
SUBSTITUTE HOUSE BILL 2079

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Natural Resources (originally sponsored by Representatives Regala, Buck, Eickmeyer, Anderson, Rockefeller, Romero, Veloria and Keiser)

Read first time 03/02/1999.

1 AN ACT Relating to salmon recovery; amending RCW 75.46.010,
2 75.46.050, 75.46.060, 75.46.070, 75.46.080, 75.46.100, and 75.46.130;
3 adding a new section to chapter 75.46 RCW; and declaring an emergency.

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

5 **Sec. 1.** RCW 75.46.010 and 1998 c 246 s 2 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Adaptive management" means reliance on scientific methods to
10 test the results of actions taken so that the management and related
11 policy can be changed promptly and appropriately.

12 (2) "Critical pathways methodology" means a project scheduling and
13 management process for examining interactions between habitat projects
14 and salmonid species, prioritizing habitat projects, and assuring
15 positive benefits from habitat projects.

16 (3) "Habitat project list" is the list of projects resulting from
17 the critical pathways methodology under RCW 75.46.070(2). Each project
18 on the list must have a written agreement from the landowner on whose
19 land the project will be implemented. Projects include habitat

1 restoration projects, habitat protection projects, habitat projects
2 that improve water quality, habitat projects that protect water
3 quality, habitat-related mitigation projects, fish passage projects,
4 fish screening projects, and habitat project corrective maintenance and
5 monitoring activities.

6 (4) "Habitat work schedule" means those projects from the habitat
7 project list that will be implemented during the current funding cycle.
8 The schedule shall also include a list of the entities and individuals
9 implementing projects, the start date, duration, estimated date of
10 completion, estimated cost, and funding sources for the projects.

11 (5) "Limiting factors" means conditions that limit the ability of
12 habitat to fully sustain populations of salmon. These factors are
13 primarily fish passage barriers and degraded estuarine areas, riparian
14 corridors, stream channels, and wetlands.

15 (6) "Project sponsor" is a county, city, special district, tribal
16 government, a combination of such governments through interlocal
17 agreements provided under chapter 39.34 RCW, a nonprofit organization,
18 or one or more private citizens.

19 (7) "Salmon" includes all species of the family Salmonidae which
20 are capable of self-sustaining, natural production.

21 (8) "Salmon recovery plan" means a state plan developed in response
22 to a proposed or actual listing under the federal endangered species
23 act that addresses limiting factors including, but not limited to
24 harvest, hatchery, hydropower, habitat, and other factors of decline.

25 (9) "Tribe" or "tribes" means federally recognized Indian tribes.

26 (10) "WRIA" means a water resource inventory area established in
27 chapter 173-500 WAC as it existed on January 1, 1997.

28 (11) "Owner" means the person holding title to the land or the
29 person under contract with the owner to lease or manage the legal
30 owner's property.

31 **Sec. 2.** RCW 75.46.050 and 1998 c 246 s 6 are each amended to read
32 as follows:

33 (1) The governor shall request the national academy of sciences,
34 the American fisheries society, or a comparable institution to screen
35 candidates to serve as members on the independent science panel. The
36 institution that conducts the screening of the candidates shall submit
37 a list of the nine most qualified candidates to the governor, the
38 speaker of the house of representatives, and the majority leader of the

1 senate. The candidates shall reflect expertise in habitat requirements
2 of salmon, protection and restoration of salmon populations, artificial
3 propagation of salmon, hydrology, or geomorphology.

4 (2) The speaker of the house of representatives and the majority
5 leader in the senate shall each remove one name from the nomination
6 list. The governor shall consult with tribal representatives and the
7 governor shall appoint five scientists from the remaining names on the
8 nomination list.

9 (3) The members of the independent science panel shall serve four-
10 year terms. Vacant positions on the panel shall be filled in the same
11 manner as the original appointments. Members shall serve no more than
12 two full terms. The independent science panel members shall elect the
13 chair of the panel among themselves every two years. (~~The members of~~
14 ~~the independent science panel shall be compensated as provided in RCW~~
15 ~~43.03.250 and reimbursed for travel expenses in accordance with RCW~~
16 ~~43.03.050 and 43.03.060.)) Based upon available funding, the
17 governor's salmon recovery office may contract for services with
18 members of the independent science panel for compensation under chapter
19 39.29 RCW.~~

20 (4) The independent science panel shall be governed by generally
21 accepted guidelines and practices governing the activities of
22 independent science boards such as the national academy of sciences.
23 The purpose of the independent science panel is to help ensure that
24 sound science is used in salmon recovery efforts. The governor's
25 salmon recovery office shall request review of salmon recovery plans by
26 the science review panel. The science review panel does not have the
27 authority to review individual projects or project lists developed
28 under RCW 75.46.060, 75.46.070, and 75.46.080 or to make policy
29 decisions.

