

SHB 2935 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/08/2010

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

3 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to
4 reduce and consolidate the number of state boards that conduct
5 administrative review of environmental and land use decisions and to
6 make more uniform the timelines for filing appeals with such boards.
7 The legislature intends to eliminate the hydraulics appeals board and
8 the forest practices appeals board by transferring their duties to the
9 pollution control hearings board. The legislature further intends to
10 eliminate certain preliminary informal appeals heard internally by
11 agencies. The legislature also intends to consolidate administratively
12 and physically collocate the growth management hearings boards into the
13 environmental and land use hearings office by July 1, 2011.

14 **Sec. 2.** RCW 43.21B.001 and 2004 c 204 s 1 are each amended to read
15 as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Business days" means Monday through Friday exclusive of any
19 state or federal holiday.

20 (2) "Date of receipt" means:

21 (a) Five business days after the date of mailing; or

22 (b) The date of actual receipt, when the actual receipt date can be
23 proven by a preponderance of the evidence. The recipient's sworn
24 affidavit or declaration indicating the date of receipt, which is
25 unchallenged by the agency, shall constitute sufficient evidence of
26 actual receipt. The date of actual receipt, however, may not exceed
27 forty-five days from the date of mailing.

28 (3) "Department" means the department of ecology.

29 (4) "Director" means the director of ecology.

1 (5) "Environmental boards" means the pollution control hearings
2 board created in RCW 43.21B.010 and the shorelines hearings board
3 created in RCW 90.58.170.

4 (6) "Land use board" means the growth management hearings board
5 created in RCW 36.70A.250.

6 **Sec. 3.** RCW 43.21B.005 and 2003 c 393 s 18 and 2003 c 39 s 22 are
7 each reenacted and amended to read as follows:

8 (1) There is created an environmental hearings office of the state
9 of Washington. The environmental hearings office (~~(shall)~~) consists of
10 the pollution control hearings board created in RCW 43.21B.010, (~~(the~~
11 ~~forest practices appeals board created in RCW 76.09.210,~~) the
12 shorelines hearings board created in RCW 90.58.170, and the
13 environmental and land use hearings board created in chapter 43.21L
14 RCW(~~(, and the hydraulic appeals board created in RCW 77.55.170)~~). The
15 chair of the pollution control hearings board shall be the chief
16 executive officer of the environmental hearings office. Membership,
17 powers, functions, and duties of the pollution control hearings
18 board(~~(, the forest practices appeals board,~~) and the shorelines
19 hearings board(~~(, and the hydraulic appeals board)~~) shall be as
20 provided by law.

21 (2) The chief executive officer of the environmental hearings
22 office may appoint an administrative appeals judge who shall possess
23 the powers and duties conferred by the administrative procedure act,
24 chapter 34.05 RCW, in cases before the boards comprising the office.
25 The administrative appeals judge shall have a demonstrated knowledge of
26 environmental law, and shall be admitted to the practice of law in the
27 state of Washington. Additional administrative appeals judges may also
28 be appointed by the chief executive officer on the same terms.
29 Administrative appeals judges shall not be subject to chapter 41.06
30 RCW.

31 (3) The administrative appeals judges appointed under subsection
32 (2) of this section are subject to discipline and termination, for
33 cause, by the chief executive officer. Upon written request by the
34 person so disciplined or terminated, the chief executive officer shall
35 state the reasons for such action in writing. The person affected has
36 a right of review by the superior court of Thurston county on petition

1 for reinstatement or other remedy filed within thirty days of receipt
2 of such written reasons.

3 (4) The chief executive officer may appoint, discharge, and fix the
4 compensation of such administrative or clerical staff as may be
5 necessary.

6 (5) The chief executive officer may also contract for required
7 services.

8 **Sec. 4.** RCW 43.21B.005 and 2003 c 393 s 18 and 2003 c 39 s 22 are
9 each reenacted and amended to read as follows:

10 (1) There is created an environmental and land use hearings office
11 of the state of Washington. The environmental and land use hearings
12 office (~~shall~~) consists of the pollution control hearings board
13 created in RCW 43.21B.010, (~~the forest practices appeals board created~~
14 ~~in RCW 76.09.210,~~) the shorelines hearings board created in RCW
15 90.58.170, (~~the environmental and land use hearings board created in~~
16 ~~chapter 43.21B RCW, and the hydraulic appeals board created in RCW~~
17 ~~77.55.170. The chair of the pollution control hearings board shall be~~
18 ~~the chief executive officer of the environmental hearings office~~) and
19 the growth management hearings board created in RCW 36.70A.250. The
20 governor shall designate one of the members of the pollution control
21 hearings board or growth management hearings board to be the director
22 of the environmental and land use hearings office during the term of
23 the governor. Membership, powers, functions, and duties of the
24 pollution control hearings board, (~~the forest practices appeals~~
25 ~~board,~~) the shorelines hearings board, and the (~~hydraulic appeals~~)
26 growth management hearings board shall be as provided by law.

27 (2) The (~~chief executive officer~~) director of the environmental
28 and land use hearings office may appoint (~~an~~) one or more
29 administrative appeals judges (~~who shall possess the powers and duties~~
30 ~~conferred by the administrative procedure act, chapter 34.05 RCW,~~) in
31 cases before the environmental boards and, with the consent of the
32 chair of the growth management hearings board, one or more hearing
33 examiners in cases before the land use board comprising the office.
34 The administrative appeals judges shall possess the powers and duties
35 conferred by the administrative procedure act, chapter 34.05 RCW, have
36 a demonstrated knowledge of environmental law, and shall be admitted to
37 the practice of law in the state of Washington. (~~Additional~~

1 ~~administrative appeals judges may also be appointed by the chief~~
2 ~~executive officer on the same terms. Administrative appeals judges~~
3 ~~shall not be subject to chapter 41.06 RCW.))~~ The hearing examiners
4 possess the powers and duties provided for in RCW 36.70A.270.

5 (3) Administrative appeals judges are not subject to chapter 41.06
6 RCW. The administrative appeals judges appointed under subsection (2)
7 of this section are subject to discipline and termination, for cause,
8 by the ~~((chief executive officer))~~ director of the environmental and
9 land use hearings office. Upon written request by the person so
10 disciplined or terminated, the ~~((chief executive officer))~~ director of
11 the environmental and land use hearings office shall state the reasons
12 for such action in writing. The person affected has a right of review
13 by the superior court of Thurston county on petition for reinstatement
14 or other remedy filed within thirty days of receipt of such written
15 reasons.

16 (4) The ~~((chief executive officer))~~ director of the environmental
17 and land use hearings office may appoint, discharge, and fix the
18 compensation of such administrative or clerical staff as may be
19 necessary.

20 (5) The ~~((chief executive officer))~~ director of the environmental
21 and land use hearings office may also contract for required services.

22 **Sec. 5.** RCW 43.21B.010 and 1979 ex.s. c 47 s 3 are each amended to
23 read as follows:

24 There is hereby created within the environmental hearings office a
25 pollution control hearings board of the state of Washington.

26 The purpose of the pollution control hearings board is to provide
27 for a more expeditious and efficient disposition of designated
28 environmental appeals ~~((with respect to the decisions and orders of the~~
29 ~~department and director and with respect to all decisions of air~~
30 ~~pollution control boards or authorities established pursuant to chapter~~
31 ~~70.94 RCW))~~ as provided for in RCW 43.21B.110.

32 **Sec. 6.** RCW 43.21B.010 and 1979 ex.s. c 47 s 3 are each amended to
33 read as follows:

34 There is hereby created within the environmental and land use
35 hearings office a pollution control hearings board of the state of
36 Washington.

1 The purpose of the pollution control hearings board is to provide
2 for a more expeditious and efficient disposition of designated
3 environmental appeals (~~((with respect to the decisions and orders of the~~
4 ~~department and director and with respect to all decisions of air~~
5 ~~pollution control boards or authorities established pursuant to chapter~~
6 ~~70.94 RCW))~~ as provided for in RCW 43.21B.110.

7 **Sec. 7.** RCW 43.21B.110 and 2009 c 456 s 16, 2009 c 332 s 18, and
8 2009 c 183 s 17 are each reenacted and amended to read as follows:

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

16 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
17 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
18 90.03.600, 90.46.270, 90.48.144, 90.56.310, and 90.56.330.

19 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
20 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
21 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

22 (c) A final decision by the department or director made under
23 chapter 183, Laws of 2009.

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

32 (e) Decisions of local health departments regarding the grant or
33 denial of solid waste permits pursuant to chapter 70.95 RCW.

34 (f) Decisions of local health departments regarding the issuance
35 and enforcement of permits to use or dispose of biosolids under RCW
36 70.95J.080.

1 (g) Decisions of the department regarding waste-derived fertilizer
2 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
3 department regarding waste-derived soil amendments under RCW 70.95.205.

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

10 (i) Any other decision by the department or an air authority which
11 pursuant to law must be decided as an adjudicative proceeding under
12 chapter 34.05 RCW.

13 (j) Decisions of the department of natural resources, the
14 department of fish and wildlife, and the department that are reviewable
15 under chapter 76.09 RCW, and the department of natural resources'
16 appeals of county, city, or town objections under RCW 76.09.050(7).

17 (k) Forest health hazard orders issued by the commissioner of
18 public lands under RCW 76.06.180.

19 (l) Decisions of the department of fish and wildlife to issue,
20 deny, condition, or modify a hydraulic project approval permit under
21 chapter 77.55 RCW.

22 (m) Decisions of the department of natural resources that are
23 reviewable under RCW 78.44.270.

24 (n) Decisions of a state agency that is an authorized public entity
25 under RCW 79.100.010 to take temporary possession or custody of a
26 vessel or to contest the amount of reimbursement owed that are
27 reviewable under RCW 79.100.120.

28 (2) The following hearings shall not be conducted by the hearings
29 board:

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

32 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
33 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

34 (c) Appeals of decisions by the department under RCW 90.03.110 and
35 90.44.220.

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

1 (e) Appeals of decisions by the department as provided in chapter
2 43.21L RCW.

3 (3) Review of rules and regulations adopted by the hearings board
4 shall be subject to review in accordance with the provisions of the
5 administrative procedure act, chapter 34.05 RCW.

6 **Sec. 8.** RCW 43.21B.110 and 2009 c 456 s 16 and 2009 c 332 s 18 are
7 each reenacted and amended to read as follows:

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

15 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
16 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
17 90.03.600, 90.46.270, 90.48.144, 90.56.310, and 90.56.330.

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, 90.46.250, 90.48.120, and 90.56.330.

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 (i) Decisions of the department of natural resources, the
11 department of fish and wildlife, and the department that are reviewable
12 under chapter 76.09 RCW, and the department of natural resources'
13 appeals of county, city, or town objections under RCW 76.09.050(7).

14 (j) Forest health hazard orders issued by the commissioner of
15 public lands under RCW 76.06.180.

16 (k) Decisions of the department of fish and wildlife to issue,
17 deny, condition, or modify a hydraulic project approval permit under
18 chapter 77.55 RCW.

19 (l) Decisions of the department of natural resources that are
20 reviewable under RCW 78.44.270.

21 (m) Decisions of a state agency that is an authorized public entity
22 under RCW 79.100.010 to take temporary possession or custody of a
23 vessel or to contest the amount of reimbursement owed that are
24 reviewable under RCW 79.100.120.

25 (2) The following hearings shall not be conducted by the hearings
26 board:

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

29 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
30 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

31 (c) Appeals of decisions by the department under RCW 90.03.110 and
32 90.44.220.

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

35 (e) Appeals of decisions by the department as provided in chapter
36 43.21L RCW.

37 (3) Review of rules and regulations adopted by the hearings board

1 shall be subject to review in accordance with the provisions of the
2 administrative procedure act, chapter 34.05 RCW.

3 NEW SECTION. Sec. 9. A new section is added to chapter 43.21B RCW
4 to read as follows:

5 In all appeals, upon request of one or more parties and with the
6 consent of all parties, the environmental hearings boards may schedule
7 a conference for the purpose of attempting to mediate the case.
8 Mediation must be conducted by an administrative appeals judge or other
9 duly authorized agent of the board who has received training in dispute
10 resolution techniques or has a demonstrated history of successfully
11 resolving disputes, as determined by the board. A person who mediates
12 in a particular appeal may not participate in a hearing on that appeal
13 and may not write the decision and order in the appeal. The mediator
14 may not communicate with board members regarding the mediation other
15 than to inform them of the pendency of the mediation and whether the
16 case settled. Mediation provided by the environmental hearings boards
17 must be conducted pursuant to the provisions of the uniform mediation
18 act, chapter 7.07 RCW.

19 **Sec. 10.** RCW 43.21B.180 and 1994 c 253 s 6 are each amended to
20 read as follows:

21 ~~((Judicial review of))~~ Any party aggrieved by a final decision and
22 order of the pollution control hearings board may ~~((be obtained only~~
23 ~~pursuant to))~~ obtain judicial review of the final decision and order as
24 provided in RCW 34.05.510 through 34.05.598. The ~~((director))~~ state or
25 local agency that issued the decision appealed to the board shall have
26 the same right of review from a decision made pursuant to RCW
27 43.21B.110 as does any person.

28 **Sec. 11.** RCW 43.21B.230 and 2004 c 204 s 3 are each amended to
29 read as follows:

30 ~~((Consistent with RCW 43.21B.110, any person having received notice~~
31 ~~of denial of a petition, a notice of determination, or notice of an~~
32 ~~order made by the department may appeal to the hearings board, within~~
33 ~~thirty days from the date of receipt of the notice of such denial,~~
34 ~~order, or determination by the appealing party.))~~ (1) Unless otherwise
35 provided by law, any person with standing may commence an appeal to the

1 pollution control hearings board by filing a notice of appeal with the
2 board within thirty days from the date of receipt of the decision being
3 appealed.

4 (2) The appeal ((shall be perfected by serving a copy of the notice
5 of appeal upon the department or air pollution authority established
6 pursuant to chapter 70.94 RCW, as the case may be, within the time
7 specified herein and by filing the original thereof with)) is timely if
8 it is filed with the board and served upon the state or local agency
9 whose action is being appealed within the same thirty-day period.
10 Proof of service must be filed with the clerk of the hearings board to
11 perfect the appeal.

