
SUBSTITUTE HOUSE BILL 1819

State of Washington

61st Legislature

2009 Regular Session

By House Ecology & Parks (originally sponsored by Representatives Upthegrove, Dunshee, Dickerson, McCoy, Rolfes, Eddy, Hunt, White, Appleton, Carlyle, Darneille, Kagi, Pedersen, Conway, Sells, Nelson, Chase, Ormsby, Kenney, and Williams; by request of Governor Gregoire)

READ FIRST TIME 02/19/09.

1 AN ACT Relating to reducing greenhouse gas emissions; amending RCW
2 70.235.010, 70.94.151, and 43.21B.110; adding new sections to chapter
3 70.235 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that Washington should
6 maintain its leadership on climate change policy by implementing a cap
7 on carbon emissions and developing strategies to achieve those
8 reductions, including continuing Washington's participation in the
9 design of a regional cap-and-trade program with the western climate
10 initiative.

11 The legislature finds that by continuing Washington's participation
12 in the design of a regional cap-and-trade program, Washington is in a
13 unique position to help influence and guide the creation of a potential
14 federal cap-and-trade program that would reflect Washington's emissions
15 portfolio and aid Washington's forest resources and agricultural land.

16 The legislature finds that acting now provides predictability for
17 business, drives investment in the new clean energy economy, creates
18 jobs, positions Washington business to receive credit for early

1 reductions of greenhouse gases, and maximizes Washington's ability to
2 shape the development of any potential federal cap-and-trade program.

3 **Sec. 2.** RCW 70.235.010 and 2008 c 14 s 2 are each amended to read
4 as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Agriculture carbon working group" means the stakeholder group
8 formed by the department and the department of community, trade, and
9 economic development to develop the recommendations required under RCW
10 70.235.030(3)(g).

11 (2) "Carbon dioxide equivalents" means a (~~metric~~) measure used to
12 compare the emissions from various greenhouse gases based upon their
13 global warming potential.

14 ((+2)) (3) "Climate advisory team" means the stakeholder group
15 formed in response to executive order 07-02.

16 ((+3)) (4) "Climate impacts group" means the University of
17 Washington's climate impacts group.

18 ((+4)) (5) "Department" means the department of ecology.

19 ((+5)) (6) "Direct emissions" means emissions of greenhouse gases
20 from sources of emissions, including stationary combustion sources,
21 mobile combustion emissions, process emissions, and fugitive emissions.

22 ((+6)) (7) "Director" means the director of the department.

23 ((+7)) (8) "Early reduction allowance" means an allowance for
24 reductions in greenhouse gas emissions that occur after January 1,
25 2008, and before January 1, 2012, and that are approved by the
26 department.

27 (9) "Forest carbon working group" means the stakeholder group
28 formed by the departments of ecology and community, trade, and economic
29 development to develop the recommendations required under RCW
30 70.235.030(3)(g).

31 (10) "Greenhouse gas" and "greenhouse gases" includes carbon
32 dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,
33 and sulfur hexafluoride.

34 ((+8)) (11) "Indirect emissions" means emissions of greenhouse
35 gases associated with the purchase of electricity, heating, cooling, or
36 steam.

1 (~~(9)~~) (12) "Person" means an individual, partnership, franchise
2 holder, association, corporation, a state, a city, a county, or any
3 subdivision or instrumentality of the state.

4 (~~(10)~~) (13) "Program" means the department's climate change
5 program.

6 (~~(11)~~) (14) "Total emissions of greenhouse gases" means all
7 direct emissions and all indirect emissions.

8 (~~(12)~~) (15) "Transportation fuel" means any carbon based fossil
9 fuel including combustible gas or liquid used for the propulsion of
10 equipment and vehicles.

11 (16) "Western climate initiative" means the collaboration of
12 states, Canadian provinces, Mexican states, and tribes to design a
13 multisector market-based mechanism as directed under the western
14 regional climate action initiative signed by the governor on February
15 22, 2007.

16 NEW SECTION. Sec. 3. (1) The forecasting office of the office of
17 financial management, in consultation with members of the governor's
18 council of economic advisors, shall initiate an independent economic
19 analysis of the impact to Washington consumers, businesses, and
20 citizens if Washington entered into a regional or federal cap-and-trade
21 program. The economic analysis must include:

22 (a) Various economic scenarios, such as when Washington has a
23 robust economy and when Washington is in an economic downturn;

24 (b) The economic impact sector by sector, including the impact to
25 the forest products manufacturing sector and Washington's port
26 districts;

27 (c) How to address trade competition from countries and states that
28 are not participating in a cap-and-trade program;

29 (d) How to ensure that economic benefits are available to both
30 urban and rural communities; and

31 (e) The impact on the cost and affordability of food, housing,
32 energy, transportation, and other routine expenses on low and moderate-
33 income people.

