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**SUBSTITUTE HOUSE BILL 1278**

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

**By** House Environment (originally sponsored by Representatives Fitzgibbon, Dunshee, Farrell, S. Hunt, Peterson, Fey, and Tarleton)

1            AN ACT Relating to building energy use disclosure requirements;  
2 amending RCW 19.27A.140, 19.27A.170, 43.21B.110, and 43.21B.110;  
3 adding new sections to chapter 19.27A RCW; creating a new section;  
4 prescribing penalties; providing an effective date; and providing an  
5 expiration date.

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

7            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that reducing  
8 the energy use of buildings is an important component of the state's  
9 effort to meet its greenhouse gas emissions reduction obligations  
10 required by state law. Recent analysis considered by the 2014 climate  
11 change task force established by executive order indicates that more  
12 than one-third of the state's greenhouse gas emissions are  
13 attributable to sources that are associated with building energy use:  
14 Electricity generation and residential, commercial, and industrial  
15 uses of oil, coal, and natural gas.

16            (2) The establishment of meaningful, enforceable requirements for  
17 buildings to disclose their energy use data creates an important  
18 signal to building owners, prospective building owners, tenants, and  
19 others in real estate markets about the true environmental and  
20 financial costs associated with the use of that building. The  
21 disclosure of this information allows real estate market participants

1 to make decisions that will save them money by lowering their utility  
2 bills and can provide an important incentive for real estate market  
3 participants to invest in emissions-reducing and energy-saving  
4 upgrades. Real-world experience confirms that the addition of  
5 building energy use information to real estate markets provides  
6 incentive for buildings to lower their energy use and associated  
7 greenhouse gas emissions: Analysis by the United States environmental  
8 protection agency has shown that commercial buildings that  
9 participate in a benchmarking program achieve a seven percent  
10 reduction in energy use over their first three years in the program.  
11 By simply providing information to real estate markets through  
12 required disclosure, the state will achieve substantial greenhouse  
13 gas emission reductions by reducing the energy use of buildings.

14 (3) In 2009, the legislature established requirements that  
15 certain nonresidential building owners maintain information about  
16 their building energy use at the time of sale. In the years following  
17 the 2009 legislature's enactment of the current building energy use  
18 disclosure requirements, local governments in Washington and  
19 elsewhere have built upon the lessons learned from the state's  
20 implementation of its groundbreaking benchmarking efforts. These  
21 jurisdictions have been able to introduce more complete benchmarking  
22 information across their real estate markets by requiring procedures  
23 to support the consistent submission of building energy use  
24 information, including the establishment of penalties for violations  
25 of energy use disclosure requirements.

26 (4) In recognition of the benefits of establishing compliance  
27 mechanisms to accompany benchmarking requirements, the state energy  
28 strategy recommends improvements to the state's benchmarking law.  
29 This strategic energy report includes a recommendation that the state  
30 receive energy benchmarking data to assess the impact of the program  
31 and to better ensure statewide compliance with building energy  
32 benchmarking requirements. This act moves the state towards meeting  
33 the goals laid out in the state energy strategy by encouraging  
34 market-wide participation in the energy benchmarking program and by  
35 encouraging the consideration of building energy use information  
36 during market transactions.

37 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.27A  
38 RCW to read as follows:

1 (1)(a) The proprietor of each reporting building shall establish  
2 a United States environmental protection agency portfolio manager  
3 account and shall request that a qualifying utility servicing the  
4 reporting building provide the proprietor with energy consumption and  
5 energy cost data for all accounts associated with the reporting  
6 building. The proprietor shall identify to the qualifying utility the  
7 accounts associated with each reporting building.

