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**SENATE BILL 5197**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senator Benton

AN ACT Relating to establishing consistent standards for agency decision making; amending RCW 70.94.181, 76.09.060, 77.55.021, 78.44.081, 86.16.025, 70.95.205, 15.54.820, 43.21C.033, 77.115.040, 16.65.030, 70.119A.110, 90.03.350, 90.03.370, 90.58.140, and 70.118B.030; adding a new section to chapter 70.94 RCW; adding a new section to chapter 90.48 RCW; adding a new section to chapter 90.76 RCW; adding a new section to chapter 18.104 RCW; adding a new section to chapter 69.30 RCW; adding a new section to chapter 90.64 RCW; adding a new section to chapter 15.58 RCW; adding a new section to chapter 17.21 RCW; adding a new section to chapter 70.95J RCW; and adding a new section to chapter 90.66 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 70.94 RCW to read as follows:

(1) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(2) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 70.94.181 and 1991 c 199 s 306 are each amended to read as follows:

(1) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment may apply to the department ((~~of ecology~~)) or appropriate local authority board for a variance from rules or regulations governing the quality, nature, duration or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the department ((~~of ecology~~)) or board may require. The department ((~~of ecology~~)) or board may grant such variance, provided that variances to state rules shall require the department's approval prior to being issued by a local authority board. The total time period for a variance and renewal of such variance shall not exceed one year. Variances may be issued by either the department or a local board but only after public hearing or due notice, if the department or board finds that:

(a) The emissions occurring or proposed to occur do not endanger public health or safety or the environment; and

(b) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(2) No variance shall be granted pursuant to this section until the department ((~~of ecology~~)) or board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(3) Any variance or renewal thereof shall be granted within the requirements of subsection (1) of this section and under conditions consistent with the reasons therefor, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the pollution involved, it shall be only until the necessary means for prevention, abatement, or control become known and available, and subject to the taking of any substitute or alternate measures that the department ((~~of ecology~~)) or board may prescribe.

(b) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the department ((~~of ecology~~)) or board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(c) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in (a) and (b) of this subsection, it shall be for not more than one year.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the department ((~~of ecology~~)) or board on account of the variance, no renewal thereof shall be granted unless following a public hearing on the complaint on due notice the department or board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the department ((~~of ecology~~)) or board shall give public notice of such application in accordance with rules of the department ((~~of ecology~~)) or board.

(5) A variance or renewal shall not be a right of the applicant or holder thereof but shall be granted at the discretion of the department ((~~of ecology~~)) or board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the department ((~~of ecology~~)) or board may obtain judicial review thereof under the provisions of chapter 34.05 RCW as now or hereafter amended.

(6) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.710 through 70.94.730 to any person or his or her property.

(7) An application for a variance, or for the renewal thereof, submitted to the department ((~~of ecology~~)) or board pursuant to this section shall be approved or disapproved by the department or board within sixty-five days of receipt unless the applicant and the department ((~~of ecology~~)) or board agree to a continuance.

(8) Variances approved under this section shall not be included in orders or permits provided for in RCW 70.94.161 or 70.94.152 until such time as the variance has been accepted by the United States environmental protection agency as part of an approved state implementation plan.

(9)(a) All decisions on variances under this section must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(b) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 76.09.060 and 2012 1st sp.s. c 1 s 206 are each amended to read as follows:

(1) The department shall prescribe the form and contents of the notification and application. The forest practices rules shall specify by whom and under what conditions the notification and application shall be signed or otherwise certified as acceptable. Activities conducted by the department or a contractor under the direction of the department under the provisions of RCW 76.04.660, shall be exempt from the landowner signature requirement on any forest practices application required to be filed. The application or notification shall be delivered in person to the department, sent by first-class mail to the department or electronically filed in a form defined by the department. The form for electronic filing shall be readily convertible to a paper copy, which shall be available to the public pursuant to chapter 42.56 RCW. The information required may include, but is not limited to:

(a) Name and address of the forest landowner, timber owner, and operator;

(b) Description of the proposed forest practice or practices to be conducted;

(c) Legal description and tax parcel identification numbers of the land on which the forest practices are to be conducted;

(d) Planimetric and topographic maps showing location and size of all lakes and streams and other public waters in and immediately adjacent to the operating area and showing all existing and proposed roads and major tractor roads;

(e) Description of the silvicultural, harvesting, or other forest practice methods to be used, including the type of equipment to be used and materials to be applied;

(f) For an application or notification submitted on or after July 10, 2012, that includes a forest practices hydraulic project, plans and specifications for the forest practices hydraulic project to ensure the proper protection of fish life;

(g) Proposed plan for reforestation and for any revegetation necessary to reduce erosion potential from roadsides and yarding roads, as required by the forest practices rules;

(h) Soil, geological, and hydrological data with respect to forest practices;

(i) The expected dates of commencement and completion of all forest practices specified in the application;

(j) Provisions for continuing maintenance of roads and other construction or other measures necessary to afford protection to public resources;

(k) An affirmation that the statements contained in the notification or application are true; and

(l) All necessary application or notification fees.

(2) Long range plans may be submitted to the department for review and consultation.

(3) The application for a forest practice or the notification of a forest practice is subject to the reforestation requirement of RCW 76.09.070.

(a) If the application states that any land will be or is intended to be converted:

(i) The reforestation requirements of this chapter and of the forest practices rules shall not apply if the land is in fact converted unless applicable alternatives or limitations are provided in forest practices rules issued under RCW 76.09.070;

(ii) Completion of such forest practice operations shall be deemed conversion of the lands to another use for purposes of chapters 84.33 and 84.34 RCW unless the conversion is to a use permitted under a current use tax agreement permitted under chapter 84.34 RCW;

(iii) The forest practices described in the application are subject to applicable county, city, town, and regional governmental authority permitted under RCW 76.09.240 as well as the forest practices rules.