34 (2) The forecasting office of the office of financial management
35 shall submit the report to the legislature by December 1, 2010.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.235 RCW
2 to read as follows:

3 (1) In 2012, the cap must cover emissions that meet or exceed
4 twenty-five thousand metric tons of carbon dioxide equivalents annually
5 from:

- 6 (a) Electricity that is generated or consumed within the state;
- 7 (b) Combustion at industrial and commercial facilities; and
- 8 (c) Industrial processes.

9 (2) In addition to the emissions covered in subsection (1) of this
10 section, in 2015 the cap must cover emissions that meet or exceed
11 twenty-five thousand metric tons of carbon dioxide equivalents annually
12 from:

- 13 (a) Transportation fuel combustion within the state;
- 14 (b) Residential fuel combustion within the state; and
- 15 (c) Fuel delivered or sold for industrial and commercial combustion
16 within the state where the fuel is used by persons not otherwise
17 covered by the cap in 2012.

18 (3) Except for purposes of reporting, the following carbon dioxide
19 emissions are not covered by the cap:

20 (a) Emissions from industrial combustion of biomass in the form of
21 fuel wood, wood waste, wood by-products, and wood residuals as long as
22 the region's silvicultural sequestration capacity is maintained or
23 increased; and

24 (b) Emissions from the combustion of biofuels or the biofuel
25 component of blended fuels as the term "biofuel" is defined in RCW
26 43.325.010.

27 (4) With respect to energy facilities covered under chapter 80.50
28 RCW and notwithstanding RCW 80.50.120, this chapter applies to all
29 energy facilities, as that term is defined in RCW 80.50.020. Nothing
30 in this chapter may be construed as conflicting with chapter 80.50 RCW.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.235 RCW
32 to read as follows:

33 (1) The annual allowance caps and other complementary policies must
34 ensure that Washington will meet the emission reduction requirements in
35 RCW 70.235.020.

36 (2) The allowance caps for each year from 2012 to 2014 must be set

1 in advance of 2012. Allowance caps for each year after 2014 must be
2 set at least three years in advance of the start of the next compliance
3 period.

4 (3) The allowance caps must decline each year until Washington's
5 greenhouse gas emissions are reduced as required by RCW 70.235.020.

6 (4)(a) The allowance cap for 2012 must be set based on the
7 department's best estimate of the expected actual emissions covered by
8 the cap in that year as adjusted by the reallocation provided for in
9 subsection (7) of this section, if any.

10 (b) The price of an allowance may not exceed twelve dollars for the
11 years 2012 and 2013.

12 (5) The allowance cap for 2015 will be increased by the
13 department's best estimate of expected new emissions to be included in
14 the cap in that year, after the annual reduction is made to the cap.

15 (6) The allowance caps may not take into account early reduction
16 allowances.

17 (7) If Washington's participation in a regional cap-and-trade
18 program is authorized by the legislature, Washington must set aside one
19 percent of its 2012 allowance cap in order to participate in a regional
20 redistribution allocation.

21 (8) The allowance cap may also be adjusted as necessary to account
22 for expansion of the capped region or discovery of incorrect or
23 inaccurate data used to determine the allowance cap.

24 NEW SECTION. **Sec. 6.** (1) The director of the department of
25 ecology shall convene a market design work group. The market design
26 work group consists of seven members as follows:

27 (a) The director of the department of ecology and the director of
28 the department of community, trade, and economic development, who act
29 as cochairs;

30 (b) The chair of the utilities and transportation commission;

31 (c) The state auditor;

32 (d) The attorney general;

33 (e) The director of the department of financial institutions; and

34 (f) A citizen knowledgeable about and skilled in market trading
35 mechanisms, appointed by the members in (a) through (e) of this
36 subsection.

