
SENATE BILL 5197

State of Washington

64th Legislature

2015 Regular Session

By Senator Benton

Read first time 01/15/15. Referred to Committee on Accountability and Reform.

1 AN ACT Relating to establishing consistent standards for agency
2 decision making; amending RCW 70.94.181, 76.09.060, 77.55.021,
3 78.44.081, 86.16.025, 70.95.205, 15.54.820, 43.21C.033, 77.115.040,
4 16.65.030, 70.119A.110, 90.03.350, 90.03.370, 90.58.140, and
5 70.118B.030; adding a new section to chapter 70.94 RCW; adding a new
6 section to chapter 90.48 RCW; adding a new section to chapter 90.76
7 RCW; adding a new section to chapter 18.104 RCW; adding a new section
8 to chapter 69.30 RCW; adding a new section to chapter 90.64 RCW;
9 adding a new section to chapter 15.58 RCW; adding a new section to
10 chapter 17.21 RCW; adding a new section to chapter 70.95J RCW; and
11 adding a new section to chapter 90.66 RCW.

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

13 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.94
14 RCW to read as follows:

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

20 (2) If the application is denied either within or after the
21 ninety-day decision period, the applicant may file a motion in the

1 appropriate superior court requesting the court to overturn the
2 decision. This subsection applies notwithstanding, and as an
3 alternative to, any other provision of law establishing appeal
4 procedures. Applicants choosing to utilize this appeal authority are
5 deemed to have satisfied all administrative remedies.

6 **Sec. 2.** RCW 70.94.181 and 1991 c 199 s 306 are each amended to
7 read as follows:

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

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

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

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

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

34 (a) If the variance is granted on the ground that there is no
35 practicable means known or available for the adequate prevention,
36 abatement, or control of the pollution involved, it shall be only
37 until the necessary means for prevention, abatement, or control
38 become known and available, and subject to the taking of any

1 substitute or alternate measures that the department ((~~ef-ecology~~))
2 or board may prescribe.

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

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

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

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

37 (6) Nothing in this section and no variance or renewal granted
38 pursuant hereto shall be construed to prevent or limit the
39 application of the emergency provisions and procedures of RCW
40 70.94.710 through 70.94.730 to any person or his or her property.

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

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

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

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

23 **Sec. 3.** RCW 76.09.060 and 2012 1st sp.s. c 1 s 206 are each
24 amended to read as follows:

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

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

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

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

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

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

14 (f) For an application or notification submitted on or after July
15 10, 2012, that includes a forest practices hydraulic project, plans
16 and specifications for the forest practices hydraulic project to
17 ensure the proper protection of fish life;

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

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

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

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

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

30 (l) All necessary application or notification fees.

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

33 (3) The application for a forest practice or the notification of
34 a forest practice is subject to the reforestation requirement of RCW
35 76.09.070.

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

38 (i) The reforestation requirements of this chapter and of the
39 forest practices rules shall not apply if the land is in fact

1 converted unless applicable alternatives or limitations are provided
2 in forest practices rules issued under RCW 76.09.070;

3 (ii) Completion of such forest practice operations shall be
4 deemed conversion of the lands to another use for purposes of
5 chapters 84.33 and 84.34 RCW unless the conversion is to a use
6 permitted under a current use tax agreement permitted under chapter
7 84.34 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (c) At the option of the applicant, an application or
38 notification may be submitted to cover a single forest practice or a
39 number of forest practices within reasonable geographic or political
40 boundaries as specified by the department. An application or

1 notification that covers more than one forest practice may have an
2 effective term of more than three years.

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

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

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

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

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

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

39 (d) When the appropriate regulatory staff of the department are
40 notified under (c) of this subsection, they must consult with the

1 landowner, interested agencies, and affected tribes, and assist the
2 notifying agencies in the development of integrated pest management
3 plans that comply with forest practices rules as required under (b)
4 of this subsection.

5 (e) Nothing under this subsection relieves agencies conducting or
6 directing control efforts from requirements of the federal clean
7 water act as administered by the department of ecology under RCW
8 90.48.260.