8 (b) A proprietor of a reporting building shall disclose the  
9 United States environmental protection agency's energy star statement  
10 of energy performance produced using a portfolio manager account to a  
11 prospective buyer, lessee, or lender for the preceding calendar year.  
12 A proprietor who delivers the United States environmental protection  
13 agency's energy star statement of energy performance to a prospective  
14 buyer, lessee, or lender is not required to provide additional  
15 information regarding energy consumption and the information is  
16 deemed to be adequate to inform the prospective buyer, lessee, or  
17 lender regarding the United States environmental protection agency's  
18 energy star statement of energy performance for each month of the  
19 preceding calendar year for the building that is being sold, leased,  
20 financed, or refinanced.

21 (2) By April 1, 2017, and April 1st of each year thereafter, the  
22 proprietor of a reporting building must transfer the United States  
23 environmental protection agency's energy star portfolio manager  
24 building characteristics, energy consumption, and energy cost data  
25 for each month of the preceding calendar year to the commerce  
26 portfolio manager account using the portfolio manager sharing  
27 feature.

28 (3) If any proprietor of a reporting building discloses  
29 information in good faith concerning a building's energy consumption,  
30 energy cost, or other benchmarking data in accordance with this  
31 chapter, no cause of action shall arise from the disclosure and the  
32 proprietor is not liable to others for the disclosure or its  
33 consequences.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.27A  
35 RCW to read as follows:

36 (1) The department shall establish a United States environmental  
37 protection agency energy star portfolio manager account to support  
38 data sharing transfers from proprietors.

1 (2)(a) The department shall make publicly available the building  
2 characteristics, annual energy consumption, energy cost, ratings, and  
3 other energy use data of reporting buildings.

4 (b) For each reporting building, the department shall identify  
5 the city, county, and qualifying utility that provides service to the  
6 reporting building. The department must periodically update the  
7 building characteristics, energy consumption, and energy cost data  
8 and ratings that it makes available under this subsection.

9 (3) Beginning June 1, 2017, and by June 1st of each subsequent  
10 year, the department shall analyze the data sharing transfers from  
11 proprietors and other supporting information to determine:

12 (a) Which reporting buildings in Washington have disclosed and  
13 transferred the information required by section 2 of this act during  
14 the preceding calendar year; and

15 (b) Which reporting buildings in Washington have failed to  
16 disclose and transfer the information required by section 2 of this  
17 act.

18 (4) If the department makes publicly available reporting building  
19 energy consumption, energy cost data, or other benchmarking data or  
20 information in good faith in accordance with this chapter, no cause  
21 of action shall arise from the disclosure and the department is not  
22 liable to others for the disclosure or its consequences.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.27A  
24 RCW to read as follows:

25 The department is authorized to enforce the disclosure  
26 requirements of RCW 19.27A.170 and section 2 of this act. The  
27 department is authorized to investigate and determine if a qualifying  
28 utility or proprietor has not complied with the requirements of RCW  
29 19.27A.170 or section 2 of this act. The department shall work with  
30 qualifying utilities and proprietors to come into compliance with the  
31 energy benchmarking requirements of this chapter.

32 **Sec. 5.** RCW 19.27A.140 and 2011 1st sp.s. c 43 s 245 are each  
33 amended to read as follows:

34 The definitions in this section apply to RCW 19.27A.130 through  
35 19.27A.190 ~~((and))~~, 19.27A.020, and sections 2, 3, and 4 of this act  
36 unless the context clearly requires otherwise.

1 (1) "Benchmark" means the energy used by a facility as recorded  
2 monthly for at least one year and the facility characteristics  
3 information inputs required for a portfolio manager account.

4 (2) "Conditioned space" means conditioned space, as defined in  
5 the Washington state energy code.

6 (3) "Consumer-owned utility" includes a municipal electric  
7 utility formed under Title 35 RCW, a public utility district formed  
8 under Title 54 RCW, an irrigation district formed under chapter 87.03  
9 RCW, a cooperative formed under chapter 23.86 RCW, a mutual  
10 corporation or association formed under chapter 24.06 RCW, a port  
11 district formed under Title 53 RCW, or a water-sewer district formed  
12 under Title 57 RCW, that is engaged in the business of distributing  
13 electricity to one or more retail electric customers in the state.

