

RCW 43.21B.110 Pollution control hearings board jurisdiction.

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

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

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

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

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

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

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

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

(o) Orders by the department of ecology under RCW 70A.455.080.

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

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

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

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

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

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW. [2023 c 455 § 5; 2023 c 434 § 20; 2023 c 344 § 5; 2023 c 135 § 6; 2022 c 180 § 812. Prior: 2021 c 316 § 41; 2021 c 313 § 16; prior: 2020 c 138 § 11; (2020 c 138 § 10 expired June 30, 2021); 2020 c 20 § 1035; (2020 c 20 § 1034 expired June 30, 2021); prior: 2019 c 344 § 16; 2019 c 292 § 10; 2019 c 290 § 12; 2013 c 291 § 34; (2013 c 291 § 33 expired June 30, 2019); prior: 2010 c 210 § 8; (2010 c 210 § 7 expired June 30, 2019); 2010 c 84 § 3; (2010 c 84 § 2 expired June 30, 2019); prior: 2009 c 456 § 16; 2009 c 332 § 18; (2009 c 183 § 17 expired June 30, 2021); 2003 c 393 § 19; 2001 c 220 § 2; prior: 1998 c 262 § 18; 1998 c 156 § 8; 1998 c 36 § 22; 1993 c 387 § 22; prior: 1992 c 174 § 13; 1992 c 73 § 1; 1989 c 175 § 102; 1987 c 109 § 10; 1970 ex.s. c 62 § 41.]

Reviser's note: This section was amended by 2023 c 135 § 6, 2023 c 344 § 5, 2023 c 434 § 20, and by 2023 c 455 § 5, without reference to one another. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Intent—2023 c 135: See note following RCW 19.27.590.

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

Short title—2021 c 316: See RCW 70A.65.900.

Finding—Intent—2021 c 313: See note following RCW 70A.245.010.

Effective date—2020 c 138 § 11: "Section 11 of this act takes effect June 30, 2021." [2020 c 138 § 15.]

Expiration date—2020 c 138 § 10: "Section 10 of this act expires June 30, 2021." [2020 c 138 § 14.]

Application of RCW 82.32.805 and 82.32.808—2020 c 138: See note following RCW 70A.530.005.

Effective date—2020 c 20 § 1035: "Section 1035 of this act takes effect June 30, 2021." [2020 c 20 § 106.]

Expiration date—2020 c 20 § 1034: "Section 1034 of this act expires June 30, 2021." [2020 c 20 § 105.]

Short title—2019 c 292: See RCW 70A.350.900.

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

Effective date—2013 c 291 § 34: "Section 34 of this act takes effect June 30, 2019." [2013 c 291 § 47.]

Expiration date—2013 c 291 § 33: "Section 33 of this act expires June 30, 2019." [2013 c 291 § 46.]

Expiration dates—2010 c 210 §§ 3, 5, and 7: "(1) Sections 3 and 5 of this act expire July 1, 2011.

(2) Section 7 of this act expires June 30, 2019." [2010 c 210 § 45.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Effective date—2010 c 84 § 3: "Section 3 of this act takes effect June 30, 2019." [2010 c 84 § 6.]

Expiration date—2010 c 84 § 2: "Section 2 of this act expires June 30, 2019." [2010 c 84 § 5.]

Application—2009 c 332: See note following RCW 90.03.110.

Expiration date—2019 c 78; 2009 c 183: See note following RCW 90.03.380.

Intent—2001 c 220: "The legislature intends to assure that appeals of department of ecology decisions regarding changes or transfers of water rights that are the subject of an ongoing general adjudication of water rights are governed by an appeals process that is efficient and eliminates unnecessary duplication, while fully preserving the rights of all affected parties. The legislature intends to address only the judicial review process for certain decisions of the pollution control hearings board when a general adjudication is being actively litigated. The legislature intends to fully preserve the role of the pollution control hearings board, except as specifically provided in this act." [2001 c 220 § 1.]

Construction—2001 c 220: "Nothing in this act shall be construed to affect or modify any treaty or other federal rights of an Indian

tribe, or the rights of any federal agency or other person or entity arising under federal law. Nothing in this act is intended or shall be construed as affecting or modifying any existing right of a federally recognized Indian tribe to protect from impairment its federally reserved water rights in federal court." [2001 c 220 § 6.]

Effective date—2001 c 220: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 9, 2001]." [2001 c 220 § 7.]

Effective date—1998 c 262: See RCW 90.64.900.

Intent—1998 c 36: See RCW 15.54.265.

Short title—1998 c 36: See note following RCW 15.54.265.

Effective date—1993 c 387: See RCW 18.104.930.

Effective dates—1992 c 73: See RCW 82.23B.902.

Effective date—1989 c 175: See note following RCW 34.05.010.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Order for compliance with oil spill contingency or prevention plan not subject to review by pollution control hearings board: RCW 90.56.270.