

Sec. 3. If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected. Severability.

Passed the Senate January 25, 1967.

Passed the House February 23, 1967.

Approved by the Governor March 3, 1967.

CHAPTER 13.

[Engrossed House Bill No. 179.]

WATER POLLUTION CONTROL.

AN ACT relating to water pollution control; amending section 2, chapter 216, Laws of 1945 and RCW 90.48.020; amending section 3, chapter 216, Laws of 1945 and RCW 90.48.021; amending section 6, chapter 216, Laws of 1945 and RCW 90.48.024; amending section 7, chapter 216, Laws of 1945 and RCW 90.48.025; amending section 8, chapter 216, Laws of 1945 and RCW 90.48.026; amending section 11, chapter 216, Laws of 1945 and RCW 90.48.035; amending section 14, chapter 216, Laws of 1945 and RCW 90.48.080; amending section 17, chapter 216, Laws of 1945 and RCW 90.48.110; amending section 18, chapter 216, Laws of 1945 and RCW 90.48.120; amending section 1, chapter 71, Laws of 1955 and RCW 90.48.160; amending section 2, chapter 71, Laws of 1955 and RCW 90.48.170; amending section 3, chapter 71, Laws of 1955 and RCW 90.48.180; amending section 4, chapter 71, Laws of 1955 and RCW 90.48.190; amending section 5, chapter 71, Laws of 1955 and RCW 90.48.200; amending section 6, chapter 71, Laws of 1955 and RCW 90.48.210; adding new sections to chapter 90.48 RCW and directing the codification of certain thereof; repealing section 12, chapter 216, Laws of 1945 and RCW 90.48.060; and repealing section 19, chapter 216, Laws of 1945 and RCW 90.48.130.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 2, chapter 216, Laws of 1945 and RCW 90.48.020 are each amended to read as follows: RCW 90.48.020 amended.

Water pollution control—
Definitions.

Whenever the word "person" is used in this chapter, it shall be construed to include any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual or any other entity whatsoever. Wherever the words "waters of the state" shall be used in this chapter, they shall be construed to include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington. Whenever the word "pollution" is used in this chapter, it shall be construed to mean such contamination, or other alteration of the physical, chemical or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life. Wherever the word "commission" is used in this chapter it shall mean the Water Pollution Control Commission as created in section 2 of this 1967 amendatory act. Whenever the word "director" is used in this chapter it shall mean the director as provided for in RCW 90.48.023.

RCW 90.48.021
amended.

Sec. 2. Section 3, chapter 216, Laws of 1945 and RCW 90.48.021 are each amended to read as follows:

Water pollution control
commission—
Creation.

There is hereby created a "Water Pollution Control Commission" of the state of Washington, composed of the director of the department of conservation; the director of the department of fisheries; the director of the department of game; the director of

the department of health; and the director of the department of agriculture.

Sec. 3. Section 6, chapter 216, Laws of 1945 and RCW 90.48.024 are each amended to read as follows: amended.

The commission shall meet at least bimonthly and shall keep a complete record of all its proceedings. Meetings—
Records.

Sec. 4. Section 7, chapter 216, Laws of 1945 and RCW 90.48.025 are each amended to read as follows: amended.

The director shall have charge of operating, staffing, directing, coordinating and supervising the commission's activities. He shall submit a written progress report of the work of the staff to the commission before each regular bimonthly meeting. The commission may delegate any of the powers and duties vested in it by this chapter to the director except the adoption and promulgation, amendment or rescinding, of standards, rules and regulations or the termination of a waste discharge permit issued pursuant to this chapter. Director—
Powers and
duties.

Sec. 5. Section 8, chapter 216, Laws of 1945 and RCW 90.48.026 are each amended to read as follows: amended.

The director may be assisted when necessary by technical advisors appointed by the respective members of the commission from their respective departments. Technical advisors when appointed shall receive no additional salary or wages for such services to the commission. Director—
Assistants,
technical
advisors.

Sec. 6. Section 11, chapter 216, Laws of 1945 and RCW 90.48.035 are each amended to read as follows: amended.

The commission shall have the authority to, and shall promulgate, amend, or rescind such rules and regulations as it shall deem necessary to carry out the provisions of this chapter, including but not limited to rules and regulations relating to standards of quality for waters of the state and for substances General
powers.