(b) Except as provided elsewhere in this section, if the landowner harvests without an approved application or notification or the landowner does not state that any land covered by the application or notification will be or is intended to be converted, and the department or the county, city, town, or regional governmental entity becomes aware of conversion activities to a use other than commercial timber operations, as that term is defined in RCW 76.09.020, then the department shall send to the department of ecology and the appropriate county, city, town, and regional governmental entities the following documents:

(i) A notice of a conversion to nonforestry use;

(ii) A copy of the applicable forest practices application or notification, if any; and

(iii) Copies of any applicable outstanding final orders or decisions issued by the department related to the forest practices application or notification.

(c) Failure to comply with the reforestation requirements contained in any final order or decision shall constitute a removal of designation under the provisions of RCW 84.33.140, and a change of use under the provisions of RCW 84.34.080, and, if applicable, shall subject such lands to the payments and/or penalties resulting from such removals or changes.

(d) Conversion to a use other than commercial forest product operations within six years after approval of the forest practices application or notification without the consent of the county, city, or town shall constitute a violation of each of the county, municipal city, town, and regional authorities to which the forest practice operations would have been subject if the application had stated an intent to convert.

(e) Land that is the subject of a notice of conversion to a nonforestry use produced by the department and sent to the department of ecology and a local government under this subsection is subject to the development prohibition and conditions provided in RCW 76.09.460.

(f) Landowners who have not stated an intent to convert the land covered by an application or notification and who decide to convert the land to a nonforestry use within six years of receiving an approved application or notification must do so in a manner consistent with RCW 76.09.470.

(g) The application or notification must include a statement requiring an acknowledgment by the forest landowner of his or her intent with respect to conversion and acknowledging that he or she is familiar with the effects of this subsection.

(4) Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department two days before the commencement of actual operations.

(5) Before the operator commences any forest practice in a manner or to an extent significantly different from that described in a previously approved application or notification, there shall be submitted to the department a new application or notification form in the manner set forth in this section.

(6)(a) Except as provided in RCW 76.09.350(4), the notification to or the approval given by the department to an application to conduct a forest practice shall be effective for a term of three years from the date of approval or notification.

(b) A notification or application may be renewed for an additional three-year term by the filing and approval of a notification or application, as applicable, prior to the expiration of the original application or notification. A renewal application or notification is subject to the forest practices rules in effect at the time the renewal application or notification is filed. Nothing in this section precludes the applicant from applying for a new application or notification after the renewal period has lapsed.

(c) At the option of the applicant, an application or notification may be submitted to cover a single forest practice or a number of forest practices within reasonable geographic or political boundaries as specified by the department. An application or notification that covers more than one forest practice may have an effective term of more than three years.

(d) The board shall adopt rules that establish standards and procedures for approving an application or notification that has an effective term of more than three years. Such rules shall include extended time periods for application or notification approval or disapproval. The department may require the applicant to provide advance notice before commencing operations on an approved application or notification.

(7) Notwithstanding any other provision of this section, no prior application or notification shall be required for any emergency forest practice necessitated by fire, flood, windstorm, earthquake, or other emergency as defined by the board, but the operator shall submit an application or notification, whichever is applicable, to the department within forty-eight hours after commencement of such practice or as required by local regulations.

(8) Forest practices applications or notifications are not required for forest practices conducted to control exotic forest insect or disease outbreaks, when conducted by or under the direction of the department of agriculture in carrying out an order of the governor or director of the department of agriculture to implement pest control measures as authorized under chapter 17.24 RCW, and are not required when conducted by or under the direction of the department in carrying out emergency measures under a forest health emergency declaration by the commissioner of public lands as provided in RCW 76.06.130.

(a) For the purposes of this subsection, exotic forest insect or disease has the same meaning as defined in RCW 76.06.020.

(b) In order to minimize adverse impacts to public resources, control measures must be based on integrated pest management, as defined in RCW 17.15.010, and must follow forest practices rules relating to road construction and maintenance, timber harvest, and forest chemicals, to the extent possible without compromising control objectives.

(c) Agencies conducting or directing control efforts must provide advance notice to the appropriate regulatory staff of the department of the operations that would be subject to exemption from forest practices application or notification requirements.

(d) When the appropriate regulatory staff of the department are notified under (c) of this subsection, they must consult with the landowner, interested agencies, and affected tribes, and assist the notifying agencies in the development of integrated pest management plans that comply with forest practices rules as required under (b) of this subsection.

(e) Nothing under this subsection relieves agencies conducting or directing control efforts from requirements of the federal clean water act as administered by the department of ecology under RCW 90.48.260.

(f) Forest lands where trees have been cut as part of an exotic forest insect or disease control effort under this subsection are subject to reforestation requirements under RCW 76.09.070.

(g) The exemption from obtaining approved forest practices applications or notifications does not apply to forest practices conducted after the governor, the director of the department of agriculture, or the commissioner of public lands have declared that an emergency no longer exists because control objectives have been met, that there is no longer an imminent threat, or that there is no longer a good likelihood of control.

(9)(a) All decisions on applications or notifications under this section must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(b) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

NEW SECTION. **Sec.**  A new section is added to chapter 90.48 RCW to read as follows:

(1) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(2) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 77.55.021 and 2012 1st sp.s. c 1 s 102 are each amended to read as follows:

(1) Except as provided in RCW 77.55.031, 77.55.051, 77.55.041, and 77.55.361, in the event that any person or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval of the department in the form of a permit as to the adequacy of the means proposed for the protection of fish life.