1 (2) The market design work group established in subsection (1) of
2 this section shall submit its preliminary recommendations to the
3 legislature by December 1, 2009, and its final recommendations to the
4 legislature by December 1, 2010, on the following:

5 (a) Auction design;

6 (b) Methods to ensure a functional and efficient market free from
7 manipulation and speculation;

8 (c) Issuing and retiring allowances;

9 (d) The inclusion of offsets projects;

10 (e) Compliance and enforcement;

11 (f) Providing consumer protection;

12 (g) Strategies to coordinate with a regional or federal cap-and-
13 trade program;

14 (h) The circumstances under which the governor may authorize an
15 order to delay aspects of a cap-and-trade program;

16 (i) A dedicated account for possible revenues that would provide
17 for:

18 (i) Assisting low and moderate-income homes with energy efficiency
19 investment;

20 (ii) Reducing price impacts for consumers with incomes within two
21 hundred fifty percent of the federal poverty level;

22 (iii) Strategies to create jobs and provide for worker transition,
23 especially in and for those communities and workers that have been
24 disproportionately affected by economic downturns, through efforts to
25 reduce emissions, reduce energy use, and develop clean energy supplies;
26 and

27 (iv) Recognizing early actions to reduce greenhouse gas emissions
28 where those actions do not qualify for early reduction allowances;

29 (j) Whether a cap-and-trade program should include emissions below
30 the twenty-five thousand metric ton threshold; and

31 (k) How to ensure any secondary market is stable and serves the
32 purpose of fairly and economically reducing emissions including:

33 (i) Maintaining transparency; and

34 (ii) Equitable market access.

35 NEW SECTION. **Sec. 7.** The department of ecology, in consultation
36 with the forest practices board, the department of natural resources,
37 and the forest carbon working group, shall develop and deliver to the

1 legislature by December 31, 2010, legislation to implement a financial
2 incentives program for forestry and forest products that will recognize
3 activities such as:

4 (1) Forest landowners maintaining and actively managing their
5 forestland using management activities such as thinning, lengthening of
6 rotations, increased retention of trees at harvest, fertilization,
7 genetics, timber stand improvement, and fire management;

8 (2) Forest landowners utilizing transfer development right
9 programs;

10 (3) Forest landowners continuing the production of wood products
11 while maintaining or increasing their carbon stocks on the ground;

12 (4) Retention by forest landowners of high carbon stocks where
13 there is no obligation to retain such stocks; and

14 (5) The use by developers and builders of wood building materials
15 instead of more intensive fossil fuel products such as concrete and
16 steel.

17 NEW SECTION. **Sec. 8.** The department of ecology, in consultation
18 with the forest practices board, the department of natural resources,
19 and the forest carbon working group, shall develop recommendations for
20 the state's policy for forestry offset projects within Washington. The
21 agencies and the forest carbon working group shall use the 2008 report
22 of the forest carbon working group as the starting point in developing
23 the policy. A report on the progress of the development of this
24 policy, including any preliminary drafts of the policy, must be
25 submitted to the legislature for review by December 31, 2010. The
26 final policy must be submitted to the legislature by July 1, 2011. The
27 policy recommendations must include:

28 (1) Specific standards and guidelines that will support carbon
29 accounting in managed forests participating in an offset program;

30 (2) How to ensure that any carbon that is reduced or sequestered by
31 a forestry offset project will be eligible for an offset credit within
32 a regional cap-and-trade program;

33 (3) Recognition of management activities that increase carbon
34 stocks including, but not limited to, thinning, lengthening rotations,
35 increased retention of trees after harvest, fertilization, genetics,
36 timber stand improvement, fire management, and specific site class and
37 productivity of a managed forest;

1 (4) Specific standards and guidelines to support wood products
2 accounting, recognizing that carbon is stored in products after trees
3 are harvested including the use of the one hundred year method which
4 estimates the amount of carbon stored in the wood products that are
5 projected to remain in use after one hundred years;

6 (5) Guidelines on how forestry offset projects and forestry
7 financial incentive programs can work together so that Washington's
8 forest landowners will not be disadvantaged in comparison to other
9 jurisdictions participating in a regional cap-and-trade program; and

10 (6) How to verify or certify carbon stocks that will not be
11 administratively burdensome.

12 NEW SECTION. **Sec. 9.** The department of ecology, in consultation
13 with Washington State University and the Washington state department of
14 agriculture shall reestablish the agriculture carbon working group to
15 develop recommendations for agricultural offset projects within
16 Washington. A report on the progress of the agriculture carbon working
17 group must be submitted to the legislature for review by December 31,
18 2010. The final recommendations of the agriculture carbon working
19 group must be submitted to the legislature by July 1, 2011. The policy
20 recommendations must include:

21 (1) A process and timeline to survey and catalog Washington soils
22 in order to establish the carbon emission soil sequestration level of
23 the soils;

24 (2) Activities that would qualify for carbon emission soil
25 sequestration offset projects;

26 (3) Guidelines and standards for carbon emission soil sequestration
27 offset projects; and

28 (4) How Washington agricultural lands can participate in a
29 regional, national, and international offset market.

