
ENGROSSED SENATE BILL 6188

State of Washington

57th Legislature 2001 First Special Session

By Senators Prentice, Swecker, Haugen, McDonald, Gardner, Horn, Rasmussen and Deccio

Read first time 05/21/2001. Referred to Committee on Transportation.

1 AN ACT Relating to improving the efficiency and accountability of
2 the environmental permitting and compliance process for transportation
3 projects; adding a new chapter to Title 47 RCW; prescribing penalties;
4 providing an expiration date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** LEGISLATIVE INTENT AND FINDINGS. The
7 legislature finds that the public health and safety of its citizens,
8 the natural resources, and the environment are vital interests of the
9 state that need to be protected and preserved. The legislature further
10 finds that the safety of the traveling public and the state's economic
11 well-being are vital interests that depend upon the development of
12 cost-effective and efficient transportation systems planned, designed,
13 constructed, and maintained through expedited permit decision-making
14 processes.

15 It is the intent of the legislature to achieve transportation
16 permit reform that expedites the delivery of statewide significant
17 transportation projects through a streamlined approach to environmental
18 permit decision making. To optimize the limited resources available
19 for transportation system improvements and environmental protection,

1 state regulatory and natural resource agencies, public and private
2 sector interests, Indian tribes, and the department of transportation
3 must work cooperatively to establish common goals, minimize project
4 delays, develop consistency in the application of environmental
5 standards, maximize environmental benefits through coordinated
6 investment strategies, and eliminate duplicative processes through
7 assigned responsibilities of selected permit drafting and compliance
8 activities between state and federal agencies.

9 Therefore, the transportation permit efficiency and accountability
10 committee is created. The committee shall integrate current
11 environmental standards, but may not create new environmental
12 standards. The committee shall conduct three environmental permit
13 streamlining pilot projects and create a process to develop general
14 permits. Additionally, the committee shall seek federal delegation to
15 the state where appropriate to streamline transportation projects.

16 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
17 section apply throughout this chapter unless the context indicates
18 otherwise.

19 (1) "Assigned responsibilities" means those components of
20 developing and implementing environmental permits, including but not
21 limited to, environmental review and assessment, selected permit
22 drafting, and selected on-site compliance activities that may be
23 conducted by the department.

24 (2) "Best available information" means the existing sources of
25 data, including limiting factors analyses required under chapter 77.85
26 RCW that can be used to make informed decisions regarding environmental
27 conditions within a watershed.

28 (3) "Best management practices" means currently available and
29 generally accepted techniques, including new technologies or strategies
30 that seek to reduce the negative impacts of transportation facilities,
31 projects, and services on communities and the environment, and promote
32 more efficient and effective use of transportation facilities.

33 (4) "Committee" means the transportation permit efficiency and
34 accountability committee created in section 3 of this act.

35 (5) "Least cost planning" means the use of best available
36 information within a watershed basin applied to transportation decision
37 making in the planning, permit decision making, and mitigation phases
38 of a project.

1 (6) "Low-impact development project" means an activity or series of
2 actions that conform to a comprehensive land use planning and
3 engineering design approach with a goal of maintaining or restoring
4 existing natural habitat functions and hydrologic regime of urban and
5 developing watersheds. These projects incorporate strategic watershed
6 planning with site-specific management techniques to reduce development
7 impacts to better replicate natural watershed hydrology and water
8 quality, while allowing for development or infrastructure
9 rehabilitation to occur.

10 (7) "One-stop permit decision making" means a coordinated permit
11 decision-making process that streamlines environmental review and
12 permit decision making for transportation projects by providing
13 concurrent, consolidated review by each agency required to review the
14 project.

15 (8) "Programmatic approach" means a permit or other action that
16 covers a geographic or statewide area and applies to a variety of
17 projects, activities, or locales. A programmatic approach may allow
18 actions to proceed without individual approval by each permit decision-
19 making agency.