(2) A complete written application for a permit may be submitted in person or by registered mail and must contain the following:

(a) General plans for the overall project;

(b) Complete plans and specifications of the proposed construction or work within the mean higher high water line in saltwater or within the ordinary high water line in freshwater;

(c) Complete plans and specifications for the proper protection of fish life;

(d) Notice of compliance with any applicable requirements of the state environmental policy act, unless otherwise provided for in this chapter; and

(e) Payment of all applicable application fees charged by the department under RCW 77.55.321.

(3) The department may establish direct billing accounts or other funds transfer methods with permit applicants to satisfy the fee payment requirements of RCW 77.55.321.

(4) The department may accept complete, written applications as provided in this section for multiple site permits and may issue these permits. For multiple site permits, each specific location must be identified.

(5) With the exception of emergency permits as provided in subsection ((~~(12)~~)) (13) of this section, applications for permits must be submitted to the department's headquarters office in Olympia. Requests for emergency permits as provided in subsection ((~~(12)~~)) (13) of this section may be made to the permitting biologist assigned to the location in which the emergency occurs, to the department's regional office in which the emergency occurs, or to the department's headquarters office.

(6) Except as provided for emergency permits in subsection ((~~(12)~~)) (13) of this section, the department may not proceed with permit review until all fees are paid in full as required in RCW 77.55.321.

(7)(a) Protection of fish life is the only ground upon which approval of a permit may be denied or conditioned. Approval of a permit may not be unreasonably withheld or unreasonably conditioned.

(b) Except as provided in this subsection and subsections ((~~(12) through (14) and (16)~~)) (13), (15), and (16) of this section, the department has forty-five calendar days upon receipt of a complete application to grant or deny approval of a permit. The forty-five day requirement is suspended if:

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(ii) The site is physically inaccessible for inspection;

(iii) The applicant requests a delay; or

(iv) The department is issuing a permit for a storm water discharge and is complying with the requirements of RCW 77.55.161(3)(b).

(c) Immediately upon determination that the forty-five day period is suspended under (b) of this subsection, the department shall notify the applicant in writing of the reasons for the delay.

(d) The period of forty-five calendar days may be extended if the permit is part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(8) If the department denies approval of a permit, the department shall provide the applicant a written statement of the specific reasons why and how the proposed project would adversely affect fish life.

(a) Except as provided in (b) of this subsection, issuance, denial, conditioning, or modification of a permit shall be appealable to the board within thirty days from the date of receipt of the decision as provided in RCW 43.21B.230.

(b) Issuance, denial, conditioning, or modification of a permit may be informally appealed to the department within thirty days from the date of receipt of the decision. Requests for informal appeals must be filed in the form and manner prescribed by the department by rule. A permit decision that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(9)(a) Notwithstanding the forty-five day decision timeline required in this section, all decisions on applications under this section must be completed and the decision returned to the applicant no longer than ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(b) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

(10)(a) The permittee must demonstrate substantial progress on construction of that portion of the project relating to the permit within two years of the date of issuance.

(b) Approval of a permit is valid for up to five years from the date of issuance, except as provided in (c) of this subsection and in RCW 77.55.151.

(c) A permit remains in effect without need for periodic renewal for hydraulic projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. A permit for streambank stabilization projects to protect farm and agricultural land as defined in RCW 84.34.020 remains in effect without need for periodic renewal if the problem causing the need for the streambank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the permit.

((~~(10)~~)) (11) The department may, after consultation with the permittee, modify a permit due to changed conditions. A modification under this subsection is not subject to the fees provided under RCW 77.55.321. The modification is appealable as provided in subsection (8) of this section. For a hydraulic project that diverts water for agricultural irrigation or stock watering purposes, when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the department to show that changed conditions warrant the modification in order to protect fish life.

((~~(11)~~)) (12) A permittee may request modification of a permit due to changed conditions. The request must be processed within forty-five calendar days of receipt of the written request and payment of applicable fees under RCW 77.55.321. A decision by the department is appealable as provided in subsection (8) of this section. For a hydraulic project that diverts water for agricultural irrigation or stock watering purposes, when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the permittee to show that changed conditions warrant the requested modification and that such a modification will not impair fish life.

((~~(12)~~)) (13)(a) The department, the county legislative authority, or the governor may declare and continue an emergency. If the county legislative authority declares an emergency under this subsection, it shall immediately notify the department. A declared state of emergency by the governor under RCW 43.06.010 shall constitute a declaration under this subsection.

(b) The department, through its authorized representatives, shall issue immediately, upon request, verbal approval for a stream crossing, or work to remove any obstructions, repair existing structures, restore streambanks, protect fish life, or protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written permit prior to commencing work. Conditions of the emergency verbal permit must be reduced to writing within thirty days and complied with as provided for in this chapter.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(d) The department may not charge a person requesting an emergency permit any of the fees authorized by RCW 77.55.321 until after the emergency permit is issued and reduced to writing.

((~~(13)~~)) (14) All state and local agencies with authority under this chapter to issue permits or other authorizations in connection with emergency water withdrawals and facilities authorized under RCW 43.83B.410 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

((~~(14)~~)) (15) The department or the county legislative authority may determine an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to remove any obstructions, repair existing structures, restore banks, protect fish resources, or protect property. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

((~~(15)~~)) (16)(a) For any property, except for property located on a marine shoreline, that has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway, the county legislative authority may determine that a chronic danger exists. The county legislative authority shall notify the department, in writing, when it determines that a chronic danger exists. In cases of chronic danger, the department shall issue a permit, upon request, for work necessary to abate the chronic danger by removing any obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish resources, or protecting property. Permit requests must be made and processed in accordance with subsections (2) and (7) of this section.