14 (4) "Cost-effectiveness" means that a project or resource is  
15 forecast:

16 (a) To be reliable and available within the time it is needed;  
17 and

18 (b) To meet or reduce the power demand of the intended consumers  
19 at an estimated incremental system cost no greater than that of the  
20 least-cost similarly reliable and available alternative project or  
21 resource, or any combination thereof.

22 (5) "Council" means the state building code council.

23 (6) "Embodied energy" means the total amount of fossil fuel  
24 energy consumed to extract raw materials and to manufacture,  
25 assemble, transport, and install the materials in a building and the  
26 life-cycle cost benefits including the recyclability and energy  
27 efficiencies with respect to building materials, taking into account  
28 the total sum of current values for the costs of investment, capital,  
29 installation, operating, maintenance, and replacement as estimated  
30 for the lifetime of the product or project.

31 (7) "Energy consumption data" means the monthly amount of energy  
32 consumed by a customer as recorded by the applicable energy meter for  
33 the most recent twelve-month period.

34 (8) "Energy service company" has the same meaning as in RCW  
35 43.19.670.

36 (9) "Enterprise services" means the department of enterprise  
37 services.

38 (10) "Greenhouse gas" and "greenhouse gases" includes carbon  
39 dioxide, methane, nitrous oxide, hydrofluorocarbons,  
40 perfluorocarbons, and sulfur hexafluoride.

1 (11) "Investment grade energy audit" means an intensive  
2 engineering analysis of energy efficiency and management measures for  
3 the facility, net energy savings, and a cost-effectiveness  
4 determination.

5 (12) "Investor-owned utility" means a corporation owned by  
6 investors that meets the definition of "corporation" as defined in  
7 RCW 80.04.010 and is engaged in distributing either electricity or  
8 natural gas, or both, to more than one retail electric customer in  
9 the state.

10 (13) "Major facility" means any publicly owned or leased  
11 building, or a group of such buildings at a single site, having ten  
12 thousand square feet or more of conditioned floor space.

13 (14) "National energy performance rating" means the score  
14 provided by the energy star program, to indicate the energy  
15 efficiency performance of the building compared to similar buildings  
16 in that climate as defined in the United States environmental  
17 protection agency "ENERGY STAR® Performance Ratings Technical  
18 Methodology."

19 (15) "Net zero energy use" means a building with net energy  
20 consumption of zero over a typical year.

21 (16) "Portfolio manager" means the United States environmental  
22 protection agency's energy star portfolio manager (~~or an equivalent~~  
23 ~~tool adopted by the department of enterprise services~~).

24 (17) "Preliminary energy audit" means a quick evaluation by an  
25 energy service company of the energy savings potential of a building.

26 (18) "Qualifying public agency" includes all state agencies,  
27 colleges, and universities.

28 (19) "Qualifying utility" means a consumer-owned or investor-  
29 owned gas or electric utility that serves more than twenty-five  
30 thousand customers in the state of Washington.

31 (20) "Reporting public facility" means any of the following:

32 (a) A building or structure, or a group of buildings or  
33 structures at a single site, owned by a qualifying public agency,  
34 that exceed ten thousand square feet of conditioned space;

35 (b) Buildings, structures, or spaces leased by a qualifying  
36 public agency that exceeds ten thousand square feet of conditioned  
37 space, where the qualifying public agency purchases energy directly  
38 from the investor-owned or consumer-owned utility;

39 (c) A wastewater treatment facility owned by a qualifying public  
40 agency; or

1 (d) Other facilities selected by the qualifying public agency.

2 (21) "State portfolio manager master account" means a portfolio  
3 manager account established to provide a single shared portfolio that  
4 includes reports for all the reporting public facilities.

5 (22) "Building characteristics" means the building size, age,  
6 primary function, address, and other information required to create a  
7 statement of energy performance.