12 (3) The appeal must contain the following in accordance with the
13 rules of the hearings board:

- 14 (a) The appellant's name and address;
- 15 (b) The date and docket number of the order, permit, license, or
16 decision appealed;
- 17 (c) A copy of the order, permit, license, or decision that is the
18 subject of the appeal;
- 19 (d) A clear, separate, and concise statement of every error alleged
20 to have been committed;
- 21 (e) A clear and concise statement of facts upon which the requester
22 relies to sustain his or her statements of error; and
- 23 (f) A statement setting forth the relief sought.

24 **Sec. 12.** RCW 43.21B.300 and 2009 c 456 s 17 and 2009 c 178 s 2 are
25 each reenacted and amended to read as follows:

26 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
27 70.95.315, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.46.270,
28 90.48.144, 90.56.310, and 90.56.330 and chapter 90.76 RCW shall be
29 imposed by a notice in writing, either by certified mail with return
30 receipt requested or by personal service, to the person incurring the
31 penalty from the department or the local air authority, describing the
32 violation with reasonable particularity. For penalties issued by local
33 air authorities, within thirty days after the notice is received, the
34 person incurring the penalty may apply in writing to ((the department
35 or)) the authority for the remission or mitigation of the penalty.
36 Upon receipt of the application, the ((department or)) authority may
37 remit or mitigate the penalty upon whatever terms ((the department or))

1 the authority in its discretion deems proper. The ((~~department or~~
2 ~~the~~)) authority may ascertain the facts regarding all such applications
3 in such reasonable manner and under such rules as it may deem proper
4 and shall remit or mitigate the penalty only upon a demonstration of
5 extraordinary circumstances such as the presence of information or
6 factors not considered in setting the original penalty.

7 (2) Any penalty imposed under this section may be appealed to the
8 pollution control hearings board in accordance with this chapter if the
9 appeal is filed with the hearings board and served on the department or
10 authority thirty days after the date of receipt by the person penalized
11 of the notice imposing the penalty or thirty days after the date of
12 receipt of the notice of disposition by a local air authority of the
13 application for relief from penalty.

14 (3) A penalty shall become due and payable on the later of:

15 (a) Thirty days after receipt of the notice imposing the penalty;

16 (b) Thirty days after receipt of the notice of disposition by a
17 local air authority on application for relief from penalty, if such an
18 application is made; or

19 (c) Thirty days after receipt of the notice of decision of the
20 hearings board if the penalty is appealed.

21 (4) If the amount of any penalty is not paid to the department
22 within thirty days after it becomes due and payable, the attorney
23 general, upon request of the department, shall bring an action in the
24 name of the state of Washington in the superior court of Thurston
25 county, or of any county in which the violator does business, to
26 recover the penalty. If the amount of the penalty is not paid to the
27 authority within thirty days after it becomes due and payable, the
28 authority may bring an action to recover the penalty in the superior
29 court of the county of the authority's main office or of any county in
30 which the violator does business. In these actions, the procedures and
31 rules of evidence shall be the same as in an ordinary civil action.

32 (5) All penalties recovered shall be paid into the state treasury
33 and credited to the general fund except those penalties imposed
34 pursuant to RCW 18.104.155, which shall be credited to the reclamation
35 account as provided in RCW 18.104.155(7), RCW 70.94.431, the
36 disposition of which shall be governed by that provision, RCW
37 70.105.080, which shall be credited to the hazardous waste control and
38 elimination account created by RCW 70.105.180, RCW 90.56.330, which

1 shall be credited to the coastal protection fund created by RCW
2 90.48.390, and RCW 90.76.080, which shall be credited to the
3 underground storage tank account created by RCW 90.76.100.

4 **Sec. 13.** RCW 43.21B.310 and 2009 c 456 s 18 and 2009 c 178 s 3 are
5 each reenacted and amended to read as follows:

6 (1) (~~Except as provided in RCW 90.03.210(2), any order issued by~~
7 ~~the department or local air authority pursuant to RCW 43.27A.190,~~
8 ~~70.94.211, 70.94.332, 70.95.315, 70.105.095, 86.16.020, 88.46.070,~~
9 ~~90.46.250, or 90.48.120(2) or any provision enacted after July 26,~~
10 ~~1987, or any permit, certificate, or license issued by the department~~
11 ~~may be appealed to the pollution control hearings board if the appeal~~
12 ~~is filed with the board and served on the department or authority~~
13 ~~within thirty days after the date of receipt of the order. Except as~~
14 ~~provided under chapter 70.105D RCW and RCW 90.03.210(2), this is the~~
15 ~~exclusive means of appeal of such an order.~~

16 (2) ~~The department or the authority)~~ The issuing agency in its
17 discretion may stay the effectiveness of ((an)) any order that has been
18 appealed to the board during the pendency of such an appeal.

19 ((+3)) (2) At any time during the pendency of an appeal of such an
20 order to the board, the appellant may apply pursuant to RCW 43.21B.320
21 to the hearings board for a stay of the order or for the removal
22 thereof.

23 ((+4) Any appeal must contain the following in accordance with the
24 rules of the hearings board:

25 (a) ~~The appellant's name and address;~~

26 (b) ~~The date and docket number of the order, permit, or license~~
27 ~~appealed;~~

28 (c) ~~A description of the substance of the order, permit, or license~~
29 ~~that is the subject of the appeal;~~

30 (d) ~~A clear, separate, and concise statement of every error alleged~~
31 ~~to have been committed;~~

32 (e) ~~A clear and concise statement of facts upon which the requester~~
33 ~~relies to sustain his or her statements of error; and~~

34 (f) ~~A statement setting forth the relief sought.~~

35 (+5)) (3) Upon failure to comply with any final order of the
36 department, the attorney general, on request of the department, may
37 bring an action in the superior court of the county where the violation

1 occurred or the potential violation is about to occur to obtain such
2 relief as necessary, including injunctive relief, to (~~insure~~) ensure
3 compliance with the order. The air authorities may bring similar
4 actions to enforce their orders.

5 (~~(+6)~~) (4) An appealable decision or order shall be identified as
6 such and shall contain a conspicuous notice to the recipient that it
7 may be appealed only by filing an appeal with the hearings board and
8 serving it on the (~~department~~) issuing agency within thirty days of
9 the date of receipt.

10 **Sec. 14.** RCW 43.21B.320 and 1987 c 109 s 7 are each amended to
11 read as follows:

12 (1) A person appealing to the hearings board an order (~~of the~~
13 ~~department or an authority~~), not stayed by the issuing agency, may
14 obtain a stay of the effectiveness of that order only as set forth in
15 this section.

16 (2) An appealing party may request a stay by including such a
17 request in the appeal document, in a subsequent motion, or by such
18 other means as the rules of the hearings board shall prescribe. The
19 request must be accompanied by a statement of grounds for the stay and
20 evidence setting forth the factual basis upon which request is based.
21 The hearings board shall hear the request for a stay as soon as
22 possible. The hearing on the request for stay may be consolidated with
23 the hearing on the merits.

24 (3) The applicant may make a prima facie case for stay if the
25 applicant demonstrates either a likelihood of success on the merits of
26 the appeal or irreparable harm. Upon such a showing, the hearings
27 board shall grant the stay unless the (~~department or authority~~)
28 issuing agency demonstrates either (a) a substantial probability of
29 success on the merits or (b) likelihood of success on the merits and an
30 overriding public interest which justifies denial of the stay.

31 (4) Unless otherwise stipulated by the parties, the hearings board,
32 after granting or denying an application for a stay, shall expedite the
33 hearing and decision on the merits.

34 (5) Any party or other person aggrieved by the grant or denial of
35 a stay by the hearings board may petition the superior court for
36 Thurston county for review of that decision pursuant to chapter 34.05

1 RCW pending the appeal on the merits before the board. The superior
2 court shall expedite its review of the decision of the hearings board.

3 NEW SECTION. **Sec. 15.** A new section is added to chapter 36.70A
4 RCW to read as follows:

5 (1) On July 1, 2011, the growth management hearings board is
6 administratively consolidated into the environmental and land use
7 hearings office created in RCW 43.21B.005.

8 (2) Not later than July 1, 2012, the growth management hearings
9 board consists of seven members qualified by experience or training in
10 matters pertaining to land use law or land use planning, except that
11 the governor may reduce the board to six members if warranted by the
12 board's caseload. All board members must be appointed by the governor,
13 two each residing respectively in the central Puget Sound, eastern
14 Washington, and western Washington regions and shall continue to meet
15 the qualifications set out in RCW 36.70A.260. The reduction from seven
16 board members to six board members must be made through attrition,
17 voluntary resignation, or retirement.

18 **Sec. 16.** RCW 36.70A.270 and 1997 c 429 s 11 are each amended to
19 read as follows:

20 Each growth management hearings board shall be governed by the
21 following rules on conduct and procedure:

22 (1) Any board member may be removed for inefficiency, malfeasance,
23 and misfeasance in office, under specific written charges filed by the
24 governor. The governor shall transmit such written charges to the
25 member accused and the chief justice of the supreme court. The chief
26 justice shall thereupon designate a tribunal composed of three judges
27 of the superior court to hear and adjudicate the charges. Removal of
28 any member of a board by the tribunal shall disqualify such member for
29 reappointment.

30 (2) Each board member shall receive reimbursement for travel
31 expenses incurred in the discharge of his or her duties in accordance
32 with RCW 43.03.050 and 43.03.060. If it is determined that the review
33 boards shall operate on a full-time basis, each member shall receive an
34 annual salary to be determined by the governor pursuant to RCW
35 43.03.040. If it is determined that a review board shall operate on a
36 part-time basis, each member shall receive compensation pursuant to RCW

1 43.03.250, provided such amount shall not exceed the amount that would
2 be set if they were a full-time board member. The principal office of
3 each board shall be located by the governor within the jurisdictional
4 boundaries of each board. The boards shall operate on either a part-
5 time or full-time basis, as determined by the governor.

6 (3) Each board member shall not: (a) Be a candidate for or hold
7 any other public office or trust; (b) engage in any occupation or
8 business interfering with or inconsistent with his or her duty as a
9 board member; and (c) for a period of one year after the termination of
10 his or her board membership, act in a representative capacity before
11 the board on any matter.

12 (4) A majority of each board shall constitute a quorum for making
13 orders or decisions, adopting rules necessary for the conduct of its
14 powers and duties, or transacting other official business, and may act
15 even though one position of the board is vacant. One or more members
16 may hold hearings and take testimony to be reported for action by the
17 board when authorized by rule or order of the board. The board shall
18 perform all the powers and duties specified in this chapter or as
19 otherwise provided by law.

20 (5) The board may (~~appoint~~) use one or more hearing examiners to
21 assist the board in its hearing function, to make conclusions of law
22 and findings of fact and, if requested by the board, to make
23 recommendations to the board for decisions in cases before the board.
24 Such hearing examiners must have demonstrated knowledge of land use
25 planning and law. The boards shall specify in their joint rules of
26 practice and procedure, as required by subsection (7) of this section,
27 the procedure and criteria to be employed for designating hearing
28 examiners as a presiding officer. Hearing examiners (~~selected~~) used
29 by a board shall meet the requirements of subsection (3) of this
30 section. The findings and conclusions of the hearing examiner shall
31 not become final until they have been formally approved by the board.
32 This authorization to use hearing examiners does not waive the
33 requirement of RCW 36.70A.300 that final orders be issued within one
34 hundred eighty days of board receipt of a petition.

35 (6) Each board shall make findings of fact and prepare a written
36 decision in each case decided by it, and such findings and decision
37 shall be effective upon being signed by two or more members of the

1 board and upon being filed at the board's principal office, and shall
2 be open for public inspection at all reasonable times.

3 (7) All proceedings before the board, any of its members, or a
4 hearing examiner appointed by the board shall be conducted in
5 accordance with such administrative rules of practice and procedure as
6 the boards jointly prescribe. All three boards shall jointly meet to
7 develop and adopt joint rules of practice and procedure, including
8 rules regarding expeditious and summary disposition of appeals. The
9 boards shall publish such rules and decisions they render and arrange
10 for the reasonable distribution of the rules and decisions. Except as
11 it conflicts with specific provisions of this chapter, the
12 administrative procedure act, chapter 34.05 RCW, and specifically
13 including the provisions of RCW 34.05.455 governing ex parte
14 communications, shall govern the practice and procedure of the boards.

15 (8) A board member or hearing examiner is subject to
16 disqualification under chapter 34.05 RCW. The joint rules of practice
17 of the boards shall establish procedures by which a party to a hearing
18 conducted before the board may file with the board a motion to
19 disqualify, with supporting affidavit, against a board member or
20 hearing examiner assigned to preside at the hearing.

21 (9) The members of the boards shall meet jointly on at least an
22 annual basis with the objective of sharing information that promotes
23 the goals and purposes of this chapter.

24 **Sec. 17.** RCW 70.95.094 and 1989 c 431 s 8 are each amended to read
25 as follows:

26 (1) The department and local governments preparing plans are
27 encouraged to work cooperatively during plan development. Each county
28 and city preparing a comprehensive solid waste management plan shall
29 submit a preliminary draft plan to the department for technical review.
30 The department shall review and comment on the draft plan within one
31 hundred twenty days of receipt. The department's comments shall state
32 specific actions or revisions that must be completed for plan approval.

33 (2) Each final draft solid waste management plan shall be submitted
34 to the department for approval. The department will limit its comments
35 on the final draft plans to those issues identified during its review
36 of the draft plan and any other changes made between submittal of the
37 preliminary draft and final draft plans. Disapproval of the local

1 comprehensive solid waste management plan shall be supported by
2 specific findings. A final draft plan shall be deemed approved if the
3 department does not disapprove it within forty-five days of receipt.