30 (5) The independent science panel shall submit its findings to the
31 legislature and the governor.

32 **Sec. 3.** RCW 75.46.060 and 1998 c 246 s 7 are each amended to read
33 as follows:

34 (1)(a) Counties, cities, and tribal governments must jointly
35 designate, by (~~official~~) resolution or by letters of support, the
36 area for which a habitat (~~restoration~~) project list is to be
37 developed and the lead entity that is to be responsible for submitting
38 the habitat (~~restoration~~) project list. No project included on a

1 habitat ((restoration)) project list shall be considered mandatory in
2 nature and no private landowner may be forced or coerced into
3 participation in any respect. The lead entity may be a county, city,
4 conservation district, special district, tribal government, or other
5 entity.

6 (b) The lead entity shall establish a committee that consists of
7 representative interests of counties, cities, conservation districts,
8 tribes, environmental groups, business interests, landowners, citizens,
9 volunteer groups, regional fish enhancement groups, and other
10 ((restoration)) habitat interests. The purpose of the committee is to
11 provide a citizen-based evaluation of the projects proposed to promote
12 salmon habitat ((restoration)). The interagency review team may
13 provide the lead entity with organizational models that may be used in
14 establishing the committees.

15 (c) The committee shall compile a list of habitat ((restoration))
16 projects, establish priorities for individual projects, define the
17 sequence for project implementation, and submit these activities as the
18 habitat ((restoration)) project list. The committee shall also
19 identify potential federal, state, local, and private funding sources.

20 (2) The area covered by the habitat project list must be based, at
21 a minimum, on a WRIA, combination of WRIs, ((an evolutionarily
22 significant unit,)) or any other area as agreed to by the counties,
23 cities, and tribes in resolutions or in letters of support meeting the
24 requirements of this subsection. Preference will be given to projects
25 in an area that contain a salmon species that is listed or proposed for
26 listing under the federal endangered species act.

27 **Sec. 4.** RCW 75.46.070 and 1998 c 246 s 8 are each amended to read
28 as follows:

29 (1) Critical pathways methodology shall be used to develop a
30 habitat project list and a habitat work schedule that ensures salmon
31 ((restoration)) recovery activities will be prioritized and implemented
32 in a logical sequential manner that produces habitat capable of
33 sustaining healthy populations of salmon.

34 (2) The critical pathways methodology shall:

35 (a) Include a limiting factors analysis for salmon in streams,
36 rivers, tributaries, estuaries, and subbasins in the region. The
37 technical advisory group shall have responsibility for the limiting
38 factors analysis;

1 (b) Identify local habitat projects that sponsors are willing to
2 undertake. The projects identified must have a written agreement from
3 the landowner on which the project is to be implemented. Project
4 sponsors shall have the lead responsibility for this task;

5 (c) Identify how projects will be monitored and evaluated. The
6 project sponsor, in consultation with the technical advisory group and
7 the appropriate landowner, shall have responsibility for this task;
8 ((and))

9 (d) Include a review of monitoring data, evaluate project
10 performance, and make recommendations to the committee established
11 under RCW 75.46.060 and to the interagency review team. The technical
12 advisory group has responsibility for this task; and

13 (e) Describe the adaptive management strategy that will be used.
14 The committee established under RCW 75.46.060 shall have responsibility
15 for this task. If a committee has not been formed, the technical
16 advisory group shall have the responsibility for this task.

17 (3) The habitat work ((list)) schedule shall include all projects
18 developed pursuant to subsection (2) of this section as well as any
19 other salmon habitat ((restoration)) project implemented in the region,
20 including habitat preservation projects funded through the Washington
21 wildlife and recreation program, the conservation reserve enhancement
22 program, and other conservancy programs. The habitat work ((list))
23 schedule shall also include the start date, duration, estimated date of
24 completion, estimated cost, and, if appropriate, the affected salmonid
25 species of each project. Each schedule shall be updated on an annual
26 basis to depict new activities.

27 **Sec. 5.** RCW 75.46.080 and 1998 c 246 s 9 are each amended to read
28 as follows:

29 (1) Representatives from the conservation commission, the
30 department of transportation, the interagency committee on outdoor
31 recreation, the department of ecology, and the department of fish and
32 wildlife shall establish an interagency review team. Except as
33 provided in subsection ((+6)) (7) of this section, habitat
34 ((restoration)) project lists shall be submitted to the interagency
35 review team by January 1st ((and July 1st)) of each year beginning in
36 1999.

