

1 **SHB 1441 - H AMD 000217 FAILED 03-17-93**

2 By Representatives Kremen and Linville

3 On page 21, after line 26, insert the following:

4 "NEW SECTION. **Sec. 502.** A new section is added to chapter
5 75.20 RCW to read as follows:

6 The permitting department may impose the following conditions
7 on persons applying under RCW 75.20.100 or 75.20.103:

8 (1) The permittee shall establish an excavation line.
9 "Excavation line" means a line on the dry bed, parallel to the
10 water's edge that unless otherwise stated, changes with water level
11 fluctuations.

12 (2) The permittee may not remove bed material from the water
13 side of the excavation line.

14 (3) The permittee shall begin excavating at the excavation
15 line and proceed toward the bank, perpendicular to the alignment of
16 the watercourse.

17 (4) The permittee shall keep the maximum distance of
18 excavation toward the bank from the excavation line approximately
19 equal throughout the excavation zone. "Excavation zone" means the
20 area between the excavation line and the bank.

21 (5) The permittee shall identify the excavation zone with
22 boundary markers.

23 (6) The permittee shall maintain a minimum one-half percent
24 gradient upward from the excavation line in the excavation zone.

25 (7) The permittee shall ensure that the excavation zone is
26 free of pits or potholes.

27 (8) The permittee shall not stockpile or spoil excavated
28 materials within the ordinary high water line except from June 15
29 to October 15.

30 (9) The permittee may not allow any equipment within the
31 wetted perimeter of the watercourse without specific permission.

1 (10) The permittee shall dispose of debris in the excavation
2 zone so it does not reenter the watercourse.

3 (11) The permittee may not perform gravel washing or crushing
4 operations below the ordinary high water line.

5 (12) The permittee shall be allowed to remove only that amount
6 of rock, sand, gravel, or silt which is naturally replenished on an
7 annual basis, except in instances where a lapse in material removal
8 has occurred. If such lapse has occurred, then an amount of
9 material equivalent to the amount estimated to have accumulated
10 since the last material removal operation, including debris and
11 vegetation, may be removed.

12 NEW SECTION. **Sec. 503.** A new section is added to chapter
13 79.90 RCW to read as follows:

14 (1) Use or modification, or both, of any river system must
15 involve basic hydraulic principles, as well as harmonize as much as
16 possible with existing aquatic ecosystems, and human needs.

17 (2) The department, commissioner, and board shall:

18 (a) Give priority consideration to the preservation of the
19 streamway environment with special attention given to preservation
20 of those areas considered aesthetically or environmentally unique;

21 (b) Encourage bank and island stabilization programs which
22 rely mainly on natural vegetative systems as holding elements;

23 (c) Encourage research to develop alternative methods of
24 channel control, utilizing natural systems of stabilization;

25 (d) Recognize natural plant and animal communities and other
26 features that provide an ecological balance to a streamway in
27 evaluating competing human uses and require protection from
28 significant human impact; and

29 (e) Recognize that hydraulic conditions may require the
30 installation of riprap or other similar measure to further protect
31 natural systems of stabilization.

1 (3) No person may remove normal stream depositions of logs,
2 uprooted tree snags, and stumps which abut on shorelands and do not
3 intrude on the navigational channel or reduce flow, or adversely
4 redirect a river course, and are not harmful to life and property
5 without the department's permission but the department must
6 consider the need to protect the resultant dependent aquatic
7 systems.

8 (4) No person may fill indentations such as mudholes, eddies,
9 pools, and aeration drops without permission of the department.

10 (5) The department may permit river channel relocations only
11 when an overriding public benefit can be shown. Filling, grading,
12 lagooning, or dredging which would result in substantial detriment
13 to navigable waters by reason of erosion, sedimentation, or
14 impairment of fish and aquatic life are not authorized.

15 (6) No person may remove sand and gravel below the wetted
16 perimeter of navigable rivers unless authorized by a hydraulics
17 permit issued by either the department of fisheries or department
18 of wildlife under RCW 75.20.100 and 75.20.103. These removals may
19 be authorized for maintenance and improvement of navigational
20 channels or for creating backwater channels for fish rearing or
21 improvement of the flow capacity of the channels.