4 (3) If the department disapproves a plan or any plan amendments,
5 the submitting entity may appeal the decision (~~((under the procedures of~~
6 ~~Part IV of chapter 34.05 RCW. An administrative law judge shall~~
7 ~~preside over the appeal))~~ to the pollution control hearings board as
8 provided in RCW 43.21B.230. The appeal shall be limited to review of
9 the specific findings which supported the disapproval under subsection
10 (2) of this section.

11 **Sec. 18.** RCW 76.06.180 and 2007 c 480 s 7 are each amended to read
12 as follows:

13 (1) Prior to issuing a forest health hazard warning or forest
14 health hazard order, the commissioner shall consider the findings and
15 recommendations of the forest health technical advisory committee and
16 shall consult with county government officials, forest landowners and
17 forest land managers, consulting foresters, and other interested
18 parties to gather information on the threat, opportunities or
19 constraints on treatment options, and other information they may
20 provide. The commissioner, or a designee, shall conduct a public
21 hearing in a county within the geographical area being considered.

22 (2) The commissioner of public lands may issue a forest health
23 hazard warning when he or she deems such action is necessary to manage
24 the development of a threat to forest health or address an existing
25 threat to forest health. A decision to issue a forest health hazard
26 warning may be based on existing forest stand conditions and:

27 (a) The presence of an uncharacteristic insect or disease outbreak
28 that has or is likely to (i) spread to multiple forest ownerships and
29 cause extensive damage to forests; or (ii) significantly increase
30 forest fuel that is likely to further the spread of uncharacteristic
31 fire;

32 (b) When, due to extensive physical damage from wind or ice storm
33 or other cause, there are (i) insect populations building up to large
34 scale levels; or (ii) significantly increased forest fuels that are
35 likely to further the spread of uncharacteristic fire; or

36 (c) When otherwise determined by the commissioner to be
37 appropriate.

1 (3) The commissioner of public lands may issue a forest health
2 hazard order when he or she deems such action is necessary to address
3 a significant threat to forest health. A decision to issue a forest
4 health hazard order may be based on existing forest stand conditions
5 and:

6 (a) The presence of an uncharacteristic insect or disease outbreak
7 that has (i) spread to multiple forest ownerships and has caused and is
8 likely to continue to cause extensive damage to forests; or (ii)
9 significantly increased forest fuels that are likely to further the
10 spread of uncharacteristic fire;

11 (b) When, due to extensive physical damage from wind or ice storm
12 or other cause (i) insect populations are causing extensive damage to
13 forests; or (ii) significantly increased forest fuels are likely to
14 further the spread of uncharacteristic fire;

15 (c) Insufficient landowner action under a forest health hazard
16 warning; or

17 (d) When otherwise determined by the commissioner to be
18 appropriate.

19 (4) A forest health hazard warning or forest health hazard order
20 shall be issued by use of a commissioner's order. General notice of
21 the commissioner's order shall be published in a newspaper of general
22 circulation in each county within the area covered by the order and on
23 the department's web site. The order shall specify the boundaries of
24 the area affected, including federal and tribal lands, the forest stand
25 conditions that would make a parcel subject to the provisions of the
26 order, and the actions landowners or land managers should take to
27 reduce the hazard.

28 (5) Written notice of a forest health hazard warning or forest
29 health hazard order shall be provided to forest landowners of
30 specifically affected property.

31 (a) The notice shall set forth:

32 (i) The reasons for the action;

33 (ii) The boundaries of the area affected, including federal and
34 tribal lands;

35 (iii) Suggested actions that should be taken by the forest
36 landowner under a forest health hazard warning or the actions that must
37 be taken by a forest landowner under a forest health hazard order;

38 (iv) The time within which such actions should or must be taken;

1 (v) How to obtain information or technical assistance on forest
2 health conditions and treatment options;

3 (vi) The right to request mitigation under subsection (6) of this
4 section and appeal under subsection (7) of this section;

5 (vii) These requirements are advisory only for federal and tribal
6 lands.

7 (b) The notice shall be served by personal service or by mail to
8 the latest recorded real property owner, as shown by the records of the
9 county recording officer as defined in RCW 65.08.060. Service by mail
10 is effective on the date of mailing. Proof of service shall be by
11 affidavit or declaration under penalty of perjury.

12 (6) Forest landowners who have been issued a forest health hazard
13 order under subsection (5) of this section may apply to the department
14 for the remission or mitigation of such order. The application shall
15 be made to the department within fifteen days after notice of the order
16 has been served. Upon receipt of the application, the department may
17 remit or mitigate the order upon whatever terms the department in its
18 discretion deems proper, provided the department deems the remission or
19 mitigation to be in the best interests of carrying out the purposes of
20 this chapter. The department may ascertain the facts regarding all
21 such applications in such reasonable manner and under such rule as it
22 deems proper.

23 (7) Forest landowners who have been issued a forest health hazard
24 order under subsection (5) of this section may appeal the order to the
25 (~~(forest practices appeals)~~) pollution control hearings board.

26 (~~((a))~~) The appeal shall be filed within thirty days after notice
27 of the order has been served, unless application for mitigation has
28 been made to the department. When such an application for mitigation
29 is made, such appeal shall be filed within thirty days after notice of
30 the disposition of the application for mitigation has been served as
31 provided in RCW 43.21B.230.

32 (~~((b) The appeal must set forth:~~

33 ~~(i) The name and mailing address of the appellant;~~

34 ~~(ii) The name and mailing address of the appellant's attorney, if~~
35 ~~any;~~

36 ~~(iii) A duplicate copy of the forest health hazard order;~~

37 ~~(iv) A separate and concise statement of each error alleged to have~~
38 ~~been committed;~~

1 ~~(v) A concise statement of facts upon which the appellant relies to~~
2 ~~sustain the statement of error; and~~

3 ~~(vi) A statement of the relief requested.))~~

4 (8) A forest health hazard order issued under subsection (5) of
5 this section is effective thirty days after date of service unless
6 application for remission or mitigation is made or an appeal is filed.
7 When an application for remission or mitigation is made, the order is
8 effective thirty days after notice setting forth the disposition of the
9 application is served unless an appeal is filed from such disposition.
10 Whenever an appeal of the order is filed, the order shall become
11 effective only upon completion of all administrative and judicial
12 review proceedings and the issuance of a final decision confirming the
13 order in whole or in part.

14 (9) Upon written request, the department may certify as adequate a
15 forest health management plan developed by a forest landowner, before
16 or in response to a forest health hazard warning or forest health
17 hazard order, if the plan is likely to achieve the desired result and
18 the terms of the plan are being diligently followed by the forest
19 landowner. The certification of adequacy shall be determined by the
20 department in its sole discretion, and be provided to the requestor in
21 writing.

22 **Sec. 19.** RCW 76.09.020 and 2009 c 354 s 5 and 2009 c 246 s 4 are
23 each reenacted and amended to read as follows:

24 The definitions in this section apply throughout this chapter
25 unless the context clearly requires otherwise.

26 (1) "Adaptive management" means reliance on scientific methods to
27 test the results of actions taken so that the management and related
28 policy can be changed promptly and appropriately.

29 (2) "Appeals board" means the ~~((forest practices appeals))~~
30 pollution control hearings board created by RCW ~~((76.09.210))~~
31 43.21B.010.

32 (3) "Application" means the application required pursuant to RCW
33 76.09.050.

34 (4) "Aquatic resources" includes water quality, salmon, other
35 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes
36 identified in the forests and fish report, the Columbia torrent
37 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander

1 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*
2 *olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's
3 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and
4 their respective habitats.

5 (5) "Board" means the forest practices board created in RCW
6 76.09.030.

7 (6) "Commissioner" means the commissioner of public lands.

8 (7) "Contiguous" means land adjoining or touching by common corner
9 or otherwise. Land having common ownership divided by a road or other
10 right-of-way shall be considered contiguous.

11 (8) "Conversion to a use other than commercial timber operation"
12 means a bona fide conversion to an active use which is incompatible
13 with timber growing and as may be defined by forest practices rules.

14 (9) "Department" means the department of natural resources.

15 (10) "Fish passage barrier" means any artificial instream structure
16 that impedes the free passage of fish.

17 (11) "Forest land" means all land which is capable of supporting a
18 merchantable stand of timber and is not being actively used for a use
19 which is incompatible with timber growing. Forest land does not
20 include agricultural land that is or was enrolled in the conservation
21 reserve enhancement program by contract if such agricultural land was
22 historically used for agricultural purposes and the landowner intends
23 to continue to use the land for agricultural purposes in the future.
24 As it applies to the operation of the road maintenance and abandonment
25 plan element of the forest practices rules on small forest landowners,
26 the term "forest land" excludes:

27 (a) Residential home sites, which may include up to five acres; and

28 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,
29 and the land on which appurtenances necessary to the production,
30 preparation, or sale of crops, fruit, dairy products, fish, and
31 livestock exist.

32 (12) "Forest landowner" means any person in actual control of
33 forest land, whether such control is based either on legal or equitable
34 title, or on any other interest entitling the holder to sell or
35 otherwise dispose of any or all of the timber on such land in any
36 manner. However, any lessee or other person in possession of forest
37 land without legal or equitable title to such land shall be excluded

1 from the definition of "forest landowner" unless such lessee or other
2 person has the right to sell or otherwise dispose of any or all of the
3 timber located on such forest land.

4 (13) "Forest practice" means any activity conducted on or directly
5 pertaining to forest land and relating to growing, harvesting, or
6 processing timber, including but not limited to:

- 7 (a) Road and trail construction;
- 8 (b) Harvesting, final and intermediate;
- 9 (c) Precommercial thinning;
- 10 (d) Reforestation;
- 11 (e) Fertilization;
- 12 (f) Prevention and suppression of diseases and insects;
- 13 (g) Salvage of trees; and
- 14 (h) Brush control.

15 "Forest practice" shall not include preparatory work such as tree
16 marking, surveying and road flagging, and removal or harvesting of
17 incidental vegetation from forest lands such as berries, ferns,
18 greenery, mistletoe, herbs, mushrooms, and other products which cannot
19 normally be expected to result in damage to forest soils, timber, or
20 public resources.

21 (14) "Forest practices rules" means any rules adopted pursuant to
22 RCW 76.09.040.

23 (15) "Forest road," as it applies to the operation of the road
24 maintenance and abandonment plan element of the forest practices rules
25 on small forest landowners, means a road or road segment that crosses
26 land that meets the definition of forest land, but excludes residential
27 access roads.

28 (16) "Forest trees" does not include hardwood trees cultivated by
29 agricultural methods in growing cycles shorter than fifteen years if
30 the trees were planted on land that was not in forest use immediately
31 before the trees were planted and before the land was prepared for
32 planting the trees. "Forest trees" includes Christmas trees, but does
33 not include Christmas trees that are cultivated by agricultural
34 methods, as that term is defined in RCW 84.33.035.

35 (17) "Forests and fish report" means the forests and fish report to
36 the board dated April 29, 1999.

37 (18) "Operator" means any person engaging in forest practices
38 except an employee with wages as his or her sole compensation.

1 (19) "Person" means any individual, partnership, private, public,
2 or municipal corporation, county, the department or other state or
3 local governmental entity, or association of individuals of whatever
4 nature.

5 (20) "Public resources" means water, fish and wildlife, and in
6 addition shall mean capital improvements of the state or its political
7 subdivisions.

8 (21) "Small forest landowner" has the same meaning as defined in
9 RCW 76.09.450.

10 (22) "Timber" means forest trees, standing or down, of a commercial
11 species, including Christmas trees. However, "timber" does not include
12 Christmas trees that are cultivated by agricultural methods, as that
13 term is defined in RCW 84.33.035.

14 (23) "Timber owner" means any person having all or any part of the
15 legal interest in timber. Where such timber is subject to a contract
16 of sale, "timber owner" shall mean the contract purchaser.

17 (24) "Unconfined channel migration zone" means the area within
18 which the active channel of an unconfined stream is prone to move and
19 where the movement would result in a potential near-term loss of
20 riparian forest adjacent to the stream. Sizeable islands with
21 productive timber may exist within the zone.

22 (25) "Unconfined stream" means generally fifth order or larger
23 waters that experience abrupt shifts in channel location, creating a
24 complex floodplain characterized by extensive gravel bars, disturbance
25 species of vegetation of variable age, numerous side channels, wall-
26 based channels, oxbow lakes, and wetland complexes. Many of these
27 streams have dikes and levees that may temporarily or permanently
28 restrict channel movement.

29 (26) "Date of receipt" has the same meaning as defined in RCW
30 43.21B.001.

