

2 **2SSB 5442** - H COMM AMD **ADOPTED 4-9-97**  
3 By Committee on Agriculture & Ecology

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 75.20.100 and 1993 sp.s. c 2 s 30 are each amended to  
8 read as follows:

9 (1) In the event that any person or government agency desires to  
10 construct any form of hydraulic project or perform other work that will  
11 use, divert, obstruct, or change the natural flow or bed of any of the  
12 salt or fresh waters of the state, such person or government agency  
13 shall, before commencing construction or work thereon and to ensure the  
14 proper protection of fish life, secure the (~~written~~) approval of the  
15 department as to the adequacy of the means proposed for the protection  
16 of fish life. This approval shall not be unreasonably withheld.

17 (2)(a) Except as provided in RCW 75.20.1001 (~~and 75.20.1002~~), the  
18 department shall grant or deny approval of a standard permit within  
19 forty-five calendar days of the receipt of a complete application and  
20 notice of compliance with any applicable requirements of the state  
21 environmental policy act, made in the manner prescribed in this  
22 section.

23 (b) The applicant may document receipt of application by filing in  
24 person or by registered mail. A complete application for approval  
25 shall contain general plans for the overall project, complete plans and  
26 specifications of the proposed construction or work within the mean  
27 higher high water line in salt water or within the ordinary high water  
28 line in fresh water, and complete plans and specifications for the  
29 proper protection of fish life.

30 (c) The forty-five day requirement shall be suspended if (~~(1)~~):

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

34 (~~(2)~~) (ii) The site is physically inaccessible for inspection; or

35 (~~(3)~~) (iii) The applicant requests delay. Immediately upon  
36 determination that the forty-five day period is suspended, the

1 department shall notify the applicant in writing of the reasons for the  
2 delay.

3 (d) For purposes of this section, "standard permit" means a written  
4 permit issued by the department when the conditions under subsections  
5 (3) and (6)(b) of this section are not met.

6 (3)(a) The department may issue an expedited written permit in  
7 those instances where normal permit processing would result in  
8 significant hardship for the applicant or unacceptable damage to the  
9 environment. In cases of imminent danger, the department shall issue  
10 an expedited written permit, upon request, for work to repair existing  
11 structures, move obstructions, restore banks, protect property, or  
12 protect fish resources. Expedited permit requests require a complete  
13 written application as provided in subsection (2)(b) of this section  
14 and shall be issued within fifteen calendar days of the receipt of a  
15 complete written application. Approval of an expedited permit is valid  
16 for up to sixty days from the date of issuance.

17 (b) For the purposes of this subsection, "imminent danger" means a  
18 threat by weather, water flow, or other natural conditions that is  
19 likely to occur within sixty days of a request for a permit  
20 application.

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

24 (d) The department or the county legislative authority may  
25 determine if an imminent danger exists. The county legislative  
26 authority shall notify the department, in writing, if it determines  
27 that an imminent danger exists.

28 (4) Approval of a standard permit is valid for a period of up to  
29 five years from date of issuance. The permittee must demonstrate  
30 substantial progress on construction of that portion of the project  
31 relating to the approval within two years of the date of issuance. If  
32 the department denies approval, the department shall provide the  
33 applicant, in writing, a statement of the specific reasons why and how  
34 the proposed project would adversely affect fish life. Protection of  
35 fish life shall be the only ground upon which approval may be denied or  
36 conditioned. Chapter 34.05 RCW applies to any denial of project  
37 approval, conditional approval, or requirements for project  
38 modification upon which approval may be contingent.

1       (5) If any person or government agency commences construction on  
2 any hydraulic works or projects subject to this section without first  
3 having obtained ((written)) approval of the department as to the  
4 adequacy of the means proposed for the protection of fish life, or if  
5 any person or government agency fails to follow or carry out any of the  
6 requirements or conditions as are made a part of such approval, the  
7 person or director of the agency is guilty of a gross misdemeanor. If  
8 any such person or government agency is convicted of violating any of  
9 the provisions of this section and continues construction on any such  
10 works or projects without fully complying with the provisions hereof,  
11 such works or projects are hereby declared a public nuisance and shall  
12 be subject to abatement as such.

13       (~~For the purposes of this section and RCW 75.20.103, "bed" shall~~  
14 ~~mean the land below the ordinary high water lines of state waters.~~  
15 ~~This definition shall not include irrigation ditches, canals, storm~~  
16 ~~water run-off devices, or other artificial watercourses except where~~  
17 ~~they exist in a natural watercourse that has been altered by man.~~

18       ~~The phrase "to construct any form of hydraulic project or perform~~  
19 ~~other work" shall not include the act of driving across an established~~  
20 ~~ford. Driving across streams or on wetted stream beds at areas other~~  
21 ~~than established fords requires approval. Work within the ordinary~~  
22 ~~high water line of state waters to construct or repair a ford or~~  
23 ~~crossing requires approval.))~~

24       (6)(a) In case of an emergency arising from weather or stream flow  
25 conditions or other natural conditions, the department, through its  
26 authorized representatives, shall issue immediately, upon request, oral  
27 approval for removing any obstructions, repairing existing structures,  
28 restoring stream banks, or to protect property threatened by the stream  
29 or a change in the stream flow without the necessity of obtaining a  
30 written approval prior to commencing work. Conditions of an oral  
31 approval to protect fish life shall be established by the department  
32 and reduced to writing within thirty days and complied with as provided  
33 for in this section. Oral approval shall be granted immediately, upon  
34 request, for a stream crossing during an emergency situation.

35       (b) For purposes of this section and RCW 75.20.103, "emergency"  
36 means an immediate threat to life, the public, property, or of  
37 environmental degradation.

38       (c) The department or the county legislative authority may declare  
39 and continue an emergency when one or more of the criteria under (b) of

1 this subsection are met. The county legislative authority shall  
2 immediately notify the department if it declares an emergency under  
3 this subsection.

4 (7) The department shall, at the request of a county, develop five-  
5 year maintenance approval agreements, consistent with comprehensive  
6 flood control management plans adopted under the authority of RCW  
7 86.12.200, or other watershed plan approved by a county legislative  
8 authority, to allow for work on public and private property for bank  
9 stabilization, bridge repair, removal of sand bars and debris, channel  
10 maintenance, and other flood damage repair and reduction activity under  
11 agreed-upon conditions and times without obtaining permits for specific  
12 projects.

13 (8) This section shall not apply to the construction of any form of  
14 hydraulic project or other work which diverts water for agricultural  
15 irrigation or stock watering purposes authorized under or recognized as  
16 being valid by the state's water codes, or when such hydraulic project  
17 or other work is associated with streambank stabilization to protect  
18 farm and agricultural land as defined in RCW 84.34.020. These  
19 irrigation or stock watering diversion and streambank stabilization  
20 projects shall be governed by RCW 75.20.103.

21 (9) For the purposes of this section and RCW 75.20.103, "bed" means  
22 the land below the ordinary high water lines of state waters. This  
23 definition does not include irrigation ditches, canals, storm water  
24 run-off devices, or other artificial watercourses except where they  
25 exist in a natural watercourse that has been altered by man.

26 (10) The phrase "to construct any form of hydraulic project or  
27 perform other work" does not include the act of driving across an  
28 established ford. Driving across streams or on wetted stream beds at  
29 areas other than established fords requires approval. Work within the  
30 ordinary high water line of state waters to construct or repair a ford  
31 or crossing requires approval."

32 Correct the title.

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