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

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

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

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

32 NEW SECTION. Sec. 4. A new section is added to chapter 90.48
33 RCW to read as follows:

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

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

8 **Sec. 5.** RCW 77.55.021 and 2012 1st sp.s. c 1 s 102 are each
9 amended to read as follows:

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

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

18 (a) General plans for the overall project;

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

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

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

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

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

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

36 (5) With the exception of emergency permits as provided in
37 subsection (~~((12))~~) (13) of this section, applications for permits
38 must be submitted to the department's headquarters office in Olympia.
39 Requests for emergency permits as provided in subsection (~~((12))~~)

1 (13) of this section may be made to the permitting biologist assigned
2 to the location in which the emergency occurs, to the department's
3 regional office in which the emergency occurs, or to the department's
4 headquarters office.

5 (6) Except as provided for emergency permits in subsection
6 (~~((12))~~) (13) of this section, the department may not proceed with
7 permit review until all fees are paid in full as required in RCW
8 77.55.321.

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

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

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

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

21 (iii) The applicant requests a delay; or

22 (iv) The department is issuing a permit for a storm water
23 discharge and is complying with the requirements of RCW
24 77.55.161(3)(b).

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

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

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

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

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

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

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

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

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

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

38 ~~((10))~~ (11) The department may, after consultation with the
39 permittee, modify a permit due to changed conditions. A modification
40 under this subsection is not subject to the fees provided under RCW

1 77.55.321. The modification is appealable as provided in subsection
2 (8) of this section. For a hydraulic project that diverts water for
3 agricultural irrigation or stock watering purposes, when the
4 hydraulic project or other work is associated with streambank
5 stabilization to protect farm and agricultural land as defined in RCW
6 84.34.020, the burden is on the department to show that changed
7 conditions warrant the modification in order to protect fish life.

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

20 ~~((12))~~ (13)(a) The department, the county legislative
21 authority, or the governor may declare and continue an emergency. If
22 the county legislative authority declares an emergency under this
23 subsection, it shall immediately notify the department. A declared
24 state of emergency by the governor under RCW 43.06.010 shall
25 constitute a declaration under this subsection.

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

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

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

1 (~~(13)~~) (14) All state and local agencies with authority under
2 this chapter to issue permits or other authorizations in connection
3 with emergency water withdrawals and facilities authorized under RCW
4 43.83B.410 shall expedite the processing of such permits or
5 authorizations in keeping with the emergency nature of such requests
6 and shall provide a decision to the applicant within fifteen calendar
7 days of the date of application.

8 (~~(14)~~) (15) The department or the county legislative authority
9 may determine an imminent danger exists. The county legislative
10 authority shall notify the department, in writing, if it determines
11 that an imminent danger exists. In cases of imminent danger, the
12 department shall issue an expedited written permit, upon request, for
13 work to remove any obstructions, repair existing structures, restore
14 banks, protect fish resources, or protect property. Expedited permit
15 requests require a complete written application as provided in
16 subsection (2) of this section and must be issued within fifteen
17 calendar days of the receipt of a complete written application.
18 Approval of an expedited permit is valid for up to sixty days from
19 the date of issuance. The department may not require the provisions
20 of the state environmental policy act, chapter 43.21C RCW, to be met
21 as a condition of issuing a permit under this subsection.

22 (~~(15)~~) (16)(a) For any property, except for property located on
23 a marine shoreline, that has experienced at least two consecutive
24 years of flooding or erosion that has damaged or has threatened to
25 damage a major structure, water supply system, septic system, or
26 access to any road or highway, the county legislative authority may
27 determine that a chronic danger exists. The county legislative
28 authority shall notify the department, in writing, when it determines
29 that a chronic danger exists. In cases of chronic danger, the
30 department shall issue a permit, upon request, for work necessary to
31 abate the chronic danger by removing any obstructions, repairing
32 existing structures, restoring banks, restoring road or highway
33 access, protecting fish resources, or protecting property. Permit
34 requests must be made and processed in accordance with subsections
35 (2) and (7) of this section.

36 (b) Any projects proposed to address a chronic danger identified
37 under (a) of this subsection that satisfies the project description
38 identified in RCW 77.55.181(1)(a)(ii) are not subject to the
39 provisions of the state environmental policy act, chapter 43.21C RCW.

1 However, the project is subject to the review process established in
2 RCW 77.55.181(3) as if it were a fish habitat improvement project.