31 **Sec. 20.** RCW 76.09.050 and 2005 c 146 s 1003 are each amended to
32 read as follows:

33 (1) The board shall establish by rule which forest practices shall
34 be included within each of the following classes:

35 Class I: Minimal or specific forest practices that have no direct
36 potential for damaging a public resource and that may be conducted
37 without submitting an application or a notification except that when

1 the regulating authority is transferred to a local governmental entity,
2 those Class I forest practices that involve timber harvesting or road
3 construction within "urban growth areas," designated pursuant to
4 chapter 36.70A RCW, are processed as Class IV forest practices, but are
5 not subject to environmental review under chapter 43.21C RCW;

6 Class II: Forest practices which have a less than ordinary
7 potential for damaging a public resource that may be conducted without
8 submitting an application and may begin five calendar days, or such
9 lesser time as the department may determine, after written notification
10 by the operator, in the manner, content, and form as prescribed by the
11 department, is received by the department. However, the work may not
12 begin until all forest practice fees required under RCW 76.09.065 have
13 been received by the department. Class II shall not include forest
14 practices:

15 (a) On lands platted after January 1, 1960, as provided in chapter
16 58.17 RCW or on lands that have or are being converted to another use;

17 (b) Which require approvals under the provisions of the hydraulics
18 act, RCW 77.55.021;

19 (c) Within "shorelines of the state" as defined in RCW 90.58.030;

20 (d) Excluded from Class II by the board; or

21 (e) Including timber harvesting or road construction within "urban
22 growth areas," designated pursuant to chapter 36.70A RCW, which are
23 Class IV;

24 Class III: Forest practices other than those contained in Class I,
25 II, or IV. A Class III application must be approved or disapproved by
26 the department within thirty calendar days from the date the department
27 receives the application. However, the applicant may not begin work on
28 that forest practice until all forest practice fees required under RCW
29 76.09.065 have been received by the department;

30 Class IV: Forest practices other than those contained in Class I
31 or II: (a) On lands platted after January 1, 1960, as provided in
32 chapter 58.17 RCW, (b) on lands that have or are being converted to
33 another use, (c) on lands which, pursuant to RCW 76.09.070 as now or
34 hereafter amended, are not to be reforested because of the likelihood
35 of future conversion to urban development, (d) involving timber
36 harvesting or road construction on lands that are contained within
37 "urban growth areas," designated pursuant to chapter 36.70A RCW, except
38 where the forest landowner provides: (i) A written statement of intent

1 signed by the forest landowner not to convert to a use other than
2 commercial forest product operations for ten years, accompanied by
3 either a written forest management plan acceptable to the department or
4 documentation that the land is enrolled under the provisions of chapter
5 84.33 RCW; or (ii) a conversion option harvest plan approved by the
6 local governmental entity and submitted to the department as part of
7 the application, and/or (e) which have a potential for a substantial
8 impact on the environment and therefore require an evaluation by the
9 department as to whether or not a detailed statement must be prepared
10 pursuant to the state environmental policy act, chapter 43.21C RCW.
11 Such evaluation shall be made within ten days from the date the
12 department receives the application: PROVIDED, That nothing herein
13 shall be construed to prevent any local or regional governmental entity
14 from determining that a detailed statement must be prepared for an
15 action pursuant to a Class IV forest practice taken by that
16 governmental entity concerning the land on which forest practices will
17 be conducted. A Class IV application must be approved or disapproved
18 by the department within thirty calendar days from the date the
19 department receives the application, unless the department determines
20 that a detailed statement must be made, in which case the application
21 must be approved or disapproved by the department within sixty calendar
22 days from the date the department receives the application, unless the
23 commissioner of public lands, through the promulgation of a formal
24 order, determines that the process cannot be completed within such
25 period. However, the applicant may not begin work on that forest
26 practice until all forest practice fees required under RCW 76.09.065
27 have been received by the department.

28 Forest practices under Classes I, II, and III are exempt from the
29 requirements for preparation of a detailed statement under the state
30 environmental policy act.

31 (2) Except for those forest practices being regulated by local
32 governmental entities as provided elsewhere in this chapter, no Class
33 II, Class III, or Class IV forest practice shall be commenced or
34 continued after January 1, 1975, unless the department has received a
35 notification with regard to a Class II forest practice or approved an
36 application with regard to a Class III or Class IV forest practice
37 containing all information required by RCW 76.09.060 as now or
38 hereafter amended. However, in the event forest practices regulations

1 necessary for the scheduled implementation of this chapter and RCW
2 90.48.420 have not been adopted in time to meet such schedules, the
3 department shall have the authority to regulate forest practices and
4 approve applications on such terms and conditions consistent with this
5 chapter and RCW 90.48.420 and the purposes and policies of RCW
6 76.09.010 until applicable forest practices regulations are in effect.

7 (3) Except for those forest practices being regulated by local
8 governmental entities as provided elsewhere in this chapter, if a
9 notification or application is delivered in person to the department by
10 the operator or the operator's agent, the department shall immediately
11 provide a dated receipt thereof. In all other cases, the department
12 shall immediately mail a dated receipt to the operator.

13 (4) Except for those forest practices being regulated by local
14 governmental entities as provided elsewhere in this chapter, forest
15 practices shall be conducted in accordance with the forest practices
16 regulations, orders and directives as authorized by this chapter or the
17 forest practices regulations, and the terms and conditions of any
18 approved applications.

19 (5) Except for those forest practices being regulated by local
20 governmental entities as provided elsewhere in this chapter, the
21 department of natural resources shall notify the applicant in writing
22 of either its approval of the application or its disapproval of the
23 application and the specific manner in which the application fails to
24 comply with the provisions of this section or with the forest practices
25 regulations. Except as provided otherwise in this section, if the
26 department fails to either approve or disapprove an application or any
27 portion thereof within the applicable time limit, the application shall
28 be deemed approved and the operation may be commenced: PROVIDED, That
29 this provision shall not apply to applications which are neither
30 approved nor disapproved pursuant to the provisions of subsection (7)
31 of this section: PROVIDED, FURTHER, That if seasonal field conditions
32 prevent the department from being able to properly evaluate the
33 application, the department may issue an approval conditional upon
34 further review within sixty days: PROVIDED, FURTHER, That the
35 department shall have until April 1, 1975, to approve or disapprove an
36 application involving forest practices allowed to continue to April 1,
37 1975, under the provisions of subsection (2) of this section. Upon
38 receipt of any notification or any satisfactorily completed application

1 the department shall in any event no later than two business days after
2 such receipt transmit a copy to the departments of ecology and fish and
3 wildlife, and to the county, city, or town in whose jurisdiction the
4 forest practice is to be commenced. Any comments by such agencies
5 shall be directed to the department of natural resources.

6 (6) For those forest practices regulated by the board and the
7 department, if the county, city, or town believes that an application
8 is inconsistent with this chapter, the forest practices regulations, or
9 any local authority consistent with RCW 76.09.240 as now or hereafter
10 amended, it may so notify the department and the applicant, specifying
11 its objections.

12 (7) For those forest practices regulated by the board and the
13 department, the department shall not approve portions of applications
14 to which a county, city, or town objects if:

15 (a) The department receives written notice from the county, city,
16 or town of such objections within fourteen business days from the time
17 of transmittal of the application to the county, city, or town, or one
18 day before the department acts on the application, whichever is later;
19 and

20 (b) The objections relate to lands either:

21 (i) Platted after January 1, 1960, as provided in chapter 58.17
22 RCW; or

23 (ii) On lands that have or are being converted to another use.

24 The department shall either disapprove those portions of such
25 application or appeal the county, city, or town objections to the
26 appeals board. If the objections related to subparagraphs (b)(i) and
27 (ii) of this subsection are based on local authority consistent with
28 RCW 76.09.240 as now or hereafter amended, the department shall
29 disapprove the application until such time as the county, city, or town
30 consents to its approval or such disapproval is reversed on appeal.
31 The applicant shall be a party to all department appeals of county,
32 city, or town objections. Unless the county, city, or town either
33 consents or has waived its rights under this subsection, the department
34 shall not approve portions of an application affecting such lands until
35 the minimum time for county, city, or town objections has expired.

36 (8) For those forest practices regulated by the board and the
37 department, in addition to any rights under the above paragraph, the
38 county, city, or town may appeal any department approval of an

1 application with respect to any lands within its jurisdiction. The
2 appeals board may suspend the department's approval in whole or in part
3 pending such appeal where there exists potential for immediate and
4 material damage to a public resource.

5 (9) For those forest practices regulated by the board and the
6 department, appeals under this section shall be made to the appeals
7 board in the manner and time provided in (~~RCW 76.09.220(8)~~) section
8 24 of this act. In such appeals there shall be no presumption of
9 correctness of either the county, city, or town or the department
10 position.

11 (10) For those forest practices regulated by the board and the
12 department, the department shall, within four business days notify the
13 county, city, or town of all notifications, approvals, and disapprovals
14 of an application affecting lands within the county, city, or town,
15 except to the extent the county, city, or town has waived its right to
16 such notice.

17 (11) For those forest practices regulated by the board and the
18 department, a county, city, or town may waive in whole or in part its
19 rights under this section, and may withdraw or modify any such waiver,
20 at any time by written notice to the department.

21 (12) Notwithstanding subsections (2) through (5) of this section,
22 forest practices applications or notifications are not required for
23 exotic insect and disease control operations conducted in accordance
24 with RCW 76.09.060(8) where eradication can reasonably be expected.

25 **Sec. 21.** RCW 76.09.080 and 1989 c 175 s 163 are each amended to
26 read as follows:

27 (1) The department shall have the authority to serve upon an
28 operator a stop work order which shall be a final order of the
29 department if:

30 (a) There is any violation of the provisions of this chapter or the
31 forest practices regulations; or

32 (b) There is a deviation from the approved application; or

33 (c) Immediate action is necessary to prevent continuation of or to
34 avoid material damage to a public resource.

35 (2) The stop work order shall set forth:

36 (a) The specific nature, extent, and time of the violation,
37 deviation, damage, or potential damage;

1 (b) An order to stop all work connected with the violation,
2 deviation, damage, or potential damage;

3 (c) The specific course of action needed to correct such violation
4 or deviation or to prevent damage and to correct and/or compensate for
5 damage to public resources which has resulted from any violation,
6 unauthorized deviation, or willful or negligent disregard for potential
7 damage to a public resource; and/or those courses of action necessary
8 to prevent continuing damage to public resources where the damage is
9 resulting from the forest practice activities but has not resulted from
10 any violation, unauthorized deviation, or negligence; and

11 (d) The right of the operator to a hearing before the appeals
12 board.

13 The department shall immediately file a copy of such order with the
14 appeals board and mail a copy thereof to the timber owner and forest
15 land owner at the addresses shown on the application. The operator,
16 timber owner, or forest land owner may commence an appeal to the
17 appeals board within ~~((fifteen))~~ thirty days ~~((after service upon))~~
18 from the date of receipt of the order by the operator. If such appeal
19 is commenced, a hearing shall be held not more than twenty days after
20 copies of the notice of appeal were filed with the appeals board. Such
21 proceeding shall be an adjudicative proceeding within the meaning of
22 chapter 34.05 RCW, the administrative procedure act. The operator
23 shall comply with the order of the department immediately upon being
24 served, but the appeals board if requested shall have authority to
25 continue or discontinue in whole or in part the order of the department
26 under such conditions as it may impose pending the outcome of the
27 proceeding.

28 **Sec. 22.** RCW 76.09.090 and 1975 1st ex.s. c 200 s 6 are each
29 amended to read as follows:

30 If a violation, a deviation, material damage or potential for
31 material damage to a public resource has occurred and the department
32 determines that a stop work order is unnecessary, then the department
33 shall issue and serve upon the operator or land owner a notice, which
34 shall clearly set forth:

35 (1)(a) The specific nature, extent, and time of failure to comply
36 with the approved application; or identifying the damage or potential
37 damage; and/or

1 (b) The relevant provisions of this chapter or of the forest
2 practice regulations relating thereto;

3 (2) The right of the operator or land owner to a hearing before the
4 department; and

5 (3) The specific course of action ordered by the department to be
6 followed by the operator to correct such failure to comply and to
7 prevent, correct and/or compensate for material damage to public
8 resources which resulted from any violation, unauthorized deviation, or
9 wilful or negligent disregard for potential damage to a public
10 resource; and/or those courses of action necessary to prevent
11 continuing damage to public resources where the damage is resulting
12 from the forest practice activities but has not resulted from any
13 violation, unauthorized deviation, or negligence.

14 The department shall mail a copy thereof to the forest land owner
15 and the timber owner at the addresses shown on the application, showing
16 the date of service upon the operator. Such notice to comply shall
17 become a final order of the department: PROVIDED, That no direct
18 appeal to the appeals board will be allowed from such final order.
19 Such operator shall undertake the course of action so ordered by the
20 department unless, within fifteen days after the date of service of
21 such notice to comply, the operator, forest land owner, or timber
22 owner, shall request the department in writing to schedule a hearing.
23 If so requested, the department shall schedule a hearing on a date not
24 more than twenty days after receiving such request. Within ten days
25 after such hearing, the department shall issue a final order either
26 withdrawing its notice to comply or clearly setting forth the specific
27 course of action to be followed by such operator. Such operator shall
28 undertake the course of action so ordered by the department unless
29 within thirty days after the date of receipt of such final order, the
30 operator, forest land owner, or timber owner appeals such final order
31 to the appeals board.

32 No person shall be under any obligation under this section to
33 prevent, correct, or compensate for any damage to public resources
34 which occurs more than one year after the date of completion of the
35 forest practices operations involved exclusive of reforestation, unless
36 such forest practices were not conducted in accordance with forest
37 practices rules and regulations: PROVIDED, That this provision shall
38 not relieve the forest land owner from any obligation to comply with

1 forest practices rules and regulations pertaining to providing
2 continuing road maintenance. No action to recover damages shall be
3 taken under this section more than two years after the date the damage
4 involved occurs.

5 **Sec. 23.** RCW 76.09.170 and 1999 sp.s. c 4 s 803 are each amended
6 to read as follows:

7 (1) Every person who violates any provision of RCW 76.09.010
8 through 76.09.280 or of the forest practices rules, or who converts
9 forest land to a use other than commercial timber operation within
10 three years after completion of the forest practice without the consent
11 of the county, city, or town, shall be subject to a penalty in an
12 amount of not more than ten thousand dollars for every such violation.
13 Each and every such violation shall be a separate and distinct offense.
14 In case of a failure to comply with a stop work order, every day's
15 continuance shall be a separate and distinct violation. Every person
16 who through an act of commission or omission procures, aids or abets in
17 the violation shall be considered to have violated the provisions of
18 this section and shall be subject to the penalty in this section. No
19 penalty shall be imposed under this section upon any governmental
20 official, an employee of any governmental department, agency, or
21 entity, or a member of any board or advisory committee created by this
22 chapter for any act or omission in his or her duties in the
23 administration of this chapter or of any rule adopted under this
24 chapter.

25 (2) The department shall develop and recommend to the board a
26 penalty schedule to determine the amount to be imposed under this
27 section. The board shall adopt by rule, pursuant to chapter 34.05 RCW,
28 such penalty schedule to be effective no later than January 1, 1994.
29 The schedule shall be developed in consideration of the following:

- 30 (a) Previous violation history;
- 31 (b) Severity of the impact on public resources;
- 32 (c) Whether the violation of this chapter or its rules was
33 intentional;
- 34 (d) Cooperation with the department;
- 35 (e) Repairability of the adverse effect from the violation; and
- 36 (f) The extent to which a penalty to be imposed on a forest

1 landowner for a forest practice violation committed by another should
2 be reduced because the owner was unaware of the violation and has not
3 received substantial economic benefits from the violation.