20 (9) "Transportation project of statewide significance" means a
21 surface transportation project or combination of surface transportation
22 projects, that crosses multiple city or county jurisdictional
23 boundaries or connects major state destinations in support of the
24 state's economy and is so designated by the department of
25 transportation and approved by the transportation committees of the
26 senate and house of representatives. The transportation committees of
27 the senate and house of representatives may also jointly designate
28 these projects. The pilot projects established in this chapter are
29 examples of transportation projects of statewide significance, but
30 transportation projects of statewide significance are not limited to
31 the pilot projects.

32 (10) "Watershed" means a water resource inventory area.

33 NEW SECTION. **Sec. 3.** TRANSPORTATION PERMIT EFFICIENCY AND
34 ACCOUNTABILITY COMMITTEE. The transportation permit efficiency and
35 accountability committee is created.

36 (1) The committee consists of nine voting members, including two
37 members from the house of representatives, one from each of the two
38 largest caucuses; two senators, one from each of the two largest

1 caucuses; one member designated by the secretary of transportation; one
2 member designated by the director of fish and wildlife; one member
3 designated by the director of ecology; one member designated by the
4 Association of Washington Cities; and one member designated by the
5 Washington State Association of Counties. The committee shall elect a
6 chair from the four legislators appointed to the committee.

7 (2) The committee also includes eight nonvoting members, including
8 one member designated by the Northwest Indian Fisheries Commission; one
9 member designated by the Columbia River Intertribal Fisheries
10 Commission; one member designated by the Consulting Engineers Council
11 of Washington; one member designated by the Associated General
12 Contractors of Washington; one member designated by the Association of
13 Washington Business; one member designated by the Washington State
14 Building and Construction Trades Council; one member designated by
15 statewide environmental organizations; and one member designated by the
16 State Fish and Wildlife Commission, to represent the interests of
17 citizens engaged in fish and wildlife recovery.

18 (3) A representative from the department of natural resources and
19 representatives from federal regulatory and transportation agencies,
20 including the Environmental Protection Agency, National Marine
21 Fisheries Service, United States Army Corps of Engineers, Federal
22 Highways Administration, and United States Fish and Wildlife Service
23 must be invited to participate in committee deliberations as nonvoting
24 members.

25 (4) The committee may create technical subcommittees as needed.
26 Technical subcommittees created for a specific pilot project or pilot
27 projects must include, but are not limited to, representatives of local
28 governments from jurisdictions affected by those projects.
29 Recommendations made by a technical subcommittee must be approved by a
30 majority of the voting members of the committee.

31 (5) Nonvoting members will not be compensated but will receive
32 reimbursement for travel expenses in accordance with RCW 43.03.050 and
33 43.03.060.

34 (6) The department of transportation office of environmental
35 affairs shall provide administrative and clerical assistance to the
36 committee.

37 (7) No vote of the committee may overrule existing statutes,
38 regulations, or local ordinances.

1 NEW SECTION. **Sec. 4.** COMMITTEE RESPONSIBILITIES. (1) The

2 committee and its authorized technical subcommittees shall develop a
3 one-stop permit decision-making process that uses interdisciplinary
4 review of transportation projects of statewide significance to
5 streamline and expedite permit decision making. The committee shall
6 collaborate with appropriate agencies and parties to identify existing
7 environmental standards, to assess the application of those standards,
8 and develop an integrated permitting process based upon environmental
9 standards and best management practices, which may use prescriptive or
10 performance standards, for transportation projects of statewide
11 significance that can be applied with certainty, consistency, and
12 assurance of swift permit action, while taking into account the varying
13 environmental conditions throughout the state.

14 (2) The committee shall give notice to the legislative authority of
15 each affected county and city of the projects that are designated as
16 transportation projects of statewide significance.

17 (3) The committee shall create a technical subcommittee with
18 representation at a minimum from the department of fish and wildlife,
19 the department of ecology, and the department of transportation.

20 (a) Within six months from the first meeting of the committee, the
21 subcommittee shall create a process to develop a programmatic approach
22 for transportation projects. The committee shall review the
23 department's construction project list to determine which projects or
24 activities may be included in the programmatic approach and develop
25 agreements to cover those projects or activities. At a minimum, this
26 process must require that decisions on minor variations to the
27 requirements of a programmatic approach must be provided by the permit
28 decision-making agencies within twenty-one days of submittal.