8 (23) "Commerce portfolio manager account" means the portfolio  
9 manager master account created by the department pursuant to section  
10 3 of this act.

11 (24) "Department" means the department of commerce.

12 (25) "Proprietor" means the owner or operator of a building or an  
13 agent acting on behalf of the owner or operator of a building.

14 (26) "Reporting building" means:

15 (a) A building that exceeds twenty thousand square feet of  
16 conditioned space except for a building that:

17 (i) Is a factory group F building, a residential group R building  
18 other than a group R-2 building containing five or more dwelling  
19 units, or a miscellaneous and utility group U building, as defined in  
20 the 2012 Washington state building code; or

21 (ii) Does not receive gas or electric service from a utility that  
22 is not a qualifying utility.

23 (b) A campus of buildings that are served by a shared energy  
24 utility account and together exceed twenty thousand square feet of  
25 conditioned space, except for a campus of buildings that:

26 (i) Are comprised exclusively of any combination of factory group  
27 F buildings, residential group R buildings other than a group R-2  
28 building containing five or more dwelling units, or miscellaneous and  
29 utility group U buildings, as defined in the 2012 Washington state  
30 building code; or

31 (ii) Do not receive gas or electric service from a utility that  
32 is not a qualifying utility.

33 **Sec. 6.** RCW 19.27A.170 and 2009 c 423 s 6 are each amended to  
34 read as follows:

35 (1) (~~On and after January 1, 2010,~~) Qualifying utilities shall  
36 maintain records of the energy consumption data of all  
37 (~~nonresidential and qualifying public agency buildings~~) customer  
38 accounts to which they provide service. This data must be maintained  
39 (~~for at least the most recent twelve months~~) in a format compatible

1 for uploading to the United States environmental protection agency's  
2 energy star portfolio manager. In carrying out the requirements of  
3 this section, qualifying utilities shall disclose and update energy  
4 consumption and energy cost data each billing period. The data  
5 disclosed and updated by qualifying utilities must be continuous and  
6 date back to no later than January 1, 2016.

7 ~~(2) ((On and after January 1, 2010, upon the written~~  
8 ~~authorization or secure electronic authorization of a nonresidential~~  
9 ~~building owner or operator,))~~ A qualifying utility shall upload the  
10 energy consumption and energy cost data for the accounts specified by  
11 the ~~((owner or operator))~~ proprietor for a building to the United  
12 States environmental protection agency's energy star portfolio  
13 manager in a form that does not disclose personally identifying  
14 information.

15 (3) Until January 1, 2017, in carrying out the requirements of  
16 this section, a qualifying utility shall use any method for providing  
17 the specified data in order to maximize efficiency and minimize  
18 overall program cost. Qualifying utilities are encouraged to consult  
19 with the United States environmental protection agency and their  
20 customers in developing reasonable reporting options. After January  
21 1, 2017, qualifying utilities shall upload the reporting building  
22 energy consumption and energy cost data by using energy star  
23 portfolio manager web services in order to automatically upload the  
24 specified data to the United States environmental protection agency's  
25 energy star portfolio manager.

26 (4) ~~((Disclosure of nonpublic nonresidential benchmarking data~~  
27 ~~and ratings required under subsection (5) of this section will be~~  
28 ~~phased in as follows:~~

29 ~~(a) By January 1, 2011, for buildings greater than fifty thousand~~  
30 ~~square feet; and~~

31 ~~(b) By January 1, 2012, for buildings greater than ten thousand~~  
32 ~~square feet.~~

33 ~~(5) Based on the size guidelines in subsection (4) of this~~  
34 ~~section, a building owner or operator, or their agent, of a~~  
35 ~~nonresidential building shall disclose the United States~~  
36 ~~environmental protection agency's energy star portfolio manager~~  
37 ~~benchmarking data and ratings to a prospective buyer, lessee, or~~  
38 ~~lender for the most recent continuously occupied twelve-month period.~~  
39 ~~A building owner or operator, or their agent, who delivers United~~  
40 ~~States environmental protection agency's energy star portfolio~~



