29 commercial low-level radioactive waste disposal site in this state  
30 which shall be set at a level that is sufficient to fund completely the  
31 radiation control activities of the agency directly related to the  
32 disposal site, including but not limited to the management, licensing,  
33 monitoring, and regulation of the site. ((The surveillance fee shall  
34 not exceed five percent in 1990, six percent in 1991, and seven percent  
35 in 1992 of the basic minimum fee charged by an operator of a low-level  
36 radioactive waste disposal site in this state. The basic minimum fee  
37 consists of the disposal fee for the site operator, the fee for the  
38 perpetual care and maintenance fund administered by the state, the fee

1 ~~for the state closure fund, and the tax collected pursuant to chapter~~  
2 ~~82.04 RCW. Site use permit fees and surcharges collected under chapter~~  
3 ~~43.200 RCW are not part of the basic minimum fee.))~~ The fee shall also  
4 provide funds to the Washington state patrol for costs incurred from  
5 inspection of low-level radioactive waste shipments entering this  
6 state. Disbursements for this purpose shall be by authorization of the  
7 secretary of the department of health or the secretary's designee.

8 (5) The agency shall require that any person who holds or applies  
9 for a permit under this chapter indemnify and hold harmless the state  
10 from claims, suits, damages, or expenses on account of injuries to or  
11 death of persons and property damage, arising or growing out of any  
12 operations and activities for which the person holds the permit, and  
13 any necessary or incidental operations.

14 (6) The agency may adopt such rules as are necessary to carry out  
15 its responsibilities under this section.

16 **Sec. 10.** RCW 70.98.095 and 1992 c 61 s 3 are each amended to read  
17 as follows:

18 (1) The radiation control agency may require any person who  
19 applies for, or holds, a license under this chapter to demonstrate that  
20 the person has financial assurance sufficient to assure that liability  
21 incurred as a result of licensed operations and activities can be fully  
22 satisfied. Financial assurance may be in the form of insurance, cash  
23 deposits, surety bonds, corporate guarantees, letters of credit, or  
24 other financial instruments or guarantees determined by the agency to  
25 be acceptable financial assurance. The agency may require financial  
26 assurance in an amount determined by the secretary pursuant to RCW  
27 70.98.098.

28 (2) The radiation control agency may require site use permit  
29 holders to demonstrate financial assurance in an amount that is  
30 adequate to protect the state and its citizens from all claims, suits,  
31 losses, damages, or expenses on account of injuries to persons and  
32 property damage arising or growing out of the transportation or  
33 disposal of commercial low-level radioactive waste. The financial  
34 assurance may be in the form of insurance, cash deposits, surety bonds,  
35 corporate guarantees, and other acceptable instruments or guarantees  
36 determined by the secretary to be acceptable evidence of financial

1 assurance. The agency may require financial assurance in an amount  
2 determined by the secretary pursuant to RCW 70.98.098.

3 (3) The radiation control agency shall refuse to issue a license or  
4 permit or suspend the license or permit of any person required by this  
5 section to demonstrate financial assurance who fails to demonstrate  
6 compliance with this section. The license or permit shall not be  
7 issued or reinstated until the person demonstrates compliance with this  
8 section.

9 ((+3)) (4) The radiation control agency shall require (a) that any  
10 person required to demonstrate financial assurance, maintain with the  
11 agency current copies of any insurance policies, certificates of  
12 insurance, letters of credit, surety bonds, or any other documents used  
13 to comply with this section, (b) that the agency be notified of any  
14 changes in the financial assurance or financial condition of the  
15 person, and (c) that the state be named as an insured party on any  
16 insurance policy used to comply with this section.

