
SECOND SUBSTITUTE HOUSE BILL 1819

State of Washington

61st Legislature

2009 Regular Session

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

READ FIRST TIME 03/02/09.

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

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

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

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

16 The legislature finds that acting now provides predictability for
17 business, drives investment in the new clean energy economy, creates
18 jobs, positions Washington business to receive credit for early
19 reductions of greenhouse gases, and maximizes Washington's ability to

1 shape the development of any potential federal cap-and-trade program.
2 However, the legislature does not intend for a carbon auction to take
3 place in Washington without prior approval from the legislature.

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

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

8 (1) "Agriculture carbon working group" means the stakeholder group
9 formed by the department and the department of community, trade, and
10 economic development to develop the recommendations required under RCW
11 70.235.030(3)(g).

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

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

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

19 (~~(4)~~) (5) "Department" means the department of ecology.

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

23 (~~(6)~~) (7) "Director" means the director of the department.

24 (~~(7)~~) (8) "Early reduction allowance" means an allowance for
25 reductions in greenhouse gas emissions that occur after January 1,
26 1990, and before January 1, 2012, and that are approved by the
27 department.

28 (9) "Forest carbon working group" means the stakeholder group
29 formed by the departments of ecology and community, trade, and economic
30 development to develop the recommendations required under RCW
31 70.235.030(3)(g).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (c) Manufacturing-related emissions from pulp and paper production.

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

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

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

1 (2) The allowance caps for each year from 2012 to 2014 must be set
2 in advance of 2012. Allowance caps for each year after 2014 must be
3 set at least three years in advance of the start of the next compliance
4 period.

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

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

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

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

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

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

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

25 NEW SECTION. **Sec. 6.** The department of ecology, in consultation
26 with the forest practices board, the department of natural resources,
27 and the forest carbon working group, shall develop and deliver to the
28 legislature by December 31, 2010, legislation to implement a financial
29 incentives program for forestry and forest products that will recognize
30 activities such as:

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

35 (2) Forest landowners utilizing transfer development right
36 programs;

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

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

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

8 NEW SECTION. **Sec. 7.** The department of ecology, in consultation
9 with the forest practices board, the department of natural resources,
10 and the forest carbon working group, shall develop recommendations for
11 the state's policy for forestry offset projects within Washington. The
12 agencies and the forest carbon working group shall use the 2008 report
13 of the forest carbon working group as the starting point in developing
14 the policy. A report on the progress of the development of this
15 policy, including any preliminary drafts of the policy, must be
16 submitted to the legislature for review by December 31, 2010. The
17 final policy must be submitted to the legislature by July 1, 2011. The
18 policy recommendations must include:

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

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

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

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

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

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

3 NEW SECTION. **Sec. 8.** The department of ecology, in consultation
4 with Washington State University and the Washington state department of
5 agriculture shall reestablish the agriculture carbon working group to
6 develop recommendations for agricultural offset projects within
7 Washington. A report on the progress of the agriculture carbon working
8 group must be submitted to the legislature for review by December 31,
9 2010. The final recommendations of the agriculture carbon working
10 group must be submitted to the legislature by July 1, 2011. The policy
11 recommendations must include:

12 (1) A process and timeline to survey and catalog Washington soils
13 in order to establish the carbon emission soil sequestration level of
14 the soils;

15 (2) Activities that would qualify for carbon emission soil
16 sequestration offset projects;

17 (3) Guidelines and standards for carbon emission soil sequestration
18 offset projects; and

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

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.235 RCW
22 to read as follows:

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

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

29 **Sec. 10.** RCW 70.94.151 and 2008 c 14 s 5 are each amended to read
30 as follows:

31 (1) The board of any activated authority or the department, may
32 classify air contaminant sources, by ordinance, resolution, rule or
33 regulation, which in its judgment may cause or contribute to air
34 pollution, according to levels and types of emissions and other
35 characteristics which cause or contribute to air pollution, and may

1 require registration or reporting or both for any such class or
2 classes. Classifications made pursuant to this section may be for
3 application to the area of jurisdiction of such authority, or the state
4 as a whole or to any designated area within the jurisdiction, and shall
5 be made with special reference to effects on health, economic and
6 social factors, and physical effects on property.

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

1 except that emissions of greenhouse gases as defined in RCW 70.235.010
2 must be reported as required under subsection (5) of this section.

3 All registration program and reporting fees collected by the
4 department shall be deposited in the air pollution control account.
5 All registration program fees collected by the local air authorities
6 shall be deposited in their respective treasuries.

7 (3) If a registration or report has been filed for a grain
8 warehouse or grain elevator as required under this section,
9 registration, reporting, or a registration program fee shall not, after
10 January 1, 1997, again be required under this section for the warehouse
11 or elevator unless the capacity of the warehouse or elevator as listed
12 as part of the license issued for the facility has been increased since
13 the date the registration or reporting was last made. If the capacity
14 of the warehouse or elevator listed as part of the license is
15 increased, any registration or reporting required for the warehouse or
16 elevator under this section must be made by the date the warehouse or
17 elevator receives grain from the first harvest season that occurs after
18 the increase in its capacity is listed in the license.

19 This subsection does not apply to a grain warehouse or grain
20 elevator if the warehouse or elevator handles more than ten million
21 bushels of grain annually.