30 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.235
31 RCW to read as follows:

32 (1) The department must consult with tribal governments upon
33 request on any elements of a cap-and-trade program that may impact
34 tribal governments, such as their voluntary development of offset
35 projects.

1 (2) Nothing in this chapter is intended to expand state authority
2 over Indian country as that term is defined in 18 U.S.C. Sec. 1151.

3 **Sec. 11.** RCW 70.94.151 and 2008 c 14 s 5 are each amended to read
4 as follows:

5 (1) The board of any activated authority or the department, may
6 classify air contaminant sources, by ordinance, resolution, rule or
7 regulation, which in its judgment may cause or contribute to air
8 pollution, according to levels and types of emissions and other
9 characteristics which cause or contribute to air pollution, and may
10 require registration or reporting or both for any such class or
11 classes. Classifications made pursuant to this section may be for
12 application to the area of jurisdiction of such authority, or the state
13 as a whole or to any designated area within the jurisdiction, and shall
14 be made with special reference to effects on health, economic and
15 social factors, and physical effects on property.

16 (2) Except as provided in subsection (3) of this section, any
17 person operating or responsible for the operation of air contaminant
18 sources of any class for which the ordinances, resolutions, rules or
19 regulations of the department or board of the authority, require
20 registration or reporting shall register therewith and make reports
21 containing information as may be required by such department or board
22 concerning location, size and height of contaminant outlets, processes
23 employed, nature of the contaminant emission and such other information
24 as is relevant to air pollution and available or reasonably capable of
25 being assembled. In the case of emissions of greenhouse gases as
26 defined in RCW 70.235.010 the department shall adopt rules requiring
27 reporting of those emissions. The department or board may require that
28 such registration or reporting be accompanied by a fee, and may
29 determine the amount of such fee for such class or classes: PROVIDED,
30 That the amount of the fee shall only be to compensate for the costs of
31 administering such registration or reporting program which shall be
32 defined as initial registration and annual or other periodic reports
33 from the source owner providing information directly related to air
34 pollution registration, on-site inspections necessary to verify
35 compliance with registration requirements, data storage and retrieval
36 systems necessary for support of the registration program, emission
37 inventory reports and emission reduction credits computed from

1 information provided by sources pursuant to registration program
2 requirements, staff review, including engineering or other reliable
3 analysis for accuracy and currentness, of information provided by
4 sources pursuant to registration program requirements, clerical and
5 other office support provided in direct furtherance of the registration
6 program, and administrative support provided in directly carrying out
7 the registration program: PROVIDED FURTHER, That any such registration
8 made with either the board or the department shall preclude a further
9 registration and reporting with any other board or the department,
10 except that emissions of greenhouse gases as defined in RCW 70.235.010
11 must be reported as required under subsection (5) of this section.

12 All registration program and reporting fees collected by the
13 department shall be deposited in the air pollution control account.
14 All registration program fees collected by the local air authorities
15 shall be deposited in their respective treasuries.

16 (3) If a registration or report has been filed for a grain
17 warehouse or grain elevator as required under this section,
18 registration, reporting, or a registration program fee shall not, after
19 January 1, 1997, again be required under this section for the warehouse
20 or elevator unless the capacity of the warehouse or elevator as listed
21 as part of the license issued for the facility has been increased since
22 the date the registration or reporting was last made. If the capacity
23 of the warehouse or elevator listed as part of the license is
24 increased, any registration or reporting required for the warehouse or
25 elevator under this section must be made by the date the warehouse or
26 elevator receives grain from the first harvest season that occurs after
27 the increase in its capacity is listed in the license.

28 This subsection does not apply to a grain warehouse or grain
29 elevator if the warehouse or elevator handles more than ten million
30 bushels of grain annually.

31 (4) For the purposes of subsection (3) of this section:

32 (a) A "grain warehouse" or "grain elevator" is an establishment
33 classified in standard industrial classification (SIC) code 5153 for
34 wholesale trade for which a license is required and includes, but is
35 not limited to, such a licensed facility that also conducts cleaning
36 operations for grain;

37 (b) A "license" is a license issued by the department of
38 agriculture licensing a facility as a grain warehouse or grain elevator

1 under chapter 22.09 RCW or a license issued by the federal government
2 licensing a facility as a grain warehouse or grain elevator for
3 purposes similar to those of licensure for the facility under chapter
4 22.09 RCW; and

5 (c) "Grain" means a grain or a pulse.