3 ~~((16))~~ (17) The department may issue an expedited written
4 permit in those instances where normal permit processing would result
5 in significant hardship for the applicant or unacceptable damage to
6 the environment. Expedited permit requests require a complete written
7 application as provided in subsection (2) of this section and must be
8 issued within fifteen calendar days of the receipt of a complete
9 written application. Approval of an expedited permit is valid for up
10 to sixty days from the date of issuance. The department may not
11 require the provisions of the state environmental policy act, chapter
12 43.21C RCW, to be met as a condition of issuing a permit under this
13 subsection.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.76
15 RCW to read as follows:

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

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

28 **Sec. 7.** RCW 78.44.081 and 1997 c 192 s 1 are each amended to
29 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 18.104
2 RCW to read as follows:

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

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

15 **Sec. 9.** RCW 86.16.025 and 1995 c 8 s 4 are each amended to read
16 as follows:

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

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

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

36 **Sec. 10.** RCW 70.95.205 and 1998 c 36 s 18 are each amended to
37 read as follows:

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

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

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

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

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

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

37 **Sec. 11.** RCW 15.54.820 and 1998 c 36 s 16 are each amended to
38 read as follows:

1 (1) After receipt from the department of the completed
2 application required by RCW 15.54.325, the department of ecology
3 shall evaluate whether the use of the proposed waste-derived
4 fertilizer or the micronutrient fertilizer as defined in RCW
5 15.54.270 is consistent with the following:

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

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

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

10 (2) The department of ecology shall apply the standards adopted
11 in RCW 15.54.800. If more stringent standards apply under chapter
12 173-303 WAC for the same constituents, the department of ecology must
13 use the more stringent standards.

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

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

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

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

1 **Sec. 12.** RCW 43.21C.033 and 1995 c 347 s 422 are each amended to
2 read as follows:

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

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

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

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

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

28 **Sec. 13.** RCW 77.115.040 and 2011 c 339 s 37 are each amended to
29 read as follows:

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

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

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

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

15 (a) The name of the aquatic farmer;

16 (b) The address of the aquatic farmer;

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

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

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

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

25 (g) Statistical production data.

26 ~~((+3))~~ (4) The state veterinarian shall be provided with
27 registration and statistical data by the department.

28 NEW SECTION. Sec. 14. A new section is added to chapter 69.30
29 RCW to read as follows:

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

35 (2) If the application is denied either within or after the
36 ninety-day decision period, the applicant may file a motion in the
37 appropriate superior court requesting the court to overturn the
38 decision. This subsection applies notwithstanding, and as an
39 alternative to, any other provision of law establishing appeal

1 procedures. Applicants choosing to utilize this appeal authority are
2 deemed to have satisfied all administrative remedies.

3 NEW SECTION. **Sec. 15.** A new section is added to chapter 90.64
4 RCW to read as follows:

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

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

17 NEW SECTION. **Sec. 16.** A new section is added to chapter 15.58
18 RCW to read as follows:

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

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

31 NEW SECTION. **Sec. 17.** A new section is added to chapter 17.21
32 RCW to read as follows:

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

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

8 **Sec. 18.** RCW 16.65.030 and 2003 c 326 s 65 are each amended to
9 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (b) The geographical area that will be affected;

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

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

25 (e) Buyers available to the proposed market; and

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

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

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

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

34 (c) Pay the appropriate license fee; and

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

37 (4)(a) All decisions under this section must be completed and the
38 decision returned to the applicant within ninety days of submitting
39 the registrations. If the ninety-day deadline is not satisfied, the

1 applicant may file a motion in the appropriate superior court
2 requesting court approval of the application.

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

10 NEW SECTION. Sec. 19. A new section is added to chapter 70.95J
11 RCW to read as follows:

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

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

24 **Sec. 20.** RCW 70.119A.110 and 2011 c 102 s 1 are each amended to
25 read as follows:

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

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

36 (3)(a) Following its review of the application, its supporting
37 material, and any information received by the department in its
38 investigation of the application, the department shall issue or deny

1 the operating permit. The department shall act on initial permit
2 applications as expeditiously as possible, and shall in all cases
3 either grant or deny the application within (~~one hundred twenty~~)
4 ninety days of receipt of the application or of any supplemental
5 information required to complete the application.