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discharged therein, as such substances relate to the characteristics of the receiving waters.

New section.

Sec. 7. There is added to chapter 90.48 RCW a new section to read as follows:

Assistance of attorney general—Injunctions—Enforcement.

The commission, with the assistance of the attorney general, is authorized to bring any appropriate action at law or in equity, including action for injunctive relief, in the name of the people of the state of Washington as may be necessary to carry out the provisions of this chapter.

RCW 90.48.080 amended.

Sec. 8. Section 14, chapter 216, Laws of 1945 and RCW 90.48.080 are each amended to read as follows:

Discharge of polluting matter in waters prohibited.

It shall be unlawful for any person to throw, drain, run, or otherwise discharge into any of the waters of this state, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise discharged into such waters any organic or inorganic matter that shall cause or tend to cause pollution of such waters according to the determination of the commission, as provided for in this chapter.

New section.

Sec. 9. There is added to chapter 90.48 RCW a new section to read as follows:

Water pollution control commission—Witnesses—Subpoenas, contempt.

In carrying out the purposes of this chapter the commission shall, in conjunction with either the promulgation of rules and regulations, consideration of an application for a waste discharge permit or the termination or modification of such permit, or proceedings in contested cases, have the authority to issue process and subpoena witnesses effective throughout the state on its own behalf or that of an interested party, compel their attendance, administer oaths, take the testimony of any person under oath and, in connection therewith require the production for examination of any books or papers relating to the matter under consideration by the commission. In case of disobedience on the part of any

person to comply with any subpoena issued by the commission, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the superior court of any county, or of the judge thereof, on application of the commission, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. In connection with the authority granted under this section no witness or other person shall be required to divulge trade secrets or secret processes. Persons responding to a subpoena as provided herein shall be entitled to fees as are witnesses in superior court.

Sec. 10. Section 17, chapter 216, Laws of 1945 and RCW 90.48.110 are each amended to read as follows:

RCW 90.48.110 amended.

All plans and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage systems or sewage treatment or disposal plants, and the proposed method of future operation and maintenance of said facility or facilities, shall be submitted to and be approved by the commission, before construction thereof may begin. No approval shall be given until the commission is satisfied that said plans and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the state's waters as provided for in this chapter.

Plans of sewerage or disposal systems to be submitted to commission.

Sec. 11. Section 18, chapter 216, Laws of 1945 and RCW 90.48.120 are each amended to read as follows:

RCW 90.48.120 amended.

Whenever, in the opinion of the commission, any person shall violate or is about to violate the provisions of this chapter, or fails to control the polluting content of waste discharged or to be discharged into any waters of the state, the commission shall notify

Notice of violation—Order.

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such person of its determination by registered mail. Such determination shall not constitute an order or directive under section 12 of this 1967 amendatory act. Within thirty days from the receipt of notice of such determination, such person shall file with the commission a full report stating what steps have been and are being taken to control such waste or pollution or to otherwise comply with the determination of the commission. Whereupon the commission shall issue such order or directive as it deems appropriate under the circumstances, and shall notify such person thereof by registered mail.

New section.

Sec. 12. There is added to chapter 90.48 RCW a new section to be codified as RCW 90.48.135 to read as follows:

Aggrieved
party—Request
for hearing,
procedure—
Judicial ap-
peal.

Any person having an interest of an economic or noneconomic nature who feels aggrieved by an order or directive of the commission shall be entitled to a hearing before the commission, or an examiner designated by the commission, upon request. No such request shall be entertained by the commission unless it contains a statement of the substance of the order or directive complained of and the manner in which the same affects the aggrieved and is delivered to the commission's office in Olympia, personally or by registered mail, within thirty days following the rendition of the order or directive. No order or directive of the commission shall be stayed pending completion of the hearing and issuance of a final order, unless the commission, acting on an application for a stay from a party to the hearing, determines in its discretion that issuance of a stay would not be detrimental to the public interest. Such final order shall be subject to review upon application by any party to the hearing in the superior court of the county in which the affected system or plant or other discharge facility, or some portion thereof, is situated. The denial by the commission of an appli-

cation for a stay shall constitute an order subject to court review as provided for in this section.