(b) Any projects proposed to address a chronic danger identified under (a) of this subsection that satisfies the project description identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions of the state environmental policy act, chapter 43.21C RCW. However, the project is subject to the review process established in RCW 77.55.181(3) as if it were a fish habitat improvement project.

((~~(16)~~)) (17) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

NEW SECTION. **Sec.**  A new section is added to chapter 90.76 RCW to read as follows:

(1) All decisions on license applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(2) If the license application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 78.44.081 and 1997 c 192 s 1 are each amended to read as follows:

(1) After July 1, 1993, no miner or permit holder may engage in surface mining without having first obtained a reclamation permit from the department. Operating permits issued by the department between January 1, 1971, and June 30, 1993, shall be considered reclamation permits. A separate permit shall be required for each noncontiguous surface mine. The reclamation permit shall consist of the permit forms and any exhibits attached thereto. The permit holder shall comply with the provisions of the reclamation permit unless waived and explained in writing by the department.

(2) Prior to receiving a reclamation permit, an applicant must submit an application on forms provided by the department that shall contain the following information and shall be considered part of the reclamation permit:

((~~(1)~~)) (a) Name and address of the legal landowner, or purchaser of the land under a real estate contract;

((~~(2)~~)) (b) The name of the applicant and, if the applicants are corporations or other business entities, the names and addresses of their principal officers and resident agent for service of process;

((~~(3)~~)) (c) A reasonably accurate description of the minerals to be surface mined;

((~~(4)~~)) (d) Type of surface mining to be performed;

((~~(5)~~)) (e) Estimated starting date, date of completion, and date of completed reclamation of surface mining;

((~~(6)~~)) (f) Size and legal description of the permit area and maximum lateral and vertical extent of the disturbed area;

((~~(7)~~)) (g) Expected area to be disturbed by surface mining during ((~~(a)~~)) (i) the next twelve months, and ((~~(b)~~)) (ii) the following twenty-four months;

((~~(8)~~)) (h) Any applicable SEPA documents; and

((~~(9)~~)) (i) Other pertinent data as required by the department.

(3) The reclamation permit shall be granted for the period required to deplete essentially all minerals identified in the reclamation permit on the land covered by the reclamation plan. The reclamation permit shall be valid until the reclamation is complete unless the permit is canceled by the department.

(4)(a) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(b) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

NEW SECTION. **Sec.**  A new section is added to chapter 18.104 RCW to read as follows:

(1) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(2) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 86.16.025 and 1995 c 8 s 4 are each amended to read as follows:

(1) Subject to RCW 43.21A.068, with respect to such features as may affect flood conditions, the department shall have authority to examine, approve, or reject designs and plans for any structure or works, public or private, to be erected or built or to be reconstructed or modified upon the banks or in or over the channel or over and across the floodway of any stream or body of water in this state.

(2)(a) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(b) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 70.95.205 and 1998 c 36 s 18 are each amended to read as follows:

(1) Waste-derived soil amendments that meet the standards and criteria in this section may apply for exemption from solid waste permitting as required under RCW 70.95.170. The application shall be submitted to the department in a format determined by the department or an equivalent format. The application shall include:

(a) Analytical data showing that the waste-derived soil amendments meet standards established under RCW 15.54.800; and

(b) Other information deemed appropriate by the department to protect human health and the environment.

(2) After receipt of an application, the department shall review it to determine whether the application is complete, and forward a copy of the complete application to all interested jurisdictional health departments for review and comment. Within forty-five days, the jurisdictional health departments shall forward their comments and any other information they deem relevant to the department, which shall then give final approval or disapproval of the application. Every complete application shall be approved or disapproved by the department within ninety days after receipt. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application. If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

(3) The department, after providing opportunity for comments from the jurisdictional health departments, may at any time revoke an exemption granted under this section if the quality or use of the waste-derived soil amendment changes or the management, storage, or end use of the waste-derived soil amendment constitutes a threat to human health or the environment.

(4) Any aggrieved party may appeal the determination by the department in subsection (2) or (3) of this section to the pollution control hearings board.

**Sec.**  RCW 15.54.820 and 1998 c 36 s 16 are each amended to read as follows:

(1) After receipt from the department of the completed application required by RCW 15.54.325, the department of ecology shall evaluate whether the use of the proposed waste-derived fertilizer or the micronutrient fertilizer as defined in RCW 15.54.270 is consistent with the following:

(a) Chapter 70.95 RCW, the solid waste management act;

(b) Chapter 70.105 RCW, the hazardous waste management act; and

(c) 42 U.S.C. Sec. 6901 et seq., the resource conservation and recovery act.

(2) The department of ecology shall apply the standards adopted in RCW 15.54.800. If more stringent standards apply under chapter 173-303 WAC for the same constituents, the department of ecology must use the more stringent standards.

(3) Within sixty days of receiving the completed application, the department of ecology shall advise the department as to whether the application complies with the requirements of subsections (1) and (2) of this section. In making a determination, the department of ecology shall consult with the department of health and the department of labor and industries.

(4) A party aggrieved by a decision of the department of ecology to issue a written approval under this section or to deny the issuance of such an approval may appeal the decision to the pollution control hearings board within thirty days of the decision. Review of such a decision shall be conducted in accordance with either subsection (5) of this section or with chapter 43.21B RCW((~~.~~)), with any subsequent appeal of a decision of the hearings board ((~~shall be~~)) obtained in accordance with RCW 43.21B.180.