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

8 (i) The applicant may file an appeal in accordance with chapter
9 34.05 RCW if the department denies the initial or subsequent
10 applications or imposes conditions or requirements upon the operator.
11 Any operator of a public water system that requests a hearing may
12 continue to operate the system until a decision is issued after the
13 hearing.

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

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

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

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

34 (7) The department shall adopt rules, in accordance with chapter
35 34.05 RCW, necessary to implement this section.

36 (8) The department shall establish by rule categories of annual
37 operating permit fees based on system size, complexity, and number of
38 service connections. Fees charged must be sufficient to cover, but
39 may not exceed, the costs to the department of administering a
40 program for safe and reliable drinking water. The department shall

1 use operating permit fees to monitor and enforce compliance by group
2 A public water systems with state and federal laws that govern
3 planning, water use efficiency, design, construction, operation,
4 maintenance, financing, management, and emergency response.

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

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

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

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

29 **Sec. 21.** RCW 90.03.350 and 1995 c 8 s 6 are each amended to read
30 as follows:

31 (1) Except as provided in RCW 43.21A.068, any person, corporation
32 or association intending to construct or modify any dam or
33 controlling works for the storage of ten acre feet or more of water,
34 shall before beginning said construction or modification, submit
35 plans and specifications of the same to the department for
36 examination and approval as to its safety. Such plans and
37 specifications shall be submitted in duplicate, one copy of which
38 shall be retained as a public record, by the department, and the
39 other returned with its approval or rejection endorsed thereon. No

1 such dam or controlling works shall be constructed or modified until
2 the same or any modification thereof shall have been approved as to
3 its safety by the department. Any such dam or controlling works
4 constructed or modified in any manner other than in accordance with
5 plans and specifications approved by the department or which shall
6 not be maintained in accordance with the order of the department
7 shall be presumed to be a public nuisance and may be abated in the
8 manner provided by law, and it shall be the duty of the attorney
9 general or prosecuting attorney of the county wherein such dam or
10 controlling works, or the major portion thereof, is situated to
11 institute abatement proceedings against the owner or owners of such
12 dam or controlling works, whenever he or she is requested to do so by
13 the department.

14 (2) A metals mining and milling operation regulated under chapter
15 232, Laws of 1994 is subject to additional dam safety inspection
16 requirements due to the special hazards associated with failure of a
17 tailings pond impoundment. The department shall inspect these
18 impoundments at least quarterly during the project's operation and at
19 least annually thereafter for the postclosure monitoring period in
20 order to ensure the safety of the dam or controlling works. The
21 department shall conduct additional inspections as needed during the
22 construction phase of the mining operation in order to ensure the
23 safe construction of the tailings impoundment.

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

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

36 **Sec. 22.** RCW 90.03.370 and 2003 c 329 s 1 are each amended to
37 read as follows:

38 (1)(a) All applications for reservoir permits are subject to the
39 provisions of RCW 90.03.250 through 90.03.320. But the party or

1 parties proposing to apply to a beneficial use the water stored in
2 any such reservoir shall also file an application for a permit, to be
3 known as the secondary permit, which shall be in compliance with the
4 provisions of RCW 90.03.250 through 90.03.320. Such secondary
5 application shall refer to such reservoir as its source of water
6 supply and shall show documentary evidence that an agreement has been
7 entered into with the owners of the reservoir for a permanent and
8 sufficient interest in said reservoir to impound enough water for the
9 purposes set forth in said application. When the beneficial use has
10 been completed and perfected under the secondary permit, the
11 department shall take the proof of the water users under such permit
12 and the final certificate of appropriation shall refer to both the
13 ditch and works described in the secondary permit and the reservoir
14 described in the primary permit. The department may accept for
15 processing a single application form covering both a proposed
16 reservoir and a proposed secondary permit or permits for use of water
17 from that reservoir.

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

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

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

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

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

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

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

37 (b) If the application is denied either within or after the
38 ninety-day decision period, the applicant may file a motion in the
39 appropriate superior court requesting the court to overturn the
40 decision. This subsection applies notwithstanding, and as an

1 alternative to, any other provision of law establishing appeal
2 procedures. Applicants choosing to utilize this appeal authority are
3 deemed to have satisfied all administrative remedies.