29 (b) The technical subcommittee's recommendations must be approved
30 by a majority of the voting members of the committee.

31 (4) The committee shall explore the development of a consolidated
32 local permit process.

33 (5) The committee shall develop and prioritize a list of permit
34 streamlining opportunities, specifically identifying substantive and
35 procedural duplications and recommendations for resolving those
36 duplications. The committee shall evaluate current laws and
37 regulations and develop recommendations on ways to minimize the lapsing
38 of permits. The committee shall evaluate flexible approaches that
39 maximize transportation and environmental interests and make

1 recommendations regarding where those approaches should be implemented.
2 The committee shall report its findings and recommendations to the
3 legislature by January 15, 2002.

4 (6) The committee shall undertake the following activities to
5 develop a watershed approach to environmental mitigation:

6 (a) Develop methodologies for analyzing environmental impacts and
7 applying compensatory mitigation consistent with a watershed-based
8 approach before final design, including least cost methodology and low-
9 impact development methodology;

10 (b) Assess models to collate and access watershed data to support
11 early agency involvement in transportation planning and reviews under
12 the national Environmental Policy Act and the State Environmental
13 Policy Act; and

14 (c) Use existing best available information from watershed planning
15 efforts, lead entities, regional fisheries enhancement groups, and
16 other recognized entities as deemed appropriate by the committee, to
17 determine potential mitigation requirements for projects within a
18 watershed. Priority consideration should be given to the use of the
19 state's alternative mitigation policy guidance to best link
20 transportation mitigation needs with local watershed and lead entity
21 project lists.

22 (7) The committee shall seek federal delegation to the state where
23 appropriate to streamline permit processes for transportation projects
24 of statewide significance including: Delegation of section 404 permit
25 authority under the Clean Water Act; nonfederal lead agency status
26 under the federal Endangered Species Act; section 106 cultural resource
27 designation under the National Historic Preservation Act; and other
28 appropriate authority that when delegated should result in permit
29 streamlining.

30 (8) The committee shall develop a dispute resolution process to
31 resolve conflicts in interpretation of environmental standards and best
32 management practices, mitigation requirements, permit requirements,
33 assigned responsibilities, and other related issues by September 1,
34 2001. The dispute resolution process may not abrogate or supplant any
35 appeal right of any party under existing statutes. The dispute
36 resolution process must be designed to include federal agencies if they
37 choose to participate.

38 (9) The committee shall develop preliminary models and strategies
39 for agencies to test how best to maximize the environmental investment

1 of transportation funds on a watershed basis. After agencies test the
2 models and strategies developed by the committee, the committee shall
3 evaluate the models and strategies and make recommendations to the
4 legislature.

5 (10) The committee shall develop a consistent methodology for the
6 timely and predictable submittal and evaluation of completed plans and
7 specifications detailing project elements that impact environmental
8 resources as well as proposed mitigation measures during the
9 preliminary specifications and engineering phase of project development
10 and submit information on the consistent methodology to the
11 legislature.

12 (11) The committee shall provide a summary report to the
13 legislature on September 15, 2001, and every six months thereafter.

14 NEW SECTION. **Sec. 5. PILOT PROJECTS.** (1) The committee shall
15 select and conduct permit reform pilot projects in three locales: (a)
16 Urban near built-out conditions; (b) urban centers serving as crucial
17 rural connectors; and (c) rural corridors critical to statewide
18 economic productivity. The pilot projects must test the assignment of
19 responsibilities such as selected permit drafting and selected
20 compliance activities to the department.

21 (2) The committee shall commence efforts to apply streamlining
22 lessons learned from the streamlined permit process for the pilot
23 projects to as many other transportation projects of statewide
24 significance as quickly as possible. In reporting to the legislature,
25 the committee may recommend statutory or regulatory changes that would
26 result in streamlining for future projects.

27 (3) The department and permitting agencies shall apply an interim
28 interdisciplinary permit review process for the pilot projects as set
29 forth in this section. This process must provide coordinated review
30 and approval of permit applications; provide coordinated and
31 consolidated public hearings where required by one or more regulatory
32 agencies under state law; and coordinate timelines for permit decision
33 making.