Sec. 13. Section 1, chapter 71, Laws of 1955 and RCW 90.48.160 are each amended to read as follows: amended.

Any person who conducts a commercial or industrial operation of any type which results in the disposal of solid or liquid waste material into the waters of the state, including commercial or industrial operators discharging solid or liquid waste material into sewerage systems operated by municipalities or public entities which discharge into public waters of the state, shall procure a permit from the pollution control commission before disposing of such waste material: *Provided*, That this section shall not apply to any person discharging domestic sewage only into a sewerage system.

Waste disposal permit—Required.

Sec. 14. There is added to chapter 90.48 RCW a new section. new section.

Any city, town or municipal corporation operating a sewerage system including treatment facilities may be granted authority by the commission to issue permits for the discharge of wastes to such system provided the commission ascertains to its satisfaction that the sewerage system and the inspection and control program operated and conducted by the city, town or municipal corporation will protect the public interest in the quality of the state's waters as provided for in this chapter. Such authority may be granted by the commission upon application by the city, town or municipal corporation and may be revoked by the commission if it determines that such city, town, or municipal corporation is not, thereafter, operated and conducted in a manner to protect the public interest. Persons holding municipal permits to discharge into sewerage systems operated by a municipal corporation authorized by this section to issue such permits shall

Waste disposal permits—Authority of cities, towns and municipal corporations to issue—Termination.

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not be required to secure a waste discharge permit provided for in RCW 90.48.160 as to the wastes discharged into such sewerage systems. Authority granted by the commission to cities, towns, or municipal corporations to issue permits under this section shall be in addition to any authority or power now or hereafter granted by law to cities, towns and municipal corporations for the regulation of discharges into sewerage systems operated by such cities, towns, or municipal corporations. Permits issued under this section shall automatically terminate if the authority to issue the same is revoked by the commission.

RCW 90.48.170
amended.

Sec. 15. Section 2, chapter 71, Laws of 1955 and RCW 90.48.170 are each amended to read as follows:

Waste disposal
permit—Appli-
cation—Notice.

Applications for permits shall be made on forms prescribed by the commission and shall contain the name and address of the applicant, a description of his operations, the quantity and type of waste material sought to be disposed of, the proposed method of disposal, and any other relevant information deemed necessary by the commission. Application for permits shall be made at least sixty days prior to commencement of any proposed discharge or permit expiration date, whichever is applicable. Upon receipt of a proper application relating to a new operation, or an operation previously under permit for which an increase in volume of wastes or change in character of effluent is requested over that previously authorized, the commission shall instruct the applicant to publish notices thereof by such means and within such time as the commission shall prescribe. The commission shall require that the notice so prescribed shall be published twice in a newspaper of general circulation within the county in which the disposal of waste material is proposed to be made and in such other appropriate information media as the commission may direct. Said notice shall include

a statement that any person desiring to present his views to the commission with regard to said application may do so in writing to the commission, or any person interested in the commission's action on an application for a permit, may submit his views or notify the commission of his interest within thirty days of the last date of publication of notice. Such notification or submission of views to the commission shall entitle said persons to a copy of the action taken on the application. Upon receipt by the commission of an application, it shall immediately send notice thereof containing pertinent information to the directors of fisheries, game, conservation and health. When an application complying with the provisions of this chapter and the rules and regulations of the commission has been filed with the commission, it shall be its duty to investigate the application, and determine whether the use of public waters for waste disposal as proposed will pollute the same in violation of the public policy of the state.

Sec. 16. Section 3, chapter 71, Laws of 1955 and RCW 90.48.180 are each amended to read as follows:

RCW 90.48.180 amended.

The commission shall issue a permit unless it finds that the disposal of waste material as proposed in the application will pollute the waters of the state in violation of the public policy declared in RCW 90.48.010. The commission shall have authority to specify conditions necessary to avoid such pollution in each permit under which waste material may be disposed of by the permittee. Permits may be temporary or permanent but shall not be valid for more than five years from date of issuance.

Waste disposal permits—Issuance—Conditions—Duration.

Sec. 17. Section 4, chapter 71, Laws of 1955 and RCW 90.48.190 are each amended to read as follows:

RCW 90.48.190 amended.

A permit shall be subject to termination upon thirty days' notice in writing if the commission finds:

Termination.

Water Pollution control. Waste disposal permit—Termination—Additional conditions.