4 (3) The penalty in this section shall be imposed by a notice in
5 writing, either by certified mail with return receipt requested or by
6 personal service, to the person incurring the same from the department
7 describing the violation with reasonable particularity. Within fifteen
8 days after the notice is received, the person incurring the penalty may
9 apply in writing to the department for the remission or mitigation of
10 such penalty. Upon receipt of the application, that department may
11 remit or mitigate the penalty upon whatever terms that department in
12 its discretion deems proper, provided the department deems such
13 remission or mitigation to be in the best interests of carrying out the
14 purposes of this chapter. The department shall have authority to
15 ascertain the facts regarding all such applications in such reasonable
16 manner and under such rule as it may deem proper.

17 (4) Any person incurring a penalty under this section may appeal
18 the penalty to the ~~((forest practices))~~ appeals board. Such appeals
19 shall be filed within thirty days ~~((of))~~ after the date of receipt of
20 ~~((notice imposing any))~~ the penalty unless an application for remission
21 or mitigation is made to the department. When such an application for
22 remission or mitigation is made, such appeals shall be filed within
23 thirty days of receipt of notice from the department setting forth the
24 disposition of the application for remission or mitigation.

25 (5) The penalty imposed under this section shall become due and
26 payable thirty days after receipt of a notice imposing the same unless
27 application for remission or mitigation is made or an appeal is filed.
28 When such an application for remission or mitigation is made, any
29 penalty incurred under this section shall become due and payable thirty
30 days after receipt of notice setting forth the disposition of such
31 application unless an appeal is filed from such disposition. Whenever
32 an appeal of the penalty incurred is filed, the penalty shall become
33 due and payable only upon completion of all administrative and judicial
34 review proceedings and the issuance of a final decision confirming the
35 penalty in whole or in part.

36 (6) If the amount of any penalty is not paid to the department
37 within thirty days after it becomes due and payable, the attorney
38 general, upon the request of the department, shall bring an action in

1 the name of the state of Washington in the superior court of Thurston
2 county or of any county in which such violator may do business, to
3 recover such penalty, interest, costs, and attorneys' fees. In all
4 such actions the procedure and rules of evidence shall be the same as
5 an ordinary civil action except as otherwise provided in this chapter
6 (~~provided~~). In addition to or as an alternative to seeking
7 enforcement of penalties in superior court, the department may bring an
8 action in district court as provided in Title 3 RCW, to collect
9 penalties, interest, costs, and attorneys' fees.

10 (7) Penalties imposed under this section for violations associated
11 with a conversion to a use other than commercial timber operation shall
12 be a lien upon the real property of the person assessed the penalty and
13 the department may collect such amount in the same manner provided in
14 chapter 60.04 RCW for mechanics' liens.

15 (8) Any person incurring a penalty imposed under this section is
16 also responsible for the payment of all costs and attorneys' fees
17 incurred in connection with the penalty and interest accruing on the
18 unpaid penalty amount.

19 NEW SECTION. **Sec. 24.** A new section is added to chapter 76.09 RCW
20 to read as follows:

21 A person aggrieved by the approval or disapproval of an application
22 to conduct a forest practice or the approval or disapproval of any
23 landscape plan or permit or watershed analysis may seek review from the
24 appeals board by filing a request for the same within thirty days from
25 the date of receipt of the decision. Concurrently with the filing of
26 any request for review with the appeals board as provided in this
27 section, the requestor must file a copy of his or her request with the
28 department and the attorney general. The attorney general may
29 intervene to protect the public interest and ensure that the provisions
30 of this chapter are complied with.

31 **Sec. 25.** RCW 76.09.310 and 1987 c 95 s 4 are each amended to read
32 as follows:

33 (1) The department shall send a notice to all forest landowners,
34 both public and private, within the geographic area selected for
35 review, stating that the department intends to study the area as part
36 of the hazard-reduction program.

1 (2) The department shall prepare a proposed plan for each
2 geographic area studied. The department shall provide the proposed
3 plan to affected landowners, Indian tribes, interested parties, and to
4 the advisory committee, if established pursuant to RCW 76.09.305.

5 (3) Any aggrieved landowners, agencies, tribes, and other persons
6 who object to any or all of the proposed hazard-reduction plan may,
7 within thirty days of issuance of the plan, request the department in
8 writing to schedule a conference. If so requested, the department
9 shall schedule a conference on a date not more than thirty days after
10 receiving such request.

11 (4) Within ten days after such a conference, the department shall
12 either amend the proposed plan or respond in writing indicating why the
13 objections were not incorporated into the plan.

14 (5) Within one hundred twenty days following the issuance of the
15 proposed plan as provided in subsection (2) of this section, the
16 department shall distribute a final hazard-reduction plan designating
17 those sites for which hazard-reduction measures are recommended and
18 those sites where no action is recommended. For each hazard-reduction
19 measure recommended, a description of the work and cost estimate shall
20 be provided.

21 (6) Any aggrieved landowners, agencies, tribes, and other persons
22 are entitled to appeal the final hazard-reduction plan to the (~~forest~~
23 ~~practices~~) appeals board if, within thirty days of the issuance of the
24 final plan, the party transmits a notice of appeal to the (~~forest~~
25 ~~practices~~) appeals board and to the department.

26 (7) A landowner's failure to object to the recommendations or to
27 appeal the final hazard-reduction plan shall not be deemed an admission
28 that the hazard-reduction recommendations are appropriate.

29 (8) The department shall provide a copy of the final hazard-
30 reduction plan to the department of ecology and to each affected
31 county.

32 **Sec. 26.** RCW 77.55.011 and 2009 c 549 s 1028 are each amended to
33 read as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

36 (1) "Bed" means the land below the ordinary high water lines of
37 state waters. This definition does not include irrigation ditches,

1 canals, storm water runoff devices, or other artificial watercourses
2 except where they exist in a natural watercourse that has been altered
3 artificially.

4 (2) "Board" means the (~~hydraulic appeals~~) pollution control
5 hearings board created in chapter 43.21B RCW (~~77.55.301~~).

6 (3) "Commission" means the state fish and wildlife commission.

7 (4) "Department" means the department of fish and wildlife.

8 (5) "Director" means the director of the department of fish and
9 wildlife.

10 (6) "Emergency" means an immediate threat to life, the public,
11 property, or of environmental degradation.

12 (7) "Hydraulic project" means the construction or performance of
13 work that will use, divert, obstruct, or change the natural flow or bed
14 of any of the salt or freshwaters of the state.

15 (8) "Imminent danger" means a threat by weather, water flow, or
16 other natural conditions that is likely to occur within sixty days of
17 a request for a permit application.

18 (9) "Marina" means a public or private facility providing boat
19 moorage space, fuel, or commercial services. Commercial services
20 include but are not limited to overnight or live-aboard boating
21 accommodations.

22 (10) "Marine terminal" means a public or private commercial wharf
23 located in the navigable water of the state and used, or intended to be
24 used, as a port or facility for the storing, handling, transferring, or
25 transporting of goods to and from vessels.

26 (11) "Ordinary high water line" means the mark on the shores of all
27 water that will be found by examining the bed and banks and
28 ascertaining where the presence and action of waters are so common and
29 usual, and so long continued in ordinary years as to mark upon the soil
30 or vegetation a character distinct from the abutting upland. Provided,
31 that in any area where the ordinary high water line cannot be found,
32 the ordinary high water line adjoining saltwater is the line of mean
33 higher high water and the ordinary high water line adjoining fresh
34 water is the elevation of the mean annual flood.

35 (12) "Permit" means a hydraulic project approval permit issued
36 under this chapter.

37 (13) "Sandbars" includes, but is not limited to, sand, gravel,
38 rock, silt, and sediments.

1 (14) "Small scale prospecting and mining" means the use of only the
2 following methods: Pans; nonmotorized sluice boxes; concentrators; and
3 minirocker boxes for the discovery and recovery of minerals.

4 (15) "Spartina," "purple loosestrife," and "aquatic noxious weeds"
5 have the same meanings as defined in RCW 17.26.020.

6 (16) "Streambank stabilization" means those projects that prevent
7 or limit erosion, slippage, and mass wasting. These projects include,
8 but are not limited to, bank resloping, log and debris relocation or
9 removal, planting of woody vegetation, bank protection using rock or
10 woody material or placement of jetties or groins, gravel removal, or
11 erosion control.

12 (17) "Tide gate" means a one-way check valve that prevents the
13 backflow of tidal water.

14 (18) "Waters of the state" and "state waters" means all salt and
15 fresh waters waterward of the ordinary high water line and within the
16 territorial boundary of the state.

17 (19) "Date of receipt" has the same meaning as defined in RCW
18 43.21B.001.

19 **Sec. 27.** RCW 77.55.021 and 2008 c 272 s 1 are each amended to read
20 as follows:

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

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

29 (a) General plans for the overall project;

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

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

35 (d) Notice of compliance with any applicable requirements of the
36 state environmental policy act, unless otherwise provided for in this
37 chapter.

1 (3)(a) Protection of fish life is the only ground upon which
2 approval of a permit may be denied or conditioned. Approval of a
3 permit may not be unreasonably withheld or unreasonably conditioned.
4 Except as provided in this subsection and subsections (8), (10), and
5 (12) of this section, the department has forty-five calendar days upon
6 receipt of a complete application to grant or deny approval of a
7 permit. The forty-five day requirement is suspended if:

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

11 (ii) The site is physically inaccessible for inspection;

12 (iii) The applicant requests a delay; or

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

15 (b) Immediately upon determination that the forty-five day period
16 is suspended, the department shall notify the applicant in writing of
17 the reasons for the delay.

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

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

25 (a) Except as provided in (b) of this subsection, issuance, denial,
26 conditioning, or modification of a permit shall be appealable to ((the
27 department or)) the board ((as specified in RCW 77.55.301)) within
28 thirty days from the date of receipt of the ((notice of)) decision as
29 provided in RCW 43.21B.230.

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

37 (5)(a) The permittee must demonstrate substantial progress on

1 construction of that portion of the project relating to the permit
2 within two years of the date of issuance.

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

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

16 (6) The department may, after consultation with the permittee,
17 modify a permit due to changed conditions. The modification (~~becomes~~
18 ~~effective unless appealed to the department or the board as specified~~
19 ~~in RCW 77.55.301 within thirty days from the notice of the proposed~~
20 ~~modification~~) is appealable as provided in subsection (4) of this
21 section. For hydraulic projects that divert water for agricultural
22 irrigation or stock watering purposes, or when the hydraulic project or
23 other work is associated with streambank stabilization to protect farm
24 and agricultural land as defined in RCW 84.34.020, the burden is on the
25 department to show that changed conditions warrant the modification in
26 order to protect fish life.

27 (7) A permittee may request modification of a permit due to changed
28 conditions. The request must be processed within forty-five calendar
29 days of receipt of the written request. A decision by the department
30 (~~may be appealed to the board within thirty days of the notice of the~~
31 ~~decision~~) is appealable as provided in subsection (4) of this section.
32 For hydraulic projects that divert water for agricultural irrigation or
33 stock watering purposes, or when the hydraulic project or other work is
34 associated with streambank stabilization to protect farm and
35 agricultural land as defined in RCW 84.34.020, the burden is on the
36 permittee to show that changed conditions warrant the requested
37 modification and that such a modification will not impair fish life.

1 (8)(a) The department, the county legislative authority, or the
2 governor may declare and continue an emergency. If the county
3 legislative authority declares an emergency under this subsection, it
4 shall immediately notify the department. A declared state of emergency
5 by the governor under RCW 43.06.010 shall constitute a declaration
6 under this subsection.

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

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

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

26 (10) The department or the county legislative authority may
27 determine an imminent danger exists. The county legislative authority
28 shall notify the department, in writing, if it determines that an
29 imminent danger exists. In cases of imminent danger, the department
30 shall issue an expedited written permit, upon request, for work to
31 remove any obstructions, repair existing structures, restore banks,
32 protect fish resources, or protect property. Expedited permit requests
33 require a complete written application as provided in subsection (2) of
34 this section and must be issued within fifteen calendar days of the
35 receipt of a complete written application. Approval of an expedited
36 permit is valid for up to sixty days from the date of issuance. The
37 department may not require the provisions of the state environmental

1 policy act, chapter 43.21C RCW, to be met as a condition of issuing a
2 permit under this subsection.

3 (11)(a) For any property, except for property located on a marine
4 shoreline, that has experienced at least two consecutive years of
5 flooding or erosion that has damaged or has threatened to damage a
6 major structure, water supply system, septic system, or access to any
7 road or highway, the county legislative authority may determine that a
8 chronic danger exists. The county legislative authority shall notify
9 the department, in writing, when it determines that a chronic danger
10 exists. In cases of chronic danger, the department shall issue a
11 permit, upon request, for work necessary to abate the chronic danger by
12 removing any obstructions, repairing existing structures, restoring
13 banks, restoring road or highway access, protecting fish resources, or
14 protecting property. Permit requests must be made and processed in
15 accordance with subsections (2) and (3) of this section.

16 (b) Any projects proposed to address a chronic danger identified
17 under (a) of this subsection that satisfies the project description
18 identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions
19 of the state environmental policy act, chapter 43.21C RCW. However,
20 the project is subject to the review process established in RCW
21 77.55.181(3) as if it were a fish habitat improvement project.

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

32 **Sec. 28.** RCW 77.55.141 and 2005 c 146 s 501 are each amended to
33 read as follows:

34 (1) In order to protect the property of marine waterfront shoreline
35 owners it is necessary to facilitate issuance of permits for bulkheads
36 or rockwalls under certain conditions.