(5)(a) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(b) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 43.21C.033 and 1995 c 347 s 422 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, the responsible official shall make a threshold determination on a completed application within ninety days after the application and supporting documentation are complete. The applicant may request an additional thirty days for the threshold determination. The governmental entity responsible for making the threshold determination shall by rule, resolution, or ordinance adopt standards, consistent with rules adopted by the department to implement this chapter, for determining when an application and supporting documentation are complete.

(b) If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application. If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

(2) This section shall not apply to a city, town, or county that:

(a) By ordinance adopted prior to April 1, 1992, has adopted procedures to integrate permit and land use decisions with the requirements of this chapter; or

(b) Is planning under RCW 36.70A.040 and is subject to the requirements of RCW 36.70B.090.

**Sec.**  RCW 77.115.040 and 2011 c 339 s 37 are each amended to read as follows:

(1) All aquatic farmers, as defined in RCW 15.85.020, shall register with the department. The application fee is one hundred five dollars. The director shall assign each aquatic farm a unique registration number and develop and maintain in an electronic database a registration list of all aquaculture farms. The department shall establish procedures to annually update the aquatic farmer information contained in the registration list. The department shall coordinate with the department of health using shellfish growing area certification data when updating the registration list.

(2)(a) All decisions on registrations under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the registrations. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(b) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

(3) Registered aquaculture farms shall provide the department with the following information:

(a) The name of the aquatic farmer;

(b) The address of the aquatic farmer;

(c) Contact information such as telephone, fax, web site, and e-mail address, if available;

(d) The number and location of acres under cultivation, including a map displaying the location of the cultivated acres;

(e) The name of the landowner of the property being cultivated or otherwise used in the aquatic farming operation;

(f) The private sector cultured aquatic product being propagated, farmed, or cultivated; and

(g) Statistical production data.

((~~(3)~~)) (4) The state veterinarian shall be provided with registration and statistical data by the department.

NEW SECTION. **Sec.**  A new section is added to chapter 69.30 RCW to read as follows:

(1) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(2) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

NEW SECTION. **Sec.**  A new section is added to chapter 90.64 RCW to read as follows:

(1) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(2) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

NEW SECTION. **Sec.**  A new section is added to chapter 15.58 RCW to read as follows:

(1) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(2) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

NEW SECTION. **Sec.**  A new section is added to chapter 17.21 RCW to read as follows:

(1) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(2) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 16.65.030 and 2003 c 326 s 65 are each amended to read as follows:

(1) No person shall operate a public livestock market without first having obtained a license from the director. Application for a license shall be in writing on forms prescribed by the director, and shall include the following:

(a) A nonrefundable original license application fee of two thousand dollars.

(b) A legal description of the property upon which the public livestock market shall be located.

(c) A complete description and blueprints or plans of the public livestock market physical plant, yards, pens, and all facilities the applicant proposes to use in the operation of such public livestock market.

(d) A financial statement, audited by a certified or licensed public accountant, to determine whether or not the applicant meets the minimum net worth requirements, established by the director by rule, to construct and/or operate a public livestock market. If the applicant is a subsidiary of a larger company, corporation, society, or cooperative association, both the parent company and the subsidiary company must submit a financial statement to determine whether or not the applicant meets the minimum net worth requirements. All financial statement information required by this subsection is confidential information and not subject to public disclosure.

(e) The schedule of rates and charges the applicant proposes to impose on the owners of livestock for services rendered in the operation of such livestock market.

(f) The weekly or monthly sales day or days on which the applicant proposes to operate his or her public livestock market sales and the class of livestock that may be sold on these days.

(g) Projected source and quantity of livestock anticipated to be handled.

(h) Projected gross dollar volume of business to be carried on, at, or through the public livestock market during the first year's operation.

(i) Facts upon which is based the conclusion that the trade area and the livestock industry will benefit because of the proposed market.

(j) Other information as the director may require by rule.

(2) If the director determines that the applicant meets all the requirements of subsection (1) of this section, the director shall conduct a public hearing as provided by chapter 34.05 RCW, and shall grant or deny an application for original license for a public livestock market after considering evidence and testimony relating to the requirements of this section and giving reasonable consideration to:

(a) Benefits to the livestock industry to be derived from the establishment and operation of the public livestock market proposed in the application;

(b) The geographical area that will be affected;

(c) The conflict, if any, with sales days already allocated in the area;

(d) The amount and class of livestock available for marketing in the area;

(e) Buyers available to the proposed market; and

(f) Any other conditions affecting the orderly marketing of livestock.

(3) Before a license is issued to operate a public livestock market, the applicant must:

(a) Execute and deliver to the director a surety bond as required under RCW 16.65.200;

(b) Provide evidence of a custodial account, as required under RCW 16.65.140, for the consignor's proceeds;

(c) Pay the appropriate license fee; and

(d) Provide other information required under this chapter and rules adopted under this chapter.

(4)(a) All decisions under this section must be completed and the decision returned to the applicant within ninety days of submitting the registrations. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(b) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

NEW SECTION. **Sec.**  A new section is added to chapter 70.95J RCW to read as follows:

(1) All decisions on applications under this chapter must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(2) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 70.119A.110 and 2011 c 102 s 1 are each amended to read as follows:

(1) No person may operate a group A public water system unless the person first submits an application to the department and receives an operating permit as provided in this section. A new application must be submitted upon any change in ownership of the system.

(2) The department may require that each application include the information that is reasonable and necessary to determine that the system complies with applicable standards and requirements of the federal safe drinking water act, state law, and rules adopted by the department or by the state board of health.