(1) That it was procured by misrepresentation of any material fact or by lack of full disclosure in the application;

(2) That there has been a violation of the conditions thereof;

(3) That a material change in quantity or type of waste disposal exists.

New section.

Sec. 18. There is added to chapter 90.48 RCW a new section to read as follows:

Modification of permit conditions.

In the event that a material change in the condition of the state waters occurs the commission may, by appropriate order, modify permit conditions or specify additional conditions in permits previously issued.

RCW 90.48.200 amended.

Sec. 19. Section 5, chapter 71, Laws of 1955 and RCW 90.48.200 are each amended to read as follows:

Waste disposal permits—Non-action, deemed temporary permit.

In the event of failure of the commission to act upon an application within sixty days after it has been filed the applicant shall be deemed to have received a temporary permit. Said permit shall authorize the applicant to discharge wastes into waters of the state as requested in its application only until such time as the commission shall have taken action upon said application.

RCW 90.48.210 amended.

Sec. 20. Section 6, chapter 71, Laws of 1955 and RCW 90.48.210 are each amended to read as follows:

Order defined.

The issuance or termination of a permit, the denial of an application for a permit, or the modification of the conditions or the terms of a permit shall be deemed to be an order for purposes of RCW 90.48.130 [RCW 90.48.135].

New section.

Sec. 21. There is added to chapter 90.48 RCW a new section to read as follows:

Application of administrative procedure act.

The provisions of chapter 34.04 RCW, as it now exists or may be hereafter amended, shall apply to all rule making and contested cases authorized by or arising under the provisions of this chapter.

Sec. 22. There is added to chapter 90.48 RCW a New section. new section to read as follows:

Notwithstanding any other provisions of this chapter, whenever it appears to the director that water quality conditions exist which require immediate action to protect the public health or welfare, or that a person required by section 13 of this 1967 amendatory act to obtain a waste discharge permit prior to discharge is discharging without the same, or that a person conducting an operation which is subject to a permit issued pursuant to section 13 of this 1967 amendatory act conducts the same in violation of the terms of said permit, causing water quality conditions to exist which require immediate action to protect the public health or welfare, the commission or director may issue a written order to the person or persons responsible without prior notice or hearing, directing and affording the person or persons responsible the alternative of either (1) immediately discontinuing or modifying the discharge into the waters of the state, or (2) appearing before the commission at the time and place specified in said written order for the purpose of a hearing pertaining to the violations and conditions alleged in said written order. The responsible person or persons shall be afforded not less than twenty-four hours notice of such hearing. If following such hearing a majority of the commission find that water quality conditions exist which require immediate action as described herein, the commission may issue a written order requiring immediate discontinuance or modification of the discharge into the waters of the state. The order issued following such hearing is subject to judicial review as provided in section 12 of this 1967 amendatory act but shall not be stayed pending such judicial review unless the commission so directs, or unless the court finds the commission to have acted capri-

Waste discharge dangerous to public health or welfare—Emergency powers—Enforcement.

ciously or arbitrarily. In the event an order is not immediately complied with the attorney general, upon request of the commission or director, shall seek and obtain an order of the superior court of the county in which the violation took place directing compliance with the order of the commission.

New section.

Sec. 23. There is added to chapter 90.48 RCW a new section to read as follows:

Water pollution control commission—Contract for monitoring services.

The commission is authorized to make agreements and enter into such contracts as are appropriate to carry out a program of monitoring the condition of the waters of the state and the effluent discharged therein, including contracts to monitor effluent discharged into public waters when such monitoring is required by the terms of a waste discharge permit or as part of the approval of a sewerage system, if adequate compensation is provided to the commission as a term of the contract.

New section.

Sec. 24. There is added to chapter 90.48 RCW a new section to read as follows:

State agency for federal act.

The commission is hereby designated as the State Water Pollution Control Agency for all purposes of the Federal Water Pollution Control Act as it now exists or shall hereafter be amended and is hereby authorized to take all action necessary to secure to the state the benefits of that act.

Purpose—Cumulative nature of act—Savings.

