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**Agriculture & Natural Resources  
Committee**

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**HB 1117**

**Brief Description:** Regarding enforcement of the requirements of chapter 77.55 RCW.

**Sponsors:** Representatives Blake, Green and Ormsby.

**Brief Summary of Bill**

- Authorizes the Department of Fish and Wildlife to issue stop work and restoration orders to any person conducting a hydraulic project without first obtaining a hydraulic project approval.
- Authorizes the Department of Fish and Wildlife to cite an individual with a civil natural resources infraction if the person conducts a hydraulic project without first obtaining a hydraulic project approval, or fails to abide by a stop work or restoration order.

**Hearing Date:** 1/23/09

**Staff:** Jason Callahan (786-7117)

**Background:**

Hydraulic Project Approvals

Before beginning a construction project, a person must obtain a hydraulic project approval (HPA) for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. HPAs are issued by the Washington Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life.

The WDFW is statutorily authorized to issue programmatic HPAs for small scale mining and prospecting, as well as activities or projects conducted solely for the removal or control of certain aquatic weeds. The programmatic approval is in lieu of an applicant obtaining an

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individual HPA. Under the programmatic approval process, the WDFW publishes a pamphlet that states the rules for that activity.

A person who unlawfully undertakes a project in violation of the HPA requirements may be prosecuted for a gross misdemeanor. Prosecution is available if a person conducts a project without an HPA, or if a person violates the conditions the operative HPA.

### Natural Resource Infractions

A natural resource infraction is a civil penalty available for violations of certain statutes relating to natural resources. The monetary penalties for a natural resource infraction is set by the Washington Supreme Court, with a maximum penalty of \$500.

### **Summary of Bill:**

#### WDFW Orders

The WDFW has the authority to issue three different orders to individuals violating HPA requirements. The WDFW can issue an order to suspend work on any project being conducted in violation of the HPA requirements. An order also can be issued compelling the restoration any site that was damaged due to a project conducted in violation of the HPA requirements. Alternatively, the WDFW can order the project sponsor to stop working and to restore the site.

A person receiving an order from the WDFW has 20 days to appeal the order.

#### Enforcement

A person who conducts a hydraulic project without first obtaining an HPA, or a person who fails to abide by terms of a stop work order or restoration order issued by the WDFW, may be cited with a natural resources infraction. Each day during which a project continues without an HPA being obtained or each day that a WDFW order is violated represents an individual citable violation.

A civil citation issued by the WDFW is an alternative to the prosecution of a gross misdemeanor.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.