(3)(a) Following its review of the application, its supporting material, and any information received by the department in its investigation of the application, the department shall issue or deny the operating permit. The department shall act on initial permit applications as expeditiously as possible, and shall in all cases either grant or deny the application within ((~~one hundred twenty~~)) ninety days of receipt of the application or of any supplemental information required to complete the application.

(b) The applicant for a permit shall be entitled to two different appeals pathways:

(i) The applicant may file an appeal in accordance with chapter 34.05 RCW if the department denies the initial or subsequent applications or imposes conditions or requirements upon the operator. Any operator of a public water system that requests a hearing may continue to operate the system until a decision is issued after the hearing.

(ii) In the alternative, if the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application. If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

(4) At the time of initial permit application or at the time of permit renewal the department may impose such permit conditions, requirements for system improvements, and compliance schedules as it determines are reasonable and necessary to ensure that the system will provide a safe and reliable water supply to its users.

(5) Operating permits shall be issued for a term of one year, and shall be renewed annually, unless the operator fails to apply for a new permit or the department finds good cause to deny the application for renewal.

(6) Each application shall be accompanied by an annual fee.

(7) The department shall adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this section.

(8) The department shall establish by rule categories of annual operating permit fees based on system size, complexity, and number of service connections. Fees charged must be sufficient to cover, but may not exceed, the costs to the department of administering a program for safe and reliable drinking water. The department shall use operating permit fees to monitor and enforce compliance by group A public water systems with state and federal laws that govern planning, water use efficiency, design, construction, operation, maintenance, financing, management, and emergency response.

(9) The annual per-connection fee may not exceed one dollar and fifty cents. The department shall phase-in implementation of any annual fee increase greater than ten percent, and shall establish the schedule for implementation by rule. Rules established by the department prior to 2020 must limit the annual operating permit fee for any public water system to no greater than one hundred thousand dollars.

(10) The department shall notify existing public water systems of the requirements of RCW 70.119A.030, 70.119A.060, and this section at least one hundred twenty days prior to the date that an application for a permit is required pursuant to RCW 70.119A.030, 70.119A.060, and this section.

(11) The department shall issue one operating permit to any approved satellite system management agency. Operating permit fees for approved satellite system management agencies must be established by the department by rule. Rules established by the department must set a single fee based on the total number of connections for all group A public water systems owned by a satellite management agency.

(12) For purposes of this section, "group A public water system" and "system" mean those water systems with fifteen or more service connections, regardless of the number of people; or a system serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections.

**Sec.**  RCW 90.03.350 and 1995 c 8 s 6 are each amended to read as follows:

(1) Except as provided in RCW 43.21A.068, any person, corporation or association intending to construct or modify any dam or controlling works for the storage of ten acre feet or more of water, shall before beginning said construction or modification, submit plans and specifications of the same to the department for examination and approval as to its safety. Such plans and specifications shall be submitted in duplicate, one copy of which shall be retained as a public record, by the department, and the other returned with its approval or rejection endorsed thereon. No such dam or controlling works shall be constructed or modified until the same or any modification thereof shall have been approved as to its safety by the department. Any such dam or controlling works constructed or modified in any manner other than in accordance with plans and specifications approved by the department or which shall not be maintained in accordance with the order of the department shall be presumed to be a public nuisance and may be abated in the manner provided by law, and it shall be the duty of the attorney general or prosecuting attorney of the county wherein such dam or controlling works, or the major portion thereof, is situated to institute abatement proceedings against the owner or owners of such dam or controlling works, whenever he or she is requested to do so by the department.

(2) A metals mining and milling operation regulated under chapter 232, Laws of 1994 is subject to additional dam safety inspection requirements due to the special hazards associated with failure of a tailings pond impoundment. The department shall inspect these impoundments at least quarterly during the project's operation and at least annually thereafter for the postclosure monitoring period in order to ensure the safety of the dam or controlling works. The department shall conduct additional inspections as needed during the construction phase of the mining operation in order to ensure the safe construction of the tailings impoundment.

(3)(a) All decisions on plan applications under this section must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(b) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 90.03.370 and 2003 c 329 s 1 are each amended to read as follows:

(1)(a) All applications for reservoir permits are subject to the provisions of RCW 90.03.250 through 90.03.320. But the party or parties proposing to apply to a beneficial use the water stored in any such reservoir shall also file an application for a permit, to be known as the secondary permit, which shall be in compliance with the provisions of RCW 90.03.250 through 90.03.320. Such secondary application shall refer to such reservoir as its source of water supply and shall show documentary evidence that an agreement has been entered into with the owners of the reservoir for a permanent and sufficient interest in said reservoir to impound enough water for the purposes set forth in said application. When the beneficial use has been completed and perfected under the secondary permit, the department shall take the proof of the water users under such permit and the final certificate of appropriation shall refer to both the ditch and works described in the secondary permit and the reservoir described in the primary permit. The department may accept for processing a single application form covering both a proposed reservoir and a proposed secondary permit or permits for use of water from that reservoir.

(b) The department shall expedite processing applications for the following types of storage proposals:

(i) Development of storage facilities that will not require a new water right for diversion or withdrawal of the water to be stored;

(ii) Adding or changing one or more purposes of use of stored water;

(iii) Adding to the storage capacity of an existing storage facility; and

(iv) Applications for secondary permits to secure use from existing storage facilities.

(c) A secondary permit for the beneficial use of water shall not be required for use of water stored in a reservoir where the water right for the source of the stored water authorizes the beneficial use.

(2)(a) All decisions on applications under this section must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application.