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

11 (i) Aquifer vulnerability and hydraulic continuity;

12 (ii) Potential impairment of existing water rights;

13 (iii) Geotechnical impacts and aquifer boundaries and
14 characteristics;

15 (iv) Chemical compatibility of surface waters and groundwater;

16 (v) Recharge and recovery treatment requirements;

17 (vi) System operation;

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

20 (viii) Environmental impacts.

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

29 ~~((3))~~ (4) For the purposes of this section, "underground
30 artificial storage and recovery project" means any project in which
31 it is intended to artificially store water in the ground through
32 injection, surface spreading and infiltration, or other department-
33 approved method, and to make subsequent use of the stored water.
34 However, (a) this subsection does not apply to irrigation return
35 flow, or to operational and seepage losses that occur during the
36 irrigation of land, or to water that is artificially stored due to
37 the construction, operation, or maintenance of an irrigation district
38 project, or to projects involving water reclaimed in accordance with
39 chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances
40 of claimed artificial recharge occurring due to the construction,

1 operation, or maintenance of an irrigation district project or
2 operational and seepage losses that occur during the irrigation of
3 land, as well as other forms of claimed artificial recharge already
4 existing at the time a groundwater subarea is established.

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

8 ~~((5))~~ (6) The department shall report to the legislature by
9 December 31, 2001, on the standards for review and standards for
10 mitigation developed under subsection ~~((3))~~ (4) of this section and
11 on the status of any applications that have been filed with the
12 department for underground artificial storage and recovery projects
13 by that date.

14 ~~((6))~~ (7) Where needed to ensure that existing storage capacity
15 is effectively and efficiently used to meet multiple purposes, the
16 department may authorize reservoirs to be filled more than once per
17 year or more than once per season of use.

18 ~~((7))~~ (8) This section does not apply to facilities to
19 recapture and reuse return flow from irrigation operations serving a
20 single farm under an existing water right as long as the acreage
21 irrigated is not increased beyond the acreage allowed to be irrigated
22 under the water right.

23 ~~((8))~~ (9) In addition to the facilities exempted under
24 subsection ~~((7))~~ (8) of this section, this section does not apply
25 to small irrigation impoundments. For purposes of this section,
26 "small irrigation impoundments" means lined surface storage ponds
27 less than ten acre feet in volume used to impound irrigation water
28 under an existing water right where use of the impoundment: (a)(i)
29 Facilitates efficient use of water; or (ii) promotes compliance with
30 an approved recovery plan for endangered or threatened species; and
31 (b) does not expand the number of acres irrigated or the annual
32 consumptive quantity of water used. Such ponds must be lined unless a
33 licensed engineer determines that a liner is not needed to retain
34 water in the pond and to prevent groundwater contamination. Although
35 it may also be composed of other materials, a properly maintained
36 liner may be composed of bentonite. Water remaining in a small
37 irrigation impoundment at the end of an irrigation season may be
38 carried over for use in the next season. However, the limitations of
39 this subsection ~~((8))~~ (9) apply. Development and use of a small

1 irrigation impoundment does not constitute a change or amendment for
2 purposes of RCW 90.03.380 or 90.44.055.

3 **Sec. 23.** RCW 90.58.140 and 2012 c 84 s 2 are each amended to
4 read as follows:

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

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

13 A permit shall be granted:

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

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

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

28 (4) Except as otherwise specifically provided in subsection (1)
29 of this section, the local government shall require notification of
30 the public of all applications for permits governed by any permit
31 system established pursuant to subsection (3) of this section by
32 ensuring that notice of the application is given by at least one of
33 the following methods:

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

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

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

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

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

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

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

28 (b)(i) In the case of any permit or decision to issue any permit
29 to the state of Washington, department of transportation, for the
30 replacement of the floating bridge and landings of the state route
31 number 520 Evergreen Point bridge on or adjacent to Lake Washington,
32 the construction may begin twenty-one days from the date of filing.
33 Any substantial development permit granted for the floating bridge
34 and landings is deemed to have been granted on the date that the
35 local government's decision to grant the permit is issued. This
36 authorization to construct is limited to only those elements of the
37 floating bridge and landings that do not preclude the department of
38 transportation's selection of a four-lane alternative for state route
39 number 520 between Interstate 5 and Medina. Additionally, the
40 Washington state department of transportation shall not engage in or