6 (5)(a) The department shall adopt rules requiring the reporting of
7 emissions of greenhouse gases as defined in RCW 70.235.010. The rules
8 must include a de minimis amount of emissions below which reporting
9 will not be required for both indirect and direct emissions. The rules
10 must require that emissions of greenhouse gases resulting from the
11 burning of fossil fuels be reported separately from emissions of
12 greenhouse gases resulting from the burning of biomass.

13 (b) Except as provided in ~~((b))~~ (f) of this subsection, the
14 department shall, under the authority granted in subsection (1) of this
15 section, adopt rules requiring: (i) Any owner or operator~~((i))~~ of
16 a fleet of on-road motor vehicles that as a fleet emit at least twenty-
17 five hundred metric tons of greenhouse gas annually in the state to
18 report the emissions of greenhouse gases generated from or emitted by
19 that fleet; ~~((e))~~ and (ii) any owner or operator of a source or
20 combination of sources that emit at least ten thousand metric tons of
21 greenhouse gas annually in the state to report their total annual
22 emissions of greenhouse gases; (iii) the importer, seller, deliverer,
23 or distributor of fuels for use in Washington where the annual
24 emissions in the state associated with the combustion of the fuel
25 delivered equal or exceed ten thousand metric tons of greenhouse gas to
26 report the emissions of greenhouse gases associated with the combustion
27 of those fuels; and (iv) the importer, seller, deliverer, or
28 distributor of electricity from outside Washington for consumption in
29 Washington to report the emissions of greenhouse gases associated with
30 the generation of the electricity delivered into the state where the
31 annual emissions associated with electricity equal or exceed ten
32 thousand metric tons of greenhouse gas. Reporting required in (b)(i)
33 and (ii) of this subsection must begin in 2010 for emissions in 2009.
34 Reporting required in (b)(iii) and (iv) of this subsection must begin
35 in 2011 for emissions in 2010. The department must adopt rules that
36 require that emissions from electricity generation within the state be
37 reported separately from emissions from electricity generation located
38 outside the state.

1 (c) In calculating emissions of greenhouse gases for purposes of
2 determining whether or not reporting is required, only direct emissions
3 shall be included. For purposes of reporting emissions of greenhouse
4 gases in chapter 14, Laws of 2008, "source" means any stationary source
5 as defined in RCW 70.94.030, or mobile source used for transportation
6 of people or cargo. The emissions of greenhouse gases must be reported
7 as carbon dioxide equivalents.

8 (d) The rules must require that persons report 2009 emissions
9 starting in 2010. The rules must establish an annual reporting
10 schedule that takes into account the time needed to allow the owner or
11 operator reporting emissions of greenhouse gases to gather the
12 information needed and to verify the emissions being reported.
13 However, in no event may reports be submitted later than October 31st
14 of the year in which the report is due.

15 (e) The department may phase in the reporting requirements for
16 sources or combinations of sources under ~~((a))~~ (b)(ii) of this
17 subsection until the reporting threshold is met, which must be met by
18 January 1, 2012. The department may from time to time amend the rules
19 to include other persons that emit less than the annual greenhouse gas
20 emissions levels set out in this subsection if necessary to comply with
21 any federal reporting requirements for emissions of greenhouse gases.

22 ~~((b))~~ (f) In its rules, the department may defer the reporting
23 requirement under (a) of this subsection for emissions associated with
24 interstate and international commercial aircraft, rail, truck, or
25 marine vessels until (i) there is a federal requirement to report these
26 emissions; or (ii) the department finds that there is a generally
27 accepted reporting protocol for determining interstate emissions from
28 these sources.

29 ~~((c))~~ (g) The department shall share any reporting information
30 reported to it with the local air authority in which the owner or
31 operator reporting under the rules adopted by the department operates.

32 ~~((d))~~ (h) The fee provisions in subsection (2) of this section
33 apply to reporting of emissions of greenhouse gases. Owners and
34 operators required to report under (a) of this subsection who fail to
35 report or pay the fee required in subsection (2) of this section are
36 subject to enforcement penalties under this chapter. The department
37 shall enforce the reporting rule requirements unless it approves a

1 local air authority's request to enforce the requirements for sources
2 operating within the authority's jurisdiction.