34 (4) The committee shall give notice to the legislative authority of
35 each affected county and city of the projects the committee has
36 designated as pilot projects. Each county and city notified must be
37 offered the opportunity to participate in the pilot projects as

1 provided for in this chapter. The department shall provide funding
2 assistance for participation.

3 (5) The committee shall develop a dispute resolution process to
4 resolve conflicts in interpretation of environmental standards and best
5 management practices, mitigation requirements, permit requirements,
6 assigned responsibilities, the streamlined process for pilot projects
7 set forth in this section, and other related issues by September 1,
8 2001. The dispute resolution process may not abrogate or supplant any
9 appeal right of any party under existing statutes. The dispute
10 resolution process must be designed to include federal agencies if they
11 choose to participate. The dispute resolution process must be applied
12 to the pilot projects.

13 (6) The streamlined process for the pilot projects must be based on
14 the following model:

15 (a) Step 1: The department and permitting agencies will agree on
16 coordination for environmental review under the state and national
17 environmental policy acts, including document preparation, public
18 comment opportunities, and timelines.

19 (b) Step 2: For each project, the department will convene a
20 meeting of all entities with permitting authority to review:

21 (i) The proposed conceptual design for the project and alternative
22 routes, construction approaches, or mitigation approaches;

23 (ii) All known reviewing entities, permit application and approval
24 requirements, and timelines; and

25 (iii) A coordinated timeline that allows all statutory requirements
26 to be met.

27 (c) Step 3: The department will draft all necessary permits to
28 proceed with the preferred alternative using relevant agreements with
29 permitting agencies.

30 (d) Step 4: The department will provide public notice in
31 conformity with all applicable statutes and regulations and allow the
32 required time for public hearings and written comments.

33 (e) Step 5: The department may revise the draft permits after
34 consideration of public comments and applying all relevant agreed upon
35 standards.

36 (f) Step 6: All permits will be disseminated to permitting
37 agencies for final review. All reviews will be completed within forty-
38 five days, at which time the permitting agencies will act upon the
39 permit and either approve the permit or return it without approval.

1 (g) Step 7: If the permit is returned to the department without
2 approval, the permitting agencies will have one opportunity to identify
3 errors or omissions and any remaining specific deficiencies or
4 circumstances not previously addressed by agreements between the
5 department and agencies that must be met or addressed to be compliant
6 with applicable law. The department may revise the permit as warranted
7 and resubmit the permit to the permitting agency, which will have
8 fifteen days from receipt of the revised permit to take final action.

9 (h) Step 8: Disputes related to permit decisions will be addressed
10 by the dispute resolution process established by the committee.

11 NEW SECTION. **Sec. 6.** LOCAL GOVERNMENT PARTICIPATION. (1) This
12 section establishes procedures for city, town, and county governments
13 to participate in the processes identified in this chapter to provide
14 for coordinated, multijurisdictional environmental review and
15 permitting decisions for pilot projects and transportation projects of
16 statewide significance.

17 (2) Each city, town, and county within whose boundaries is located
18 or partially located one or more projects identified in subsection (1)
19 of this section, shall elect whether or not to participate in
20 coordinated processes for environmental review and permitting of those
21 projects as required in this chapter. If the city, town, or county
22 elects to participate, it may do so as either a participating entity or
23 as an assigning entity.

24 (a) If a city, town, or county elects to be considered as a
25 participating entity, the committee must then include a representative
26 designated by the city, town, or county in the coordinated review of
27 the project. The department shall compensate the jurisdiction for
28 technical support required for participation in the process. The
29 jurisdiction will also be eligible for reimbursement for permit fees
30 set by local ordinances and other agreed upon costs associated with the
31 issuance of project permits.

32 (b) For the purposes of expediting the permit process, a city,
33 town, or county may elect to assign its permit responsibilities under
34 chapter 39.34 RCW to the department simultaneously with its
35 notification to the department as specified in this section. The city,
36 town, or county electing to assign its responsibilities shall enter
37 into an agreement with the department to define the local permit
38 requirements that must be met. Permits issued under