1 contract for any construction on any portion of state route number
2 520 between Interstate 5 and the western landing of the floating
3 bridge until the legislature has authorized the imposition of tolls
4 on the Interstate 90 floating bridge and/or other funding sufficient
5 to complete construction of the state route number 520 bridge
6 replacement and HOV program. For the purposes of this subsection
7 (5)(b), the "western landing of the floating bridge" means the least
8 amount of new construction necessary to connect the new floating
9 bridge to the existing state route number 520 and anchor the west end
10 of the new floating bridge;

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

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

18 (c) Except as authorized in (b) of this subsection, construction
19 may be commenced no sooner than thirty days after the date of the
20 appeal of the board's decision is filed if a permit is granted by the
21 local government and (i) the granting of the permit is appealed to
22 the shorelines hearings board within twenty-one days of the date of
23 filing, (ii) the hearings board approves the granting of the permit
24 by the local government or approves a portion of the substantial
25 development for which the local government issued the permit, and
26 (iii) an appeal for judicial review of the hearings board decision is
27 filed pursuant to chapter 34.05 RCW. The appellant may request,
28 within ten days of the filing of the appeal with the court, a hearing
29 before the court to determine whether construction pursuant to the
30 permit approved by the hearings board or to a revised permit issued
31 pursuant to the order of the hearings board should not commence. If,
32 at the conclusion of the hearing, the court finds that construction
33 pursuant to such a permit would involve a significant, irreversible
34 damaging of the environment, the court shall prohibit the permittee
35 from commencing the construction pursuant to the approved or revised
36 permit until all review proceedings are final. Construction pursuant
37 to a permit revised at the direction of the hearings board may begin
38 only on that portion of the substantial development for which the
39 local government had originally issued the permit, and construction
40 pursuant to such a revised permit on other portions of the

1 substantial development may not begin until after all review
2 proceedings are terminated. In such a hearing before the court, the
3 burden of proving whether the construction may involve significant
4 irreversible damage to the environment and demonstrating whether such
5 construction would or would not be appropriate is on the appellant;

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

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

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

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

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

37 (c) When a local government simultaneously transmits to the
38 department its decision on a shoreline substantial development with
39 its approval of either a shoreline conditional use permit or

1 variance, or both, "date of filing" has the same meaning as defined
2 in (b) of this subsection.

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

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

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

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

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

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

37 (i) The public comment period under subsection (4) of this
38 section shall be twenty days. The notice provided under subsection
39 (4) of this section shall state the manner in which the public may

1 obtain a copy of the local government decision on the application no
2 later than two days following its issuance;

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

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

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

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

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

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

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

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

31 **Sec. 24.** RCW 70.118B.030 and 2007 c 343 s 4 are each amended to
32 read as follows:

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

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

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

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

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

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

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

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

39 (9) A person aggrieved by the issuance of an initial permit, or
40 by the issuance of a subsequent permit to increase the volume of

1 waste disposal or to change effluent characteristics, for systems
2 with design flows of more than fourteen thousand five hundred gallons
3 per day, has the right to an adjudicative proceeding. The application
4 for an adjudicative proceeding must be in writing, state the basis
5 for contesting the action, include a copy of the decision, be served
6 on and received by the department within twenty-eight days of receipt
7 of notice of the final decision, and be served in a manner that shows
8 proof of receipt. An adjudicative proceeding conducted under this
9 subsection is governed by chapter 34.05 RCW.

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

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

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

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

30 NEW SECTION. Sec. 25. A new section is added to chapter 90.66
31 RCW to read as follows:

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

37 (2) If the permit is denied either within or after the ninety-day
38 decision period, the applicant may file a motion in the appropriate
39 superior court requesting the court to overturn the decision. This

1 subsection applies notwithstanding, and as an alternative to, any
2 other provision of law establishing appeal procedures. Applicants
3 choosing to utilize this appeal authority are deemed to have
4 satisfied all administrative remedies.

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