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

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

28 (b) A "license" is a license issued by the department of
29 agriculture licensing a facility as a grain warehouse or grain elevator
30 under chapter 22.09 RCW or a license issued by the federal government
31 licensing a facility as a grain warehouse or grain elevator for
32 purposes similar to those of licensure for the facility under chapter
33 22.09 RCW; and

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

35 (5)(a) The department shall adopt rules requiring the reporting of
36 emissions of greenhouse gases as defined in RCW 70.235.010. The rules
37 must include a de minimis amount of emissions below which reporting
38 will not be required for both indirect and direct emissions. The rules

1 must require that emissions of greenhouse gases resulting from the
2 burning of fossil fuels be reported separately from emissions of
3 greenhouse gases resulting from the burning of biomass.

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

30 (c) In calculating emissions of greenhouse gases for purposes of
31 determining whether or not reporting is required, only direct emissions
32 shall be included. For purposes of reporting emissions of greenhouse
33 gases in chapter 14, Laws of 2008, "source" means any stationary source
34 as defined in RCW 70.94.030, or mobile source used for transportation
35 of people or cargo. The emissions of greenhouse gases must be reported
36 as carbon dioxide equivalents.

37 (d) The rules must require that persons report 2009 emissions
38 starting in 2010. The rules must establish an annual reporting

1 schedule that takes into account the time needed to allow the owner or
2 operator reporting emissions of greenhouse gases to gather the
3 information needed and to verify the emissions being reported.
4 However, in no event may reports be submitted later than October 31st
5 of the year in which the report is due.

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

13 ~~((b))~~ (f) In its rules, the department may defer the reporting
14 requirement under (a) of this subsection for emissions associated with
15 interstate and international commercial aircraft, rail, truck, or
16 marine vessels until (i) there is a federal requirement to report these
17 emissions; or (ii) the department finds that there is a generally
18 accepted reporting protocol for determining interstate emissions from
19 these sources.

20 ~~((e))~~ (g) The department shall share any reporting information
21 reported to it with the local air authority in which the owner or
22 operator reporting under the rules adopted by the department operates.

23 ~~((d))~~ (h) The fee provisions in subsection (2) of this section
24 apply to reporting of emissions of greenhouse gases. Owners and
25 operators required to report under (a) of this subsection who fail to
26 report or pay the fee required in subsection (2) of this section are
27 subject to enforcement penalties under this chapter. The department
28 shall enforce the reporting rule requirements unless it approves a
29 local air authority's request to enforce the requirements for sources
30 operating within the authority's jurisdiction.

31 ~~((e))~~ (i) The energy facility site evaluation council shall,
32 simultaneously with the department, adopt rules that impose greenhouse
33 gas reporting requirements in site certifications on owners or
34 operators of a facility permitted by the energy facility site
35 evaluation council. The greenhouse gas reporting requirements imposed
36 by the energy facility site evaluation council must be the same as the
37 greenhouse gas reporting requirements imposed by the department. The
38 department shall share any information reported to it from facilities

1 permitted by the energy facility site evaluation council with the
2 council, including notice of a facility that has failed to report as
3 required. The energy facility site evaluation council shall contract
4 with the department to monitor the reporting requirements adopted under
5 this section.

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

11 ~~((g))~~ (k) The inclusion or failure to include any person, source,
12 classes of persons or sources, or types of emissions of greenhouse
13 gases into the department's rules for reporting under this section does
14 not indicate whether such a person, source, or category is appropriate
15 for inclusion in the multisector market-based system designed under RCW
16 70.235.020.

17 ~~((h))~~ (l) Should the federal government adopt rules sufficient to
18 track progress toward the emissions reductions required by chapter 14,
19 Laws of 2008 governing the reporting of greenhouse gases, the
20 department shall amend its rules, as necessary, to seek consistency
21 with the federal rules to ensure duplicate reporting is not required.
22 Nothing in this section requires the department to increase the
23 reporting threshold established in (a) of this subsection or otherwise
24 require the department's rules be identical to the federal rules in
25 scope.

26 ~~((i))~~ (m) The definitions in RCW 70.235.010 apply throughout this
27 subsection (5) unless the context clearly requires otherwise. However,
28 for the purposes of this subsection (5), the term "person" has the same
29 meaning as defined in RCW 70.94.030.

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

35 **Sec. 11.** RCW 43.21B.110 and 2003 c 393 s 19 are each amended to
36 read as follows:

37 (1) The hearings board shall only have jurisdiction to hear and

1 decide appeals from the following decisions of the department, the
2 director, local conservation districts, and the air pollution control
3 boards or authorities as established pursuant to chapter 70.94 RCW, or
4 local health departments:

5 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
6 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310,
7 ((and)) 90.56.330, and chapter 70.235 RCW.

8 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
9 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
10 90.14.130, 90.48.120, ((and)) 90.56.330, and chapter 70.235 RCW.

11 (c) Except as provided in RCW 90.03.210(2), the issuance,
12 modification, or termination of any permit, certificate, or license by
13 the department or any air authority in the exercise of its
14 jurisdiction, including the issuance or termination of a waste disposal
15 permit, the denial of an application for a waste disposal permit, the
16 modification of the conditions or the terms of a waste disposal permit,
17 or a decision to approve or deny an application for a solid waste
18 permit exemption under RCW 70.95.300.

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

21 (e) Decisions of local health departments regarding the issuance
22 and enforcement of permits to use or dispose of biosolids under RCW
23 70.95J.080.

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

27 (g) Decisions of local conservation districts related to the denial
28 of approval or denial of certification of a dairy nutrient management
29 plan; conditions contained in a plan; application of any dairy nutrient
30 management practices, standards, methods, and technologies to a
31 particular dairy farm; and failure to adhere to the plan review and
32 approval timelines in RCW 90.64.026.

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

36 (2) The following hearings shall not be conducted by the hearings
37 board:

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

3 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
4 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

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

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

9 (e) Appeals of decisions by the department as provided in chapter
10 43.21L RCW.

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

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