17 **Sec. 11.** RCW 70.98.098 and 2003 1st sp.s. c 21 s 2 are each  
18 amended to read as follows:

19 (1) In making the determination of the appropriate level of  
20 financial assurance, the secretary shall consider: (a) ((The)) Any  
21 report prepared by the department of ecology pursuant to RCW  
22 43.200.200; (b) the potential cost of decontamination, treatment,  
23 disposal, decommissioning, and cleanup of facilities or equipment; (c)  
24 federal cleanup and decommissioning requirements; and (d) the legal  
25 defense cost, if any, that might be paid from the required financial  
26 assurance.

27 (2) The secretary may establish different levels of required  
28 financial assurance for various classes of permit or license holders.

29 (3) The secretary shall establish by rule the instruments or  
30 mechanisms by which a person may demonstrate financial assurance as  
31 required by RCW 70.98.095.

32 (4) To the extent that money in the site closure account together  
33 with the amount of money identified for repayment to the site closure  
34 account pursuant to RCW 43.200.080 equals or exceeds the cost estimate  
35 approved by the department of health for closure and decommissioning of  
36 the ((Hanford)) commercial low-level radioactive waste disposal  
37 facility, the money in the site closure account together with the

1 amount of money identified for repayment to the site closure account  
2 shall constitute adequate financial assurance for purposes of the  
3 department of health financial assurance requirements under RCW  
4 70.98.095.

5 **Sec. 12.** RCW 70.98.130 and 1989 c 175 s 133 are each amended to  
6 read as follows:

7 (1) In any proceeding under this chapter for the issuance or  
8 modification or repeal of rules relating to control of sources of  
9 ionizing radiation, the agency shall comply with the requirements of  
10 chapter 34.05 RCW, the administrative procedure act.

11 (2) Notwithstanding any other provision of this chapter, whenever  
12 the agency finds that an emergency exists requiring immediate action to  
13 protect the public health, safety, or general welfare, the agency may,  
14 in accordance with RCW 34.05.350 without notice or hearing, adopt a  
15 rule reciting the existence of such emergency and require that such  
16 action be taken as is necessary to meet the emergency. As specified in  
17 RCW 34.05.350, such rules are effective immediately.

18 (3) In any case in which the department denies, modifies, suspends,  
19 or revokes a license or permit, RCW 43.70.115 governs notice of the  
20 action and provides the right to an adjudicative proceeding to the  
21 applicant or licensee or permittee. Such an adjudicative proceeding is  
22 governed by chapter 34.05 RCW.

23 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.98 RCW  
24 to read as follows:

25 The agency shall adopt rules for administering a site use permit  
26 program under RCW 70.98.085.

27 NEW SECTION. **Sec. 14.** A new section is added to chapter 43.200  
28 RCW to read as follows:

29 (1) The site use permit program is transferred from the department  
30 of ecology to the department of health.

31 (2)(a) All reports, documents, surveys, books, records, files,  
32 papers, or written material in the possession of the department of  
33 ecology site use permit program shall be delivered to the custody of  
34 the department of health. All funds, credits, or other assets held by

1 the department of ecology site use permit program shall be assigned to  
2 the department of health.

3 (b) Any appropriations made to the department of ecology for the  
4 site use permit program shall be transferred and credited to the  
5 department of health.

6 (3) All rules of the department of ecology site use permit program  
7 shall be continued and acted upon by the department of health until new  
8 rules are adopted under RCW 70.98.085. All permit applications and  
9 pending business before the department of ecology site use permit  
10 program shall be continued and acted upon by the department of health.  
11 All existing contracts and obligations shall remain in full force and  
12 shall be performed by the department of health.

13 (4) The transfer of the powers, duties, functions, and personnel of  
14 the department of ecology site use permit program to the department of  
15 health under this act shall not affect the validity of any activity  
16 performed before the effective date of this section.

17 NEW SECTION. **Sec. 15.** This act takes effect July 1, 2012.

18 NEW SECTION. **Sec. 16.** RCW 43.200.210 (Immunity of state--  
19 Demonstration of financial assurance--Suspension of permit) and 1992 c  
20 61 s 2, 1990 c 82 s 2, & 1986 c 191 s 2 are each repealed.

--- END ---