(b) If the application is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

(3)(a) For the purposes of this section, "reservoir" includes, in addition to any surface reservoir, any naturally occurring underground geological formation where water is collected and stored for subsequent use as part of an underground artificial storage and recovery project. To qualify for issuance of a reservoir permit an underground geological formation must meet standards for review and mitigation of adverse impacts identified, for the following issues:

(i) Aquifer vulnerability and hydraulic continuity;

(ii) Potential impairment of existing water rights;

(iii) Geotechnical impacts and aquifer boundaries and characteristics;

(iv) Chemical compatibility of surface waters and groundwater;

(v) Recharge and recovery treatment requirements;

(vi) System operation;

(vii) Water rights and ownership of water stored for recovery; and

(viii) Environmental impacts.

(b) Standards for review and standards for mitigation of adverse impacts for an underground artificial storage and recovery project shall be established by the department by rule. Notwithstanding the provisions of RCW 90.03.250 through 90.03.320, analysis of each underground artificial storage and recovery project and each underground geological formation for which an applicant seeks the status of a reservoir shall be through applicant-initiated studies reviewed by the department.

((~~(3)~~)) (4) For the purposes of this section, "underground artificial storage and recovery project" means any project in which it is intended to artificially store water in the ground through injection, surface spreading and infiltration, or other department-approved method, and to make subsequent use of the stored water. However, (a) this subsection does not apply to irrigation return flow, or to operational and seepage losses that occur during the irrigation of land, or to water that is artificially stored due to the construction, operation, or maintenance of an irrigation district project, or to projects involving water reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances of claimed artificial recharge occurring due to the construction, operation, or maintenance of an irrigation district project or operational and seepage losses that occur during the irrigation of land, as well as other forms of claimed artificial recharge already existing at the time a groundwater subarea is established.

((~~(4)~~)) (5) Nothing in chapter 98, Laws of 2000 changes the requirements of existing law governing issuance of permits to appropriate or withdraw the waters of the state.

((~~(5)~~)) (6) The department shall report to the legislature by December 31, 2001, on the standards for review and standards for mitigation developed under subsection ((~~(3)~~)) (4) of this section and on the status of any applications that have been filed with the department for underground artificial storage and recovery projects by that date.

((~~(6)~~)) (7) Where needed to ensure that existing storage capacity is effectively and efficiently used to meet multiple purposes, the department may authorize reservoirs to be filled more than once per year or more than once per season of use.

((~~(7)~~)) (8) This section does not apply to facilities to recapture and reuse return flow from irrigation operations serving a single farm under an existing water right as long as the acreage irrigated is not increased beyond the acreage allowed to be irrigated under the water right.

((~~(8)~~)) (9) In addition to the facilities exempted under subsection ((~~(7)~~)) (8) of this section, this section does not apply to small irrigation impoundments. For purposes of this section, "small irrigation impoundments" means lined surface storage ponds less than ten acre feet in volume used to impound irrigation water under an existing water right where use of the impoundment: (a)(i) Facilitates efficient use of water; or (ii) promotes compliance with an approved recovery plan for endangered or threatened species; and (b) does not expand the number of acres irrigated or the annual consumptive quantity of water used. Such ponds must be lined unless a licensed engineer determines that a liner is not needed to retain water in the pond and to prevent groundwater contamination. Although it may also be composed of other materials, a properly maintained liner may be composed of bentonite. Water remaining in a small irrigation impoundment at the end of an irrigation season may be carried over for use in the next season. However, the limitations of this subsection ((~~(8)~~)) (9) apply. Development and use of a small irrigation impoundment does not constitute a change or amendment for purposes of RCW 90.03.380 or 90.44.055.

**Sec.**  RCW 90.58.140 and 2012 c 84 s 2 are each amended to read as follows:

(1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and this chapter.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) Except as otherwise specifically provided in subsection (11) of this section, the local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that notice of the application is given by at least one of the following methods:

(a) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(b) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(c) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit the comments or requests for decisions to the local government within thirty days of the last date the notice is to be published pursuant to this subsection. The local government shall forward, in a timely manner following the issuance of a decision, a copy of the decision to each person who submits a request for the decision.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in subsection (6) of this section; or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of filing as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of SR 90 (I-90) on or adjacent to Lake Washington, the construction may begin after thirty days from the date of filing, and the permits are valid until December 31, 1995;

(b)(i) In the case of any permit or decision to issue any permit to the state of Washington, department of transportation, for the replacement of the floating bridge and landings of the state route number 520 Evergreen Point bridge on or adjacent to Lake Washington, the construction may begin twenty-one days from the date of filing. Any substantial development permit granted for the floating bridge and landings is deemed to have been granted on the date that the local government's decision to grant the permit is issued. This authorization to construct is limited to only those elements of the floating bridge and landings that do not preclude the department of transportation's selection of a four-lane alternative for state route number 520 between Interstate 5 and Medina. Additionally, the Washington state department of transportation shall not engage in or contract for any construction on any portion of state route number 520 between Interstate 5 and the western landing of the floating bridge until the legislature has authorized the imposition of tolls on the Interstate 90 floating bridge and/or other funding sufficient to complete construction of the state route number 520 bridge replacement and HOV program. For the purposes of this subsection (5)(b), the "western landing of the floating bridge" means the least amount of new construction necessary to connect the new floating bridge to the existing state route number 520 and anchor the west end of the new floating bridge;

(ii) Nothing in this subsection (5)(b) precludes the shorelines hearings board from concluding that the project or any element of the project is inconsistent with the goals and policies of the shoreline management act or the local shoreline master program;

(iii) This subsection (5)(b) applies retroactively to any appeals filed after January 1, 2012, and to any appeals filed on or after March 23, 2012, and expires June 30, 2014.