1 ~~manager benchmarking data and ratings to a prospective buyer, lessee,~~  
2 ~~or lender is not required to provide additional information regarding~~  
3 ~~energy consumption, and the information is deemed to be adequate to~~  
4 ~~inform the prospective buyer, lessee, or lender regarding the United~~  
5 ~~States environmental protection agency's energy star portfolio~~  
6 ~~manager benchmarking data and ratings for the most recent twelve-~~  
7 ~~month period for the building that is being sold, leased, financed,~~  
8 ~~or refinanced.~~

9 ~~(6) Notwithstanding subsections (4) and (5) of this section,))~~  
10 ~~Nothing in this section ((increases or decreases the duties, if any,~~  
11 ~~of a building owner, operator, or their agent under this chapter)) or~~  
12 ~~section 2 of this act alters the duty of a seller, agent, or broker~~  
13 ~~to disclose the existence of a material fact affecting the real~~  
14 ~~property.~~

15 (5) Nothing in this section or section 3 of this act changes or  
16 limits the authority of a public entity to adopt building energy use  
17 disclosure requirements that are in addition to the requirements  
18 imposed by this section. The adoption of building energy use  
19 disclosure requirements that are in addition to the requirements of  
20 this chapter by a public entity does not affect the obligation of a  
21 utility or proprietor to comply with the requirements of this  
22 chapter.

23 (6) If any qualifying utility discloses information in good faith  
24 concerning energy consumption, energy cost, or other benchmarking  
25 data in accordance with this chapter, no cause of action shall arise  
26 from the disclosure and the qualifying utility is not liable to its  
27 customer or others for the disclosure or its consequences. A  
28 qualifying utility is not required to obtain a customer's written or  
29 electronic permission to disclose energy consumption, energy cost, or  
30 other benchmarking data in accordance with this chapter.

31 NEW SECTION. Sec. 7. A new section is added to chapter 19.27A  
32 RCW to read as follows:

33 (1)(a) If the department determines that a proprietor is not in  
34 compliance with the disclosure requirements of RCW 19.27A.170 or  
35 section 2 of this act, the department may issue a written notice of  
36 violation to the proprietor. The notice must state the requirement  
37 that was violated and any penalties imposed as a result of the  
38 violation.

1 (b) The department may impose the following penalties on a  
2 proprietor for the failure to disclose and transfer the building  
3 energy use benchmarking data as required by section 2 of this act:

4 (i) If the proprietor is not in compliance with the disclosure  
5 requirements of section 2 of this act within ninety days of receipt  
6 of the notice of violation, the department may impose a penalty of up  
7 to five hundred dollars;

8 (ii) If the proprietor is not in compliance with the disclosure  
9 requirements of section 2 of this act within one hundred eighty days  
10 of receipt of the notice of violation, the department may impose a  
11 total cumulative penalty of up to one thousand dollars;

12 (iii) If the proprietor is not in compliance with the disclosure  
13 requirements of section 2 of this act within two hundred seventy days  
14 of receipt of the notice of violation, the department may impose a  
15 total cumulative penalty of up to two thousand dollars; and

16 (iv) If the proprietor is not in compliance with the disclosure  
17 requirements of section 2 of this act within three hundred sixty days  
18 of receipt of the notice of violation, the department may impose a  
19 total cumulative penalty of up to four thousand dollars.

20 (2) In addition to the penalties authorized in subsection (1) of  
21 this section, the department may concurrently impose a separate and  
22 additional fine of up to five hundred dollars if the proprietor has  
23 previously been served with a notice of violation associated with the  
24 building under this chapter.

25 (3) If the department determines that the proprietor has complied  
26 with the disclosure requirements of section 2 of this act within  
27 ninety days of receipt of the notice of violation and the proprietor  
28 has not previously been served with a notice of violation by the  
29 department, the department must waive the penalty for the violation.  
30 The department may consider any technical difficulties experienced by  
31 a proprietor with the portfolio manager system in determining whether  
32 to assess or waive a penalty under this section.