37 (2) If no lead entity has been formed under RCW 75.46.060, the
38 interagency review team shall rank, prioritize, and dispense funds for

1 habitat (~~restoration~~) projects by giving preference to the projects
2 that:

3 (a) Are based upon the limiting factors analysis identified under
4 RCW 75.46.070;

5 (b) Provide a greater benefit to salmon recovery based upon the
6 information contained in the department of fish and wildlife salmonid
7 stock inventory and any comparable science-based assessment;

8 (~~(b)~~) (c) Will be implemented in a more critical area based upon
9 the stock status information contained in the department of fish and
10 wildlife salmonid stock inventory and any comparable science-based
11 assessment;

12 (~~(e)~~) (d) Are the most cost-effective;

13 (~~(d)~~) (e) Have the greatest matched, or in-kind funding; and

14 (~~(e)~~) (f) Will be implemented by a sponsor with a successful
15 record of project implementation.

16 (3) If a lead entity established under RCW 75.46.060 has been
17 formed, the interagency review team shall evaluate the habitat project
18 list(~~s—and~~) for funding based upon the criteria contained in
19 subsection (2) of this section. The interagency review team may
20 remove, but not add, projects from a habitat project list. The
21 interagency review team shall give preference to projects that are on
22 a project list submitted by a lead entity. The interagency review team
23 may also provide block grants to the lead entity subject to available
24 funding.

25 (4) The interagency review team shall apply the criteria
26 established in subsection (2) of this section in a manner that results
27 in the highest priority being given to critical fish stocks. The
28 criteria shall be applied in this manner in areas where there is a lead
29 entity established and in areas where no lead entity has been
30 established.

31 (5) The interagency review team shall provide a summary of funding
32 for (~~habitat~~) restoration project lists to the governor and to the
33 legislature by December 1st of each year.

34 (~~(5)~~) (6) The interagency review team may annually establish a
35 maximum amount of funding available for any individual project, subject
36 to available funding. The interagency review team shall attempt to
37 assure a geographical balance in assigning priorities to projects.

38 (~~(6)~~) (7) For fiscal year 1998, the department of fish and
39 wildlife, the conservation commission, and the department of

1 transportation may authorize, subject to appropriations, expenditures
2 for projects that have been developed to restore salmon habitat before
3 completion of the project lists required in RCW 75.46.060(2).

4 ~~((7) Where a lead entity has been established pursuant to RCW
5 75.46.060, the interagency review team may provide block grants to the
6 lead entity, subject to available funding.))~~

7 **Sec. 6.** RCW 75.46.100 and 1998 c 246 s 11 are each amended to read
8 as follows:

9 The sea grant program at the University of Washington is authorized
10 to provide technical assistance to volunteer groups and other project
11 sponsors in designing and ~~((performing))~~ implementing habitat
12 ~~((restoration))~~ projects that address the limiting factors analysis
13 ~~((of regional habitat work plans))~~ required under RCW 75.46.070. The
14 cost for such assistance may be covered on a fee-for-service basis.

15 **Sec. 7.** RCW 75.46.130 and 1998 c 246 s 17 are each amended to read
16 as follows:

17 Only those funds appropriated for the habitat ~~((restoration))~~
18 projects under this chapter are subject to the requirements of RCW
19 75.46.080.

20 NEW SECTION. **Sec. 8.** A new section is added to chapter 75.46 RCW
21 to read as follows:

22 (1) For purposes of this chapter, the system operations advisory
23 committee that was formed in 1981 as a result of a court decision to
24 protect spring chinook redds, and whose responsibilities were broadened
25 to protect all species in the Yakima basin adjudication proceedings of
26 *Department of Ecology v. Acquavella*, shall serve as the lead entity for
27 the Yakima river basin.

28 (2) The lead entity established pursuant to subsection (1) of this
29 section is responsible for establishing a committee under RCW 75.46.060
30 to compile the habitat project list and to designate the area to be
31 covered by the list, and to forward the habitat project list to the
32 interagency review team for review pursuant to RCW 75.46.080.

33 (3) The lead entity established pursuant to subsection (1) of this
34 section is responsible for all duties and responsibilities assigned to
35 lead entities under this chapter or otherwise.

1 NEW SECTION. **Sec. 9.** Section 8 of this act is necessary for the
2 immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and takes effect immediately.

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