(c) Except as authorized in (b) of this subsection, construction may be commenced no sooner than thirty days after the date of the appeal of the board's decision is filed if a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within twenty-one days of the date of filing, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW. The appellant may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board should not commence. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would involve a significant, irreversible damaging of the environment, the court shall prohibit the permittee from commencing the construction pursuant to the approved or revised permit until all review proceedings are final. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit, and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

(d) Except as authorized in (b) of this subsection, if the permit is for a substantial development meeting the requirements of subsection (11) of this section, construction pursuant to that permit may not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in subsection (6) of this section.

If a permittee begins construction pursuant to (a), (b), (c), or (d) of this subsection, the construction is begun at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general. This shall be accomplished by return receipt requested mail. A petition for review of such a decision must be commenced within twenty-one days from the date of filing of the decision.

(a) With regard to a permit other than a permit governed by subsection (10) of this section, "date of filing" as used in this section refers to the date of actual receipt by the department of the local government's decision.

(b) With regard to a permit for a variance or a conditional use governed by subsection (10) of this section, "date of filing" means the date the decision of the department is transmitted by the department to the local government.

(c) When a local government simultaneously transmits to the department its decision on a shoreline substantial development with its approval of either a shoreline conditional use permit or variance, or both, "date of filing" has the same meaning as defined in (b) of this subsection.

(d) The department shall notify in writing the local government and the applicant of the date of filing by telephone or electronic means, followed by written communication as necessary, to ensure that the applicant has received the full written decision.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) Any permit for a variance or a conditional use issued with approval by a local government under their approved master program must be submitted to the department for its approval or disapproval.

(11)(a) An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to the following procedures:

(i) The public comment period under subsection (4) of this section shall be twenty days. The notice provided under subsection (4) of this section shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;

(ii) The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in (a)(i) of this subsection; and

(iii) If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

(b) For purposes of this section, a limited utility extension means the extension of a utility service that:

(i) Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;

(ii) Will serve an existing use in compliance with this chapter; and

(iii) Will not extend more than twenty-five hundred linear feet within the shorelines of the state.

(12)(a) All decisions on permits under this section must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the permit.

(b) If the permit is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**Sec.**  RCW 70.118B.030 and 2007 c 343 s 4 are each amended to read as follows:

(1) A person may not install or operate a large on-site sewage system without an operating permit as provided in this chapter after July 1, 2009. The owner of the system is responsible for obtaining a permit.

(2) The department shall issue operating permits in accordance with the rules adopted under RCW 70.118B.040.

(3) The department shall ensure the system meets all applicable siting, design, construction, and installation requirements prior to issuing an initial operating permit. Prior to renewing an operating permit, the department may review the performance of the system to determine compliance with rules and any permit conditions.

(4) At the time of initial permit application or at the time of permit renewal the department shall impose those permit conditions, requirements for system improvements, and compliance schedules as it determines are reasonable and necessary to ensure that the system will be operated and maintained properly. Each application must be accompanied by a fee as established in rules adopted by the department.

(5) Operating permits shall be issued for a term of one year, and shall be renewed annually, unless the operator fails to apply for a new permit or the department finds good cause to deny the application for renewal.

(6) Each permit may be issued only for the site and owner named in the application. Permits are not transferable or assignable except with the written approval of the department.

(7) The department may deny an application for a permit or modify, suspend, or revoke a permit in any case in which it finds that the permit was obtained by fraud or there is or has been a failure, refusal, or inability to comply with the requirements of this chapter or the standards or rules adopted under this chapter. RCW 43.70.115 governs notice of denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding to the permit applicant or permittee.

(8) For systems with design flows of more than fourteen thousand five hundred gallons per day, the department shall adopt rules to ensure adequate public notice and opportunity for review and comment on initial large on-site sewage system permit applications and subsequent permit applications to increase the volume of waste disposal or change effluent characteristics. The rules must include provisions for notice of final decisions. Methods for providing notice may include electronic mail, posting on the department's internet site, publication in a local newspaper, press releases, mailings, or other means of notification the department determines appropriate.

(9) A person aggrieved by the issuance of an initial permit, or by the issuance of a subsequent permit to increase the volume of waste disposal or to change effluent characteristics, for systems with design flows of more than fourteen thousand five hundred gallons per day, has the right to an adjudicative proceeding. The application for an adjudicative proceeding must be in writing, state the basis for contesting the action, include a copy of the decision, be served on and received by the department within twenty-eight days of receipt of notice of the final decision, and be served in a manner that shows proof of receipt. An adjudicative proceeding conducted under this subsection is governed by chapter 34.05 RCW.

(10) Any permit issued by the department of ecology for a large on-site sewage system under chapter 90.48 RCW is valid until it first expires after July 22, 2007. The system owner shall apply for an operating permit at least one hundred twenty days prior to expiration of the department of ecology permit.

(11) Systems required to meet operator certification requirements under chapter 70.95B RCW must continue to meet those requirements as a condition of the department operating permit.

(12)(a) All decisions on permits under this section must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the permit.

(b) If the permit is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

NEW SECTION. **Sec.**  A new section is added to chapter 90.66 RCW to read as follows:

(1) All decisions on permits or transfers under this section must be completed and the decision returned to the applicant within ninety days of submitting the application. If the ninety-day deadline is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the permit.

(2) If the permit is denied either within or after the ninety-day decision period, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. This subsection applies notwithstanding, and as an alternative to, any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal authority are deemed to have satisfied all administrative remedies.

**--- END ---**