33 (4) The authority of the department to issue penalties pursuant  
34 to this section is phased in as follows:

35 (a) After October 1, 2017, for violations associated with  
36 buildings greater than seventy-five thousand square feet that took  
37 place in calendar year 2016 or later;

38 (b) After April 1, 2018, for violations associated with buildings  
39 greater than fifty thousand square feet that took place in calendar  
40 year 2017 or later; and

1 (c) After April 1, 2019, for violations associated with buildings  
2 greater than twenty thousand square feet that took place in calendar  
3 year 2018 or later.

4 (5) A proprietor may appeal any penalties imposed pursuant to  
5 this section to the pollution control hearings board pursuant to the  
6 procedures established by RCW 43.21B.300.

7 (6) All penalties recovered under this section shall be paid into  
8 the state treasury and credited to the general fund.

9 **Sec. 8.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to  
10 read as follows:

11 (1) The hearings board shall only have jurisdiction to hear and  
12 decide appeals from the following decisions of the department, the  
13 director, local conservation districts, the air pollution control  
14 boards or authorities as established pursuant to chapter 70.94 RCW,  
15 local health departments, the department of natural resources, the  
16 department of fish and wildlife, the parks and recreation commission,  
17 and authorized public entities described in chapter 79.100 RCW:

18 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
19 70.94.431, section 7 of this act, 70.105.080, 70.107.050, 76.09.170,  
20 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
21 90.56.310, 90.56.330, and 90.64.102.

22 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
23 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,  
24 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

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

37 (f) Decisions of local health departments regarding the issuance  
38 and enforcement of permits to use or dispose of biosolids under RCW  
39 70.95J.080.

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

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

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

14 (j) Decisions of the department of natural resources, the  
15 department of fish and wildlife, and the department that are  
16 reviewable under chapter 76.09 RCW, and the department of natural  
17 resources' appeals of county, city, or town objections under RCW  
18 76.09.050(7).

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

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

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

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

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

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

34 (b) Hearings conducted by the department pursuant to RCW  
35 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
36 90.44.180.

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

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

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

4 **Sec. 9.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to  
5 read as follows:

6 (1) The hearings board shall only have jurisdiction to hear and  
7 decide appeals from the following decisions of the department, the  
8 director, local conservation districts, the air pollution control  
9 boards or authorities as established pursuant to chapter 70.94 RCW,  
10 local health departments, the department of natural resources, the  
11 department of fish and wildlife, the parks and recreation commission,  
12 and authorized public entities described in chapter 79.100 RCW:

13 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
14 70.94.431, section 7 of this act, 70.105.080, 70.107.050, 76.09.170,  
15 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
16 90.56.310, 90.56.330, and 90.64.102.

17 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
18 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,  
19 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

30 (e) Decisions of local health departments regarding the issuance  
31 and enforcement of permits to use or dispose of biosolids under RCW  
32 70.95J.080.

33 (f) Decisions of the department regarding waste-derived  
34 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
35 decisions of the department regarding waste-derived soil amendments  
36 under RCW 70.95.205.

37 (g) Decisions of local conservation districts related to the  
38 denial of approval or denial of certification of a dairy nutrient  
39 management plan; conditions contained in a plan; application of any

1 dairy nutrient management practices, standards, methods, and  
2 technologies to a particular dairy farm; and failure to adhere to the  
3 plan review and approval timelines in RCW 90.64.026.

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

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

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

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

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

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

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

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

27 (b) Hearings conducted by the department pursuant to RCW  
28 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
29 90.44.180.

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

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

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

37 NEW SECTION. **Sec. 10.** Section 8 of this act expires June 30,  
38 2019.

1        NEW SECTION.    **Sec. 11.**    Section 9 of this act takes effect June  
2    30, 2019.

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