1 (2) The department shall issue a permit with or without conditions
2 within forty-five days of receipt of a complete and accurate
3 application which authorizes commencement of construction, replacement,
4 or repair of a marine beach front protective bulkhead or rockwall for
5 single-family type residences or property under the following
6 conditions:

7 (a) The waterward face of a new bulkhead or rockwall shall be
8 located only as far waterward as is necessary to excavate for footings
9 or place base rock for the structure and under no conditions shall be
10 located more than six feet waterward of the ordinary high water line;

11 (b) Any bulkhead or rockwall to replace or repair an existing
12 bulkhead or rockwall shall be placed along the same alignment as the
13 bulkhead or rockwall it is replacing. However, the replaced or
14 repaired bulkhead or rockwall may be placed waterward of and directly
15 abutting the existing structure only in cases where removal of the
16 existing bulkhead or rockwall would result in environmental degradation
17 or removal problems related to geological, engineering, or safety
18 considerations; and

19 (c) Construction of a new bulkhead or rockwall, or replacement or
20 repair of an existing bulkhead or rockwall waterward of the existing
21 structure shall not result in the permanent loss of critical food fish
22 or shellfish habitats; and

23 (d) Timing constraints shall be applied on a case-by-case basis for
24 the protection of critical habitats, including but not limited to
25 migration corridors, rearing and feeding areas, and spawning habitats,
26 for the proper protection of fish life.

27 (3) Any bulkhead or rockwall construction, replacement, or repair
28 not meeting the conditions in this section shall be processed under
29 this chapter in the same manner as any other application.

30 (4) Any person aggrieved by the approval, denial, conditioning, or
31 modification of a permit under this section may (~~formally~~) appeal the
32 decision (~~to the board pursuant to this chapter~~) as provided in RCW
33 77.55.021(4).

34 **Sec. 29.** RCW 77.55.181 and 2005 c 146 s 505 are each amended to
35 read as follows:

36 (1) In order to receive the permit review and approval process

1 created in this section, a fish habitat enhancement project must meet
2 the criteria under (a) and (b) of this subsection:

3 (a) A fish habitat enhancement project must be a project to
4 accomplish one or more of the following tasks:

5 (i) Elimination of human-made fish passage barriers, including
6 culvert repair and replacement;

7 (ii) Restoration of an eroded or unstable streambank employing the
8 principle of bioengineering, including limited use of rock as a
9 stabilization only at the toe of the bank, and with primary emphasis on
10 using native vegetation to control the erosive forces of flowing water;
11 or

12 (iii) Placement of woody debris or other instream structures that
13 benefit naturally reproducing fish stocks.

14 The department shall develop size or scale threshold tests to
15 determine if projects accomplishing any of these tasks should be
16 evaluated under the process created in this section or under other
17 project review and approval processes. A project proposal shall not be
18 reviewed under the process created in this section if the department
19 determines that the scale of the project raises concerns regarding
20 public health and safety; and

21 (b) A fish habitat enhancement project must be approved in one of
22 the following ways:

23 (i) By the department pursuant to chapter 77.95 or 77.100 RCW;

24 (ii) By the sponsor of a watershed restoration plan as provided in
25 chapter 89.08 RCW;

26 (iii) By the department as a department-sponsored fish habitat
27 enhancement or restoration project;

28 (iv) Through the review and approval process for the jobs for the
29 environment program;

30 (v) Through the review and approval process for conservation
31 district-sponsored projects, where the project complies with design
32 standards established by the conservation commission through
33 interagency agreement with the United States fish and wildlife service
34 and the natural resource conservation service;

35 (vi) Through a formal grant program established by the legislature
36 or the department for fish habitat enhancement or restoration; and

37 (vii) Through other formal review and approval processes
38 established by the legislature.

1 (2) Fish habitat enhancement projects meeting the criteria of
2 subsection (1) of this section are expected to result in beneficial
3 impacts to the environment. Decisions pertaining to fish habitat
4 enhancement projects meeting the criteria of subsection (1) of this
5 section and being reviewed and approved according to the provisions of
6 this section are not subject to the requirements of RCW
7 43.21C.030(2)(c).

8 (3)(a) A permit is required for projects that meet the criteria of
9 subsection (1) of this section and are being reviewed and approved
10 under this section. An applicant shall use a joint aquatic resource
11 permit application form developed by the office of regulatory
12 assistance to apply for approval under this chapter. On the same day,
13 the applicant shall provide copies of the completed application form to
14 the department and to each appropriate local government. Local
15 governments shall accept the application as notice of the proposed
16 project. The department shall provide a fifteen-day comment period
17 during which it will receive comments regarding environmental impacts.
18 Within forty-five days, the department shall either issue a permit,
19 with or without conditions, deny approval, or make a determination that
20 the review and approval process created by this section is not
21 appropriate for the proposed project. The department shall base this
22 determination on identification during the comment period of adverse
23 impacts that cannot be mitigated by the conditioning of a permit. If
24 the department determines that the review and approval process created
25 by this section is not appropriate for the proposed project, the
26 department shall notify the applicant and the appropriate local
27 governments of its determination. The applicant may reapply for
28 approval of the project under other review and approval processes.

29 (b) Any person aggrieved by the approval, denial, conditioning, or
30 modification of a permit under this section may ~~((formally))~~ appeal the
31 decision ~~((to the board pursuant to the provisions of this chapter))~~ as
32 provided in RCW 77.55.021(4).

33 (4) No local government may require permits or charge fees for fish
34 habitat enhancement projects that meet the criteria of subsection (1)
35 of this section and that are reviewed and approved according to the
36 provisions of this section.

1 **Sec. 30.** RCW 77.55.241 and 2005 c 146 s 602 are each amended to
2 read as follows:

3 (1) The legislature finds that the construction of hydraulic
4 projects may require mitigation for the protection of fish life, and
5 that the mitigation may be most cost-effective and provide the most
6 benefit to the fish resource if the mitigation is allowed to be applied
7 in locations that are off-site of the hydraulic project location. The
8 department may approve off-site mitigation plans that are submitted by
9 permit applicants.

10 (2) If a permit applicant proposes off-site mitigation and the
11 department does not approve the permit or conditions the permit in such
12 a manner as to render off-site mitigation unpracticable, the project
13 proponent (~~((must be given the opportunity to submit the permit
14 application to the board for approval))~~) may appeal the decision as
15 provided in RCW 77.55.021(4).

16 **Sec. 31.** RCW 77.55.291 and 2005 c 146 s 701 are each amended to
17 read as follows:

18 (1) The department may levy civil penalties of up to one hundred
19 dollars per day for violation of any provisions of RCW 77.55.021. The
20 penalty provided shall be imposed by notice in writing, either by
21 certified mail or personal service to the person incurring the penalty,
22 from the director or the director's designee describing the violation.

23 (2)(a) Except as provided in (b) of this subsection, any person
24 incurring any penalty under this chapter may appeal the same under
25 chapter 34.05 RCW to the ((director)) board. Appeals shall be filed
26 within thirty days from the date of receipt of ((notice imposing any))
27 the penalty in accordance with RCW 43.21B.230.

28 (b) Issuance of a civil penalty may be informally appealed to the
29 department within thirty days from the date of receipt of the penalty.
30 Requests for informal appeal must be filed in the form and manner
31 prescribed by the department by rule. A civil penalty that has been
32 informally appealed to the department is appealable to the board within
33 thirty days from the date of receipt of the department's decision on
34 the informal appeal.

35 (3) The penalty imposed shall become due and payable thirty days
36 after receipt of a notice imposing the penalty unless an appeal is
37 filed. Whenever an appeal of any penalty incurred under this chapter

1 is filed, the penalty shall become due and payable only upon completion
2 of all review proceedings and the issuance of a final order confirming
3 the penalty in whole or in part.

4 (4) If the amount of any penalty is not paid within thirty days
5 after it becomes due and payable, the attorney general, upon the
6 request of the director, shall bring an action in the name of the state
7 of Washington in the superior court of Thurston county or of any county
8 in which such violator may do business, to recover such penalty. In
9 all such actions the procedure and rules of evidence shall be the same
10 as an ordinary civil action. All penalties recovered under this
11 section shall be paid into the state's general fund.

12 **Sec. 32.** RCW 78.44.270 and 1993 c 518 s 35 are each amended to
13 read as follows:

14 (~~Appeals from~~) Department determinations under this chapter
15 (~~shall be made as follows:~~

16 ~~Appeals from department determinations made under this chapter~~
17 ~~shall be made under the provisions of the Administrative Procedure Act~~
18 ~~(chapter 34.05 RCW), and shall be considered an adjudicative proceeding~~
19 ~~within the meaning of the Administrative Procedure Act, chapter 34.05~~
20 ~~RCW)) may be appealed to the pollution control hearings board as~~
21 ~~provided in RCW 43.21B.230. Only a person aggrieved within the meaning~~
22 ~~of RCW 34.05.530 has standing and can file an appeal.~~

23 **Sec. 33.** RCW 78.44.380 and 2007 c 192 s 3 are each amended to read
24 as follows:

25 (1) The department may issue an order to stop all surface mining to
26 any permit holder, miner, or other person who authorizes, directs, or
27 conducts such activities without a valid surface mine reclamation
28 permit. This order is effective upon issuance unless otherwise stated
29 in the order. Administrative appeal of the order to stop work does not
30 stay the stop work requirement. The department shall notify the local
31 jurisdiction of record when a stop work order has been issued for
32 operating without a valid reclamation permit.

33 (2) The department may issue an order to stop surface mining
34 occurring outside of any permit area to a permit holder that does not
35 have a legal right to occupy the affected area. This order is

1 effective upon issuance unless otherwise stated in the order. An
2 administrative appeal of the order to stop work does not stay the stop
3 work requirement.

4 (3) Where a permit holder is conducting surface mining activities
5 outside of its permit boundary, but within land that it has the right
6 to occupy, the department may issue an order to stop surface mining or
7 mining-related activities occurring outside of the authorized area
8 after the permit holder fails to comply with a notice of correction.
9 The notice of correction must specify the corrections necessary as per
10 the violation and provide a reasonable time to do so. This order is
11 effective upon issuance unless otherwise stated in the order. An
12 administrative appeal of the order to stop work does not stay the stop
13 work requirement.

14 (4) Stop work orders must be in writing, delivered by United States
15 certified mail with return receipt requested, facsimile, or by hand to
16 the permit holder of record. The order must state the facts supporting
17 the violation, the law being violated, and the specific activities
18 being stopped. Stop work orders must be signed by the state geologist
19 or an assistant state geologist. The (~~department~~) pollution control
20 hearings board shall proceed as quickly as feasible to complete any
21 requested adjudicative proceedings unless the parties stipulate to an
22 appeal timeline or the department's stop work order states that it is
23 not effective until after the administrative review process. If the
24 recipient appeals the order, the recipient may file a motion for stay
25 with the presiding officer, which will be reviewed under (~~preliminary~~
26 ~~injunction standards~~) RCW 43.21B.320.

27 **Sec. 34.** RCW 79.100.120 and 2006 c 153 s 5 are each amended to
28 read as follows:

29 (1) A person seeking to contest an authorized public entity's
30 decision to take temporary possession or custody of a vessel under this
31 chapter, or to contest the amount of reimbursement owed to an
32 authorized public entity under this chapter, may request a hearing in
33 accordance with this section.

34 (2)(a) If the contested decision or action was undertaken by a
35 state agency, a written request for a hearing related to the decision
36 or action must be filed with the (~~aquatic resources division of the~~
37 ~~department~~) pollution control hearings board and served on the state

1 agency in accordance with RCW 43.21B.230 (2) and (3) within ((twenty))
2 thirty days of the date the authorized public entity acquires custody
3 of the vessel under RCW 79.100.040, or if the vessel is redeemed before
4 the authorized public entity acquires custody, the date of redemption,
5 or the right to a hearing is deemed waived and the vessel's owner is
6 liable for any costs owed the authorized public entity. In the event
7 of litigation, the prevailing party is entitled to reasonable
8 attorneys' fees and costs.

9 (b) Upon receipt of a timely hearing request, the ((department))
10 pollution control hearings board shall proceed to hear and determine
11 the validity of the decision to take the vessel into temporary
12 possession or custody and the reasonableness of any towing, storage, or
13 other charges permitted under this chapter. Within five business days
14 after the request for a hearing is filed, the ((department)) pollution
15 control hearings board shall notify the vessel owner requesting the
16 hearing and the authorized public entity of the date, time, and
17 location for the hearing. Unless the vessel is redeemed before the
18 request for hearing is filed, the ((department)) pollution control
19 hearings board shall set the hearing on a date that is within ten
20 business days of the filing of the request for hearing. If the vessel
21 is redeemed before the request for a hearing is filed, the
22 ((department)) pollution control hearings board shall set the hearing
23 on a date that is within sixty days of the filing of the request for
24 hearing. A proceeding brought under this subsection may be heard by
25 one member of the pollution control hearings board, whose decision is
26 the final decision of the board.

27 (3)(a) If the contested decision or action was undertaken by a
28 metropolitan park district, port district, city, town, or county, which
29 has adopted rules or procedures for contesting decisions or actions
30 pertaining to derelict or abandoned vessels, those rules or procedures
31 must be followed in order to contest a decision to take temporary
32 possession or custody of a vessel, or to contest the amount of
33 reimbursement owed.

34 (b) If the metropolitan park district, port district, city, town,
35 or county has not adopted rules or procedures for contesting decisions
36 or actions pertaining to derelict or abandoned vessels, then a person
37 requesting a hearing under this section must follow the procedure

1 established in RCW 53.08.320(5) for contesting the decisions or actions
2 of moorage facility operators.

3 **Sec. 35.** RCW 84.33.0775 and 1999 sp.s. c 5 s 1 are each amended to
4 read as follows:

5 (1) A taxpayer is allowed a credit against the tax imposed under
6 RCW 84.33.041 for timber harvested on and after January 1, 2000, under
7 a forest practices notification filed or application approved under RCW
8 76.09.050 and subject to enhanced aquatic resources requirements.

9 (2)(a) For a person other than a small harvester who elects to
10 calculate tax under RCW 84.33.074, the credit is equal to the stumpage
11 value of timber harvested for sale or for commercial or industrial use
12 multiplied by eight-tenths of one percent.

13 (b) For a small harvester who elects to calculate tax under RCW
14 84.33.074, the credit is equal to sixteen percent of the tax imposed
15 under this chapter.