22 (7) The department may allow sand and gravel removals above
23 the wetted perimeter of a navigable river which are not harmful to
24 public health and safety when any or all of the following
25 situations exist:

26 (a) The removal is designed to create or improve a feature
27 such as a pond, wetland, or other habitat valuable for fish and
28 wildlife;

29 (b) The removal provides recreational benefits;

30 (c) The removal will aid in reducing a detrimental
31 accumulation of aggregates in downstream lakes, reservoirs, and
32 river beds;

1 (d) The removal will aid in reducing damage to private or
2 public land and property abutting a navigable river; or

3 (e) The removal will contribute to increased flood protection
4 for private or public land.

5 (8) The department may not allow sand and gravel removals
6 above the wetted perimeter of a navigable river when:

7 (a) The location of such material is below a dam and has
8 inadequate supplementary feeding of gravel or sand;

9 (b) Removal will cause unstable hydraulic conditions
10 detrimental to fish, wildlife, public health, and safety; or

11 (c) Removal will impact esthetics of nearby recreational
12 facilities.

13 (9) No person may perform bank dumping or junk revetment on
14 aquatic lands.

15 (10) The department shall condition sand and gravel removal
16 leases to allow removal of only that amount which is naturally
17 replenished on an annual basis, except in instances where a lapse
18 in material removal has occurred. If such a lapse has occurred,
19 then an amount of material equivalent to the amount estimated to
20 have accumulated since the last material removal operation,
21 including debris and vegetation, may be removed.

22 **Sec. 504.** RCW 79.90.150 and 1991 c 337 s 1 are each amended
23 to read as follows:

24 When gravel, rock, sand, silt or other material from any
25 aquatic lands is removed by any public agency or under public
26 contract for channel or harbor improvement, or flood control, use
27 of such material may be authorized by the department of natural
28 resources for a public purpose on land owned or leased by the state
29 or any municipality, county, or public corporation: PROVIDED, That
30 when no public land site is available for deposit of such material,
31 its deposit on private land with the landowner's permission is
32 authorized and may be designated by the department of natural

1 resources to be for a public purpose. Prior to removal and use,
2 the state agency, municipality, county, or public corporation
3 contemplating or arranging such use shall first obtain written
4 permission from the department of natural resources. No payment of
5 royalty shall be required for such gravel, rock, sand, silt, or
6 other material used for such public purpose, but a charge will be
7 made if such material is subsequently sold or used for some other
8 purpose: PROVIDED, That the department may authorize such public
9 agency or private landowner to dispose of such material without
10 charge when necessary to implement disposal of material; PROVIDED
11 FURTHER, That no charge may be required for removal or use of such
12 material if the removal of the material is determined by the
13 municipality, county, or public corporation with jurisdiction to
14 provide a flood control benefit. No charge shall be required for
15 any use of the material obtained under the provisions of this
16 chapter when used solely on an authorized site. No charge shall be
17 required for any use of the material obtained under the provisions
18 of this chapter if the material is used for public purposes by
19 local governments. Public purposes include, but are not limited
20 to, construction and maintenance of roads, dikes, and ((levies))
21 levees. Nothing in this section shall repeal or modify the
22 provisions of RCW 75.20.100 or eliminate the necessity of obtaining
23 a permit for such removal from other state or federal agencies as
24 otherwise required by law."

EFFECT: Codifies existing Dept. of Fisheries dredging rules with the following changes: Establishes a dredging excavation line parallel to the water's edge, allows dredging at a 0.5% gradient, allows dredged materials to be stored within the ordinary highwater mark from 6/15 to 10/15, and allows increased dredging quantities if no dredging has occurred for several years.

Codifies existing Dept. of Natural Resources (DNR) dredging rules with the following changes: Allows dredging regardless of the availability of upland sources; allows dredging if it results in increased flood protection; allows dredging of detached gravel

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bars and islands, and allows increased dredging if dredging has not occurred for several years.

Specifies that the DNR cannot charge a royalty fee for gravel removal if a local government determines the dredging has a flood control benefit.