3 ~~((e))~~ (i) The energy facility site evaluation council shall,
4 simultaneously with the department, adopt rules that impose greenhouse
5 gas reporting requirements in site certifications on owners or
6 operators of a facility permitted by the energy facility site
7 evaluation council. The greenhouse gas reporting requirements imposed
8 by the energy facility site evaluation council must be the same as the
9 greenhouse gas reporting requirements imposed by the department. The
10 department shall share any information reported to it from facilities
11 permitted by the energy facility site evaluation council with the
12 council, including notice of a facility that has failed to report as
13 required. The energy facility site evaluation council shall contract
14 with the department to monitor the reporting requirements adopted under
15 this section.

16 ~~((f))~~ (j) In developing its rules, the department shall, with the
17 assistance of the department of transportation, identify a mechanism to
18 report an aggregate estimate of the annual emissions of greenhouse
19 gases generated from or emitted by otherwise unreported on-road motor
20 vehicles.

21 ~~((g))~~ (k) The inclusion or failure to include any person, source,
22 classes of persons or sources, or types of emissions of greenhouse
23 gases into the department's rules for reporting under this section does
24 not indicate whether such a person, source, or category is appropriate
25 for inclusion in the multisector market-based system designed under RCW
26 70.235.020.

27 ~~((h))~~ (l) Should the federal government adopt rules sufficient to
28 track progress toward the emissions reductions required by chapter 14,
29 Laws of 2008 governing the reporting of greenhouse gases, the
30 department shall amend its rules, as necessary, to seek consistency
31 with the federal rules to ensure duplicate reporting is not required.
32 Nothing in this section requires the department to increase the
33 reporting threshold established in (a) of this subsection or otherwise
34 require the department's rules be identical to the federal rules in
35 scope.

36 ~~((i))~~ (m) The definitions in RCW 70.235.010 apply throughout this
37 subsection (5) unless the context clearly requires otherwise. However,

1 for the purposes of this subsection (5), the term "person" has the same
2 meaning as defined in RCW 70.94.030.

3 (n) For violations of this subsection (5), in addition to other
4 enforcement authority under this chapter, the department may issue
5 penalties of up to ten thousand dollars per day per violation for each
6 day that emissions are not reported beyond the deadline to report
7 established by rule.

8 **Sec. 12.** RCW 43.21B.110 and 2003 c 393 s 19 are each amended to
9 read as follows:

10 (1) The hearings board shall only have jurisdiction to hear and
11 decide appeals from the following decisions of the department, the
12 director, local conservation districts, and the air pollution control
13 boards or authorities as established pursuant to chapter 70.94 RCW, or
14 local health departments:

15 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
16 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310,
17 ~~((and))~~ 90.56.330, and chapter 70.235 RCW.

18 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
19 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
20 90.14.130, 90.48.120, ~~((and))~~ 90.56.330, and chapter 70.235 RCW.

21 (c) Except as provided in RCW 90.03.210(2), the issuance,
22 modification, or termination of any permit, certificate, or license by
23 the department or any air authority in the exercise of its
24 jurisdiction, including the issuance or termination of a waste disposal
25 permit, the denial of an application for a waste disposal permit, the
26 modification of the conditions or the terms of a waste disposal permit,
27 or a decision to approve or deny an application for a solid waste
28 permit exemption under RCW 70.95.300.

29 (d) Decisions of local health departments regarding the grant or
30 denial of solid waste permits pursuant to chapter 70.95 RCW.

31 (e) Decisions of local health departments regarding the issuance
32 and enforcement of permits to use or dispose of biosolids under RCW
33 70.95J.080.

34 (f) Decisions of the department regarding waste-derived fertilizer
35 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
36 department regarding waste-derived soil amendments under RCW 70.95.205.

1 (g) Decisions of local conservation districts related to the denial
2 of approval or denial of certification of a dairy nutrient management
3 plan; conditions contained in a plan; application of any dairy nutrient
4 management practices, standards, methods, and technologies to a
5 particular dairy farm; and failure to adhere to the plan review and
6 approval timelines in RCW 90.64.026.

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

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

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

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

16 (c) Proceedings conducted by the department, or the department's
17 designee, under RCW 90.03.160 through 90.03.210 or 90.44.220.

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

20 (e) Appeals of decisions by the department as provided in chapter
21 43.21L RCW.

22 (3) Review of rules and regulations adopted by the hearings board
23 shall be subject to review in accordance with the provisions of the
24 Administrative Procedure Act, chapter 34.05 RCW.

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