16 (c) The amount of credit claimed by a taxpayer under this section
17 shall be reduced by the amount of any compensation received from the
18 federal government for reduced timber harvest due to enhanced aquatic
19 resource requirements. If the amount of compensation from the federal
20 government exceeds the amount of credit available to a taxpayer in any
21 reporting period, the excess shall be carried forward and applied
22 against credits in future reporting periods. This subsection does not
23 apply to small harvesters as defined in RCW 84.33.073.

24 (d) Refunds may not be given in place of credits. Credit may not
25 be claimed in excess of tax owed. The department of revenue shall
26 disallow any credits, used or unused, upon written notification from
27 the department of natural resources of a final decision that timber for
28 which credit was claimed was not harvested under a forest practices
29 notification filed or application approved under RCW 76.09.050 and
30 subject to enhanced aquatic resources requirements.

31 (3) As used in this section, a forest (~~(practice[s])~~) practices
32 notification or application is subject to enhanced aquatic resource
33 requirements if it includes, in whole or in part, riparian area,
34 wetland, or steep or unstable slope from which the operator is limited,
35 by rule adopted under RCW 76.09.055, 34.05.090, 43.21C.250, and
36 76.09.370, or any federally approved habitat conservation plan or
37 department of natural resources approved watershed analysis, from

1 harvesting timber, or if a road is included within or adjacent to the
2 area covered by such notification or application and the road is
3 covered by a road maintenance plan approved by the department of
4 natural resources under rules adopted under chapter 76.09 RCW, the
5 forest practices act, or a federally approved habitat conservation
6 plan.

7 (4) For forest practices notification or applications submitted
8 after January 1, 2000, the department of natural resources shall
9 indicate whether the notification or application is subject to enhanced
10 aquatic resource requirements and, unless notified of a contrary
11 determination by the ((~~forest practices appeals board~~)) pollution
12 control hearings board, the department of revenue shall use such
13 indication in determining the credit to be allowed against the tax
14 assessed under RCW 84.33.041. The department of natural resources
15 shall develop revisions to the form of the forest practices
16 notifications and applications to provide a space for the applicant to
17 indicate and the department of natural resources to confirm or not
18 confirm, whether the notification or application is subject to enhanced
19 aquatic resource requirements. For forest practices notifications or
20 applications submitted before January 1, 2000, the applicant may submit
21 the approved notification or application to the department of natural
22 resources for confirmation that the notification or application is
23 subject to enhanced aquatic resource requirements. Upon any such
24 submission, the department of natural resources will within thirty days
25 confirm or deny that the notification or application is subject to
26 enhanced aquatic resource requirements and will forward separate
27 evidence of each confirmation to the department of revenue. Unless
28 notified of a contrary ruling by the ((~~forest practices appeals board~~))
29 pollution control hearings board, the department of revenue shall use
30 the separate confirmations in determining the credit to be allowed
31 against the tax assessed under RCW 84.33.041.

32 (5) A refusal by the department of natural resources to confirm
33 that a notification or application is subject to enhanced aquatic
34 resources requirements may be appealed to the ((~~forest practices~~
35 ~~appeals board under RCW 76.09.220~~)) pollution control hearings board.

36 (6) A person receiving approval of credit must keep records
37 necessary for the department of revenue to verify eligibility under
38 this section.

1 **Sec. 36.** RCW 90.58.140 and 1995 c 347 s 309 are each amended to
2 read as follows:

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

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

10 A permit shall be granted:

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

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

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

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

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

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

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

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

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

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

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

25 (b) Construction may be commenced no sooner than thirty days after
26 the date of the appeal of the board's decision is filed if a permit is
27 granted by the local government and (i) the granting of the permit is
28 appealed to the shorelines hearings board within twenty-one days of the
29 date of (~~((filing))~~) receipt, (ii) the hearings board approves the
30 granting of the permit by the local government or approves a portion of
31 the substantial development for which the local government issued the
32 permit, and (iii) an appeal for judicial review of the hearings board
33 decision is filed pursuant to chapter 34.05 RCW. The appellant may
34 request, within ten days of the filing of the appeal with the court, a
35 hearing before the court to determine whether construction pursuant to
36 the permit approved by the hearings board or to a revised permit issued
37 pursuant to the order of the hearings board should not commence. If,
38 at the conclusion of the hearing, the court finds that construction

1 pursuant to such a permit would involve a significant, irreversible
2 damaging of the environment, the court shall prohibit the permittee
3 from commencing the construction pursuant to the approved or revised
4 permit until all review proceedings are final. Construction pursuant
5 to a permit revised at the direction of the hearings board may begin
6 only on that portion of the substantial development for which the local
7 government had originally issued the permit, and construction pursuant
8 to such a revised permit on other portions of the substantial
9 development may not begin until after all review proceedings are
10 terminated. In such a hearing before the court, the burden of proving
11 whether the construction may involve significant irreversible damage to
12 the environment and demonstrating whether such construction would or
13 would not be appropriate is on the appellant;

14 (c) If the permit is for a substantial development meeting the
15 requirements of subsection (11) of this section, construction pursuant
16 to that permit may not begin or be authorized until twenty-one days
17 from the date (~~(the permit decision was filed)~~) of receipt as provided
18 in subsection (6) of this section.

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

29 (6) Any decision on an application for a permit under the authority
30 of this section, whether it is an approval or a denial, shall,
31 concurrently with the transmittal of the ruling to the applicant, be
32 (~~(filed with)~~) transmitted to the department and the attorney general.
33 A petition for review of such a decision must be commenced within
34 twenty-one days from the date of receipt of the decision. With regard
35 to a permit other than a permit governed by subsection (10) of this
36 section, "date of (~~(filing)~~) receipt" as used herein (~~(means)~~) refers
37 to the date (~~(of actual receipt by the department)~~) that the applicant
38 receives written notice from the department that the department has

1 received the decision. With regard to a permit for a variance or a
2 conditional use, "date of ((filing)) receipt" means the date a local
3 government or applicant receives the written decision of the department
4 rendered on the permit pursuant to subsection (10) of this section ((is
5 ~~transmitted by the department to the local government. The department~~
6 ~~shall notify in writing the local government and the applicant of the~~
7 ~~date of filing)). For the purposes of this subsection, the term "date
8 of receipt" has the same meaning as provided in RCW 43.21B.001.~~

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

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

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

31 (10) Any permit for a variance or a conditional use by local
32 government under approved master programs must be submitted to the
33 department for its approval or disapproval.

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

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

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

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

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

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

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

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

21 **Sec. 37.** RCW 90.58.180 and 2003 c 393 s 22 are each amended to
22 read as follows:

23 (1) Any person aggrieved by the granting, denying, or rescinding of
24 a permit on shorelines of the state pursuant to RCW 90.58.140 may,
25 except as otherwise provided in chapter 43.21L RCW, seek review from
26 the shorelines hearings board by filing a petition for review within
27 twenty-one days of the date of ~~((filing))~~ receipt of the decision as
28 ~~((defined))~~ provided for in RCW 90.58.140(6).

29 Within seven days of the filing of any petition for review with the
30 board as provided in this section pertaining to a final decision of a
31 local government, the petitioner shall serve copies of the petition on
32 the department, the office of the attorney general, and the local
33 government. The department and the attorney general may intervene to
34 protect the public interest and ~~((insure))~~ ensure that the provisions
35 of this chapter are complied with at any time within fifteen days from
36 the date of the receipt by the department or the attorney general of a
37 copy of the petition for review filed pursuant to this section. The

1 shorelines hearings board shall schedule review proceedings on the
2 petition for review without regard as to whether the period for the
3 department or the attorney general to intervene has or has not expired.

4 (2) The department or the attorney general may obtain review of any
5 final decision granting a permit, or granting or denying an application
6 for a permit issued by a local government by filing a written petition
7 with the shorelines hearings board and the appropriate local government
8 within twenty-one days from the date (~~the final decision was filed~~)
9 of receipt as provided in RCW 90.58.140(6).

10 (3) The review proceedings authorized in subsections (1) and (2) of
11 this section are subject to the provisions of chapter 34.05 RCW
12 pertaining to procedures in adjudicative proceedings. Judicial review
13 of such proceedings of the shorelines hearings board is governed by
14 chapter 34.05 RCW. The board shall issue its decision on the appeal
15 authorized under subsections (1) and (2) of this section within one
16 hundred eighty days after the date the petition is filed with the board
17 or a petition to intervene is filed by the department or the attorney
18 general, whichever is later. The time period may be extended by the
19 board for a period of thirty days upon a showing of good cause or may
20 be waived by the parties.

21 (4) Any person may appeal any rules, regulations, or guidelines
22 adopted or approved by the department within thirty days of the date of
23 the adoption or approval. The board shall make a final decision within
24 sixty days following the hearing held thereon.

25 (5) The board shall find the rule, regulation, or guideline to be
26 valid and enter a final decision to that effect unless it determines
27 that the rule, regulation, or guideline:

28 (a) Is clearly erroneous in light of the policy of this chapter; or

29 (b) Constitutes an implementation of this chapter in violation of
30 constitutional or statutory provisions; or

31 (c) Is arbitrary and capricious; or

32 (d) Was developed without fully considering and evaluating all
33 material submitted to the department during public review and comment;
34 or

35 (e) Was not adopted in accordance with required procedures.

36 (6) If the board makes a determination under subsection (5)(a)
37 through (e) of this section, it shall enter a final decision declaring
38 the rule, regulation, or guideline invalid, remanding the rule,

1 regulation, or guideline to the department with a statement of the
2 reasons in support of the determination, and directing the department
3 to adopt, after a thorough consultation with the affected local
4 government and any other interested party, a new rule, regulation, or
5 guideline consistent with the board's decision.

6 (7) A decision of the board on the validity of a rule, regulation,
7 or guideline shall be subject to review in superior court, if
8 authorized pursuant to chapter 34.05 RCW. A petition for review of the
9 decision of the shorelines hearings board on a rule, regulation, or
10 guideline shall be filed within thirty days after the date of final
11 decision by the shorelines hearings board.

12 **Sec. 38.** RCW 90.58.190 and 2003 c 321 s 4 are each amended to read
13 as follows:

14 (1) The appeal of the department's decision to adopt a master
15 program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(5) is
16 governed by RCW 34.05.510 through 34.05.598.

17 (2)(a) The department's final decision to approve(~~(7)~~) or reject(~~(7~~
18 ~~er modify)~~) a proposed master program or master program amendment
19 (~~adopted~~) by a local government planning under RCW 36.70A.040 shall
20 be appealed to the growth management hearings board (~~(with jurisdiction~~
21 ~~over the local government. The appeal shall be initiated)~~) by filing
22 a petition within sixty days from the date of the department's written
23 notice to the local government of the department's final decision to
24 approve or reject a proposed master program or master program
25 amendment, as provided in RCW ((36.70A.250 through 36.70A.320))
26 36.70A.290. The department's written notice must conspicuously and
27 plainly state that it is the department's final decision and that there
28 will be no further modifications under RCW 90.58.090(2).

29 (b) If the appeal to the growth management hearings board concerns
30 shorelines, the growth management hearings board shall review the
31 proposed master program or amendment solely for compliance with the
32 requirements of this chapter, the policy of RCW 90.58.020 and the
33 applicable guidelines, the internal consistency provisions of RCW
34 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter
35 43.21C RCW as it relates to the adoption of master programs and
36 amendments under chapter 90.58 RCW.

1 (c) If the appeal to the growth management hearings board concerns
2 a shoreline of statewide significance, the board shall uphold the
3 decision by the department unless the board, by clear and convincing
4 evidence, determines that the decision of the department is
5 inconsistent with the policy of RCW 90.58.020 and the applicable
6 guidelines.

7 (d) The appellant has the burden of proof in all appeals to the
8 growth management hearings board under this subsection.

9 (e) Any party aggrieved by a final decision of a growth management
10 hearings board under this subsection may appeal the decision to
11 superior court as provided in RCW 36.70A.300.

12 (3)(a) The department's final decision to approve(~~(7)~~) or reject(~~(7~~
13 ~~or modify)~~) a proposed master program or master program amendment by a
14 local government not planning under RCW 36.70A.040 shall be appealed to
15 the shorelines hearings board by filing a petition within thirty days
16 of the date of the department's written notice to the local government
17 of the department's final decision to approve(~~(7)~~) or reject(~~(7~~
18 ~~or modify)~~) a proposed master program or master program amendment (~~as~~
19 ~~provided in RCW 90.58.090(2)~~). The department's written notice must
20 conspicuously and plainly state that it is the department's final
21 decision and that there will be no further modifications under RCW
22 90.58.090(2).

23 (b) In an appeal relating to shorelines, the shorelines hearings
24 board shall review the proposed master program or master program
25 amendment and, after full consideration of the presentations of the
26 local government and the department, shall determine the validity of
27 the local government's master program or amendment in light of the
28 policy of RCW 90.58.020 and the applicable guidelines.

29 (c) In an appeal relating to shorelines of statewide significance,
30 the shorelines hearings board shall uphold the decision by the
31 department unless the board determines, by clear and convincing
32 evidence that the decision of the department is inconsistent with the
33 policy of RCW 90.58.020 and the applicable guidelines.

34 (d) Review by the shorelines hearings board shall be considered an
35 adjudicative proceeding under chapter 34.05 RCW, the administrative
36 procedure act. The aggrieved local government shall have the burden of
37 proof in all such reviews.

1 (e) Whenever possible, the review by the shorelines hearings board
2 shall be heard within the county where the land subject to the proposed
3 master program or master program amendment is primarily located. The
4 department and any local government aggrieved by a final decision of
5 the hearings board may appeal the decision to superior court as
6 provided in chapter 34.05 RCW.

7 (4) A master program amendment shall become effective after the
8 approval of the department or after the decision of the shorelines
9 hearings board to uphold the master program or master program
10 amendment, provided that the board may remand the master program or
11 master program adjustment to the local government or the department for
12 modification prior to the final adoption of the master program or
13 master program amendment.