Sec. 25. It is the purpose of this 1967 amendatory act to provide additional and cumulative remedies to prevent, abate and control the pollution of the waters of the state. Nothing in this 1967 amendatory act shall be construed to abridge or alter alternative rights of action or remedies in equity or under the common law or statutory law, criminal or civil, nor shall any provision hereof, or any act done by virtue hereof, be construed as estopping the state, or any municipality or person, as riparian owners or otherwise, in the exercise of their rights in equity or

under the common law or statutory law to suppress nuisances or to abate pollution.

Sec. 26. There is added to chapter 90.48 RCW a new section to read as follows:

The commission shall have authority to delineate and establish sewage drainage basins in the state for the purpose of developing and/or adopting comprehensive plans for the control and abatement of water pollution within such basins. Basins may include, but are not limited to, rivers and their tributaries, streams, coastal waters, sounds, bays, lakes, and portions or combinations thereof, as well as the lands drained thereby.

Water pollution commission—Sewage drainage basins, establishment.

Sec. 27. There is added to chapter 90.48 RCW a new section to read as follows:

The commission is authorized to prepare and/or adopt a comprehensive water pollution control and abatement plan and to make subsequent amendments thereto, for each basin established pursuant to section 26 of this 1967 amendatory act. Comprehensive plans for sewage drainage basins may be prepared by any municipality and submitted to the commission for adoption.

Water pollution control commission—Adoption of comprehensive plan.

Prior to adopting a comprehensive plan for any basin or any subsequent amendment thereof the commission shall hold a public hearing thereon. Notice of such hearing shall be given by registered mail, together with copies of the proposed plan, to each municipality, or other political subdivision, within the basin exercising a sewage disposal function, at least twenty days prior to the hearing date. Such hearing may be continued from time to time and, at the termination thereof, the commission may reject the plan proposed or adopt it with such modifications as it shall deem proper.

Following adoption of a comprehensive plan for any basin, the commission shall require compliance

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with such plan by any municipality or person operating or constructing a sewage collection, treatment or disposal system or plant, or any improvement to or extension of an existing sewage collection, treatment or disposal system or plant, within the basin.

New section.

Sec. 28. There is added to chapter 90.48 RCW a new section to read as follows:

Grants of state aid for water pollution control projects.

The commission is authorized to make and administer grants within appropriations authorized by the legislature to any municipality or political subdivision within the state for the purpose of aiding in the construction of water pollution control projects necessary to prevent the discharge of untreated or inadequately treated sewage or other waste into the waters of the state.

Grants so made by the commission shall be subject to the following limitations:

(1) No grant shall be made in an amount which exceeds the recipient's contribution to the estimated cost of the project: *Provided*, That any grant received by the recipient from the federal government pursuant to section 8 (f) of the Federal Water Pollution Control Act (33U.S.C. 466) for the project shall be considered as part of the recipient's contribution.

(2) No grant shall be made for any project which does not qualify for and receive a grant of federal funds under the provisions of the Federal Water Pollution Control Act as now or hereafter amended.

(3) No grant shall be made to any municipality or political subdivision for any project located within a drainage basin for which the commission shall have previously adopted a comprehensive water pollution control and abatement plan unless the project is found by the commission to conform with such basin comprehensive plan.

(4) Recipients of grants shall meet such qualifications and follow such procedures in applying for grants as shall be established by the commission.

Sec. 29. Section 12, chapter 216, Laws of 1945 and RCW 90.48.060 and section 19, chapter 216, Laws of 1945 and RCW 90.48.130 are each repealed.

Repeal.

Sec. 30. If any provision of this 1967 amendatory act or its application to any person or circumstance is held invalid the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Severability.

Passed the House February 13, 1967.

Passed the Senate February 23, 1967.

Approved by the Governor March 3, 1967.

CHAPTER 14.

[Senate Bill No. 167.]

WSU COLUMBIA RIVER ELECTRICAL RESEARCH STATION.

AN ACT providing for the establishment of an electrical research experiment station; and amending section 1, chapter 139, Laws of 1965 extraordinary session and RCW 28.80.300.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 139, Laws of 1965 extraordinary session and RCW 28.80.300 are each amended to read as follows:

RCW 28.80.300 amended.

The board of regents of Washington State University is authorized to establish and maintain an electrical research experiment station at a suitable place at or near an existing hydroelectric facility along the Columbia river for the purpose of conducting research and investigational work into all

Washington State University—Electrical research experiment station.