14 **Sec. 39.** RCW 90.58.210 and 1995 c 403 s 637 are each amended to
15 read as follows:

16 (1) Except as provided in RCW 43.05.060 through 43.05.080 and
17 43.05.150, the attorney general or the attorney for the local
18 government shall bring such injunctive, declaratory, or other actions
19 as are necessary to (~~insure~~) ensure that no uses are made of the
20 shorelines of the state in conflict with the provisions and programs of
21 this chapter, and to otherwise enforce the provisions of this chapter.

22 (2) Any person who shall fail to conform to the terms of a permit
23 issued under this chapter or who shall undertake development on the
24 shorelines of the state without first obtaining any permit required
25 under this chapter shall also be subject to a civil penalty not to
26 exceed one thousand dollars for each violation. Each permit violation
27 or each day of continued development without a required permit shall
28 constitute a separate violation.

29 (3) The penalty provided for in this section shall be imposed by a
30 notice in writing, either by certified mail with return receipt
31 requested or by personal service, to the person incurring the same from
32 the department or local government, describing the violation with
33 reasonable particularity and ordering the act or acts constituting the
34 violation or violations to cease and desist or, in appropriate cases,
35 requiring necessary corrective action to be taken within a specific and
36 reasonable time.

1 (4) (~~Within thirty days after the notice is received, the person~~
2 ~~incurring the penalty may apply in writing to the department for~~
3 ~~remission or mitigation of such penalty. Upon receipt of the~~
4 ~~application, the department or local government may remit or mitigate~~
5 ~~the penalty upon whatever terms the department or local government in~~
6 ~~its discretion deems proper.~~) The person incurring the penalty may
7 appeal within thirty days from the date of receipt of the penalty. The
8 term "date of receipt" has the same meaning as provided in RCW
9 43.21B.001. Any penalty imposed pursuant to this section by the
10 department shall be subject to review by the shorelines hearings board.
11 Any penalty imposed pursuant to this section by local government shall
12 be subject to review by the local government legislative authority.
13 Any penalty jointly imposed by the department and local government
14 shall be appealed to the shorelines hearings board.

15 **Sec. 40.** RCW 90.58.560 and 1995 c 403 s 638 are each amended to
16 read as follows:

17 (1) Except as provided in RCW 43.05.060 through 43.05.080 and
18 43.05.150, a person who violates RCW 90.58.550, or any rule adopted
19 thereunder, is subject to a penalty in an amount of up to five thousand
20 dollars a day for every such violation. Each and every such violation
21 shall be a separate and distinct offense, and in case of a continuing
22 violation, every day's continuance shall be and be deemed to be a
23 separate and distinct violation. Every act of commission or omission
24 which procures, aids or abets in the violation shall be considered a
25 violation under the provisions of this section and subject to the
26 penalty provided for in this section.

27 (2) The penalty shall be imposed by a notice in writing, either by
28 certified mail with return receipt requested or by personal service, to
29 the person incurring the penalty from the director or the director's
30 representative describing such violation with reasonable particularity.
31 (~~The director or the director's representative may, upon written~~
32 ~~application therefor received within fifteen days after notice imposing~~
33 ~~any penalty is received by the person incurring the penalty, and when~~
34 ~~deemed to carry out the purposes of this chapter, remit or mitigate any~~
35 ~~penalty provided for in this section upon such terms as he or she deems~~
36 ~~proper, and shall have authority to ascertain the facts upon all such~~

1 ~~applications in such manner and under such regulations as he or she may~~
2 ~~deem proper.))~~

3 (3) Any person incurring any penalty under this section may appeal
4 the penalty to the hearings board as provided for in chapter 43.21B
5 RCW. Such appeals shall be filed within thirty days from the date of
6 receipt of ~~((notice imposing any))~~ the penalty ~~((unless an application~~
7 ~~for remission or mitigation is made to the department. When an~~
8 ~~application for remission or mitigation is made, such appeals shall be~~
9 ~~filed within thirty days of receipt of notice from the director or the~~
10 ~~director's representative setting forth the disposition of the~~
11 ~~application))~~. Any penalty imposed under this section shall become due
12 and payable thirty days after receipt of a notice imposing the same
13 unless ~~((application for remission or mitigation is made or))~~ an appeal
14 is filed. ~~((When an application for remission or mitigation is made,~~
15 ~~any penalty incurred hereunder shall become due and payable thirty days~~
16 ~~after receipt of notice setting forth the disposition of the~~
17 ~~application unless an appeal is filed from such disposition.))~~
18 Whenever an appeal of any penalty incurred under this section is filed,
19 the penalty shall become due and payable only upon completion of all
20 review proceedings and the issuance of a final order confirming the
21 penalty in whole or in part.

22 (4) If the amount of any penalty is not paid to the department
23 within thirty days after it becomes due and payable, the attorney
24 general, upon the request of the director, shall bring an action in the
25 name of the state of Washington in the superior court of Thurston
26 county or of any county in which such violator may do business, to
27 recover such penalty. In all such actions the procedure and rules of
28 evidence shall be the same as an ordinary civil action except as
29 otherwise provided in this chapter ~~((provided))~~. All penalties
30 recovered under this section shall be paid into the state treasury and
31 credited to the general fund.

32 NEW SECTION. **Sec. 41.** The following acts or parts of acts are
33 each repealed:

34 (1) RCW 43.21B.190 (Judicial review--Appeal from board's order) and
35 2004 c 204 s 2, 1995 c 382 s 4, 1994 c 253 s 7, 1988 c 202 s 43, & 1970
36 ex.s. c 62 s 49;

1 (2) RCW 76.09.210 (Forest practices appeals board--Created--
2 Membership--Terms--Vacancies--Removal) and 1979 ex.s. c 47 s 4 & 1974
3 ex.s. c 137 s 21;

4 (3) RCW 76.09.220 (Forest practices appeals board--Compensation--
5 Travel expenses--Chair--Office--Quorum--Powers and duties--
6 Jurisdiction--Review) and 2007 c 480 s 8, 2003 c 393 s 20, 1999 sp.s.
7 c 4 s 902, & 1999 c 90 s 1;

8 (4) RCW 76.09.230 (Forest practices appeals board--Mediation--
9 Appeal procedure--Judicial review) and 1994 c 253 s 9, 1992 c 52 s 23,
10 1989 c 175 s 165, & 1974 ex.s. c 137 s 23;

11 (5) RCW 77.55.301 (Hydraulic appeals board--Members--Jurisdiction--
12 Procedures) and 2005 c 146 s 801, 2003 c 393 s 21, 2000 c 107 s 20,
13 1996 c 276 s 2, 1993 sp.s. c 2 s 37, 1989 c 175 s 160, 1988 c 272 s 3,
14 1988 c 36 s 37, & 1986 c 173 s 4; and

15 (6) RCW 77.55.311 (Hydraulic appeals board--Procedures) and 2005 c
16 146 s 802, 1995 c 382 s 7, 1989 c 175 s 161, & 1986 c 173 s 5.

17 NEW SECTION. **Sec. 42.** (1) This act applies prospectively only and
18 not retroactively. It applies only to appeals that are commenced on or
19 after the effective date of this section. The repeals in section 41 of
20 this act do not affect any existing right acquired or liability or
21 obligation incurred under the statutes repealed or under any rule or
22 order adopted under those statutes nor do they affect any proceeding
23 instituted under them.

24 (2) All pending cases before the forest practices appeals board and
25 the hydraulics appeals board shall be continued and acted upon by those
26 boards. All existing rules of the forest practices appeals board shall
27 remain in effect and be used by the pollution control hearings board
28 until the pollution control hearings board adopts superceding rules for
29 forest practices appeals.

30 NEW SECTION. **Sec. 43.** A new section is added to chapter 36.70A
31 RCW to read as follows:

32 (1) The powers, duties, and functions of the growth management
33 hearings board are hereby transferred to the environmental and land use
34 hearings office.

35 (2)(a) All reports, documents, surveys, books, records, files,
36 papers, or written material in the possession of the growth management

1 hearings board shall be delivered to the custody of the environmental
2 and land use hearings office. All cabinets, furniture, office
3 equipment, motor vehicles, and other tangible property employed by the
4 growth management hearings board shall be made available to the
5 environmental and land use hearings office. All funds, credits, or
6 other assets held by the growth management hearings board shall be
7 assigned to the environmental and land use hearings office.

8 (b) Any appropriations made to the growth management hearings board
9 shall, on the effective date of this section, be transferred and
10 credited to the environmental and land use hearings office.

11 (c) If any question arises as to the transfer of any personnel,
12 funds, books, documents, records, papers, files, equipment, or other
13 tangible property used or held in the exercise of the powers and the
14 performance of the duties and functions transferred, the director of
15 financial management shall make a determination as to the proper
16 allocation and certify the same to the state agencies concerned.

17 (3) All employees of the growth management hearings board are
18 transferred to the jurisdiction of the environmental and land use
19 hearings office. All employees classified under chapter 41.06 RCW, the
20 state civil service law, are assigned to the environmental and land use
21 hearings office to perform their usual duties upon the same terms as
22 formerly, without any loss of rights, subject to any action that may be
23 appropriate thereafter in accordance with the laws and rules governing
24 state civil service.

25 (4) All existing rules and all pending cases before the growth
26 management hearings board shall be continued and acted upon by the
27 growth management hearings board located within the environmental and
28 land use hearings office. All pending business, existing contracts,
29 and obligations shall remain in full force and shall be performed by
30 the environmental and land use hearings office.

31 (5) The transfer of the powers, duties, functions, and personnel of
32 the growth management hearings board shall not affect the validity of
33 any act performed before the effective date of this section.

34 (6) If apportionments of budgeted funds are required because of the
35 transfers directed by this section, the director of financial
36 management shall certify the apportionments to the agencies affected,
37 the state auditor, and the state treasurer. Each of these shall make

1 the appropriate transfer and adjustments in funds and appropriation
2 accounts and equipment records in accordance with the certification.

3 NEW SECTION. **Sec. 44.** (1) Sections 1, 3, 5, 7, 9 through 14, and
4 16 through 42 of this act take effect July 1, 2010.

5 (2) Sections 2, 4, 6, 15, 43, and 46 of this act take effect July
6 1, 2011. The chief executive officer of the environmental hearings
7 office may take the necessary steps to ensure that these sections are
8 implemented on their effective date.

9 (3) Section 8 of this act takes effect June 30, 2019.

10 NEW SECTION. **Sec. 45.** (1) Sections 3 and 5 of this act expire
11 July 1, 2011.

12 (2) Section 7 of this act expires June 30, 2019.

13 NEW SECTION. **Sec. 46.** The following acts or parts of acts are
14 each repealed:

15 (1) RCW 43.21L.005 (Purpose) and 2003 c 393 s 1;

16 (2) RCW 43.21L.010 (Definitions) and 2003 c 393 s 2;

17 (3) RCW 43.21L.020 (Exclusive review process--Exception--Procedural
18 rules) and 2003 c 393 s 3;

19 (4) RCW 43.21L.030 (Designation as qualifying project--Request for
20 determination--Duties of office of permit assistance) and 2003 c 393 s
21 4;

22 (5) RCW 43.21L.040 (Environmental and land use hearings board) and
23 2003 c 393 s 5;

24 (6) RCW 43.21L.050 (Review proceedings--Commencement--Rules for
25 filing and service) and 2003 c 393 s 6;

26 (7) RCW 43.21L.060 (Standing) and 2003 c 393 s 7;

27 (8) RCW 43.21L.070 (Petition requirements) and 2003 c 393 s 8;

28 (9) RCW 43.21L.080 (Affidavit certifying applications for permits--
29 Initial hearing on jurisdictional and preliminary matters) and 2003 c
30 393 s 9;

31 (10) RCW 43.21L.090 (Expedited review of petitions) and 2003 c 393
32 s 10;

33 (11) RCW 43.21L.100 (Stay or suspension of board action) and 2003
34 c 393 s 11;

- 1 (12) RCW 43.21L.110 (Decision record--Certified copy to board--
2 Costs) and 2003 c 393 s 12;
3 (13) RCW 43.21L.120 (Board review of permit decisions--Correction
4 of errors and omissions--Pretrial discovery--Requests for records under
5 chapter 42.56 RCW) and 2005 c 274 s 295 & 2003 c 393 s 13;
6 (14) RCW 43.21L.130 (Standards for granting relief--Action by
7 board) and 2003 c 393 s 14;
8 (15) RCW 43.21L.140 (Judicial review) and 2003 c 393 s 15;
9 (16) RCW 43.21L.900 (Implementation--2003 c 393) and 2003 c 393 s
10 24; and
11 (17) RCW 43.21L.901 (Effective date--2003 c 393) and 2003 c 393 s
12 25."

SHB 2935 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/08/2010

13 On page 1, line 1 of the title, after "boards;" strike the
14 remainder of the title and insert "amending RCW 43.21B.001, 43.21B.010,
15 43.21B.010, 43.21B.180, 43.21B.230, 43.21B.320, 36.70A.270, 70.95.094,
16 76.06.180, 76.09.050, 76.09.080, 76.09.090, 76.09.170, 76.09.310,
17 77.55.011, 77.55.021, 77.55.141, 77.55.181, 77.55.241, 77.55.291,
18 78.44.270, 78.44.380, 79.100.120, 84.33.0775, 90.58.140, 90.58.180,
19 90.58.190, 90.58.210, and 90.58.560; reenacting and amending RCW
20 43.21B.005, 43.21B.005, 43.21B.110, 43.21B.110, 43.21B.300, 43.21B.310,
21 and 76.09.020; adding a new section to chapter 43.21B RCW; adding new
22 sections to chapter 36.70A RCW; adding a new section to chapter 76.09
23 RCW; creating new sections; repealing RCW 43.21B.190, 76.09.210,
24 76.09.220, 76.09.230, 77.55.301, 77.55.311, 43.21L.005, 43.21L.010,
25 43.21L.020, 43.21L.030, 43.21L.040, 43.21L.050, 43.21L.060, 43.21L.070,
26 43.21L.080, 43.21L.090, 43.21L.100, 43.21L.110, 43.21L.120, 43.21L.130,
27 43.21L.140, 43.21L.900, and 43.21L.901; providing effective dates; and
28 providing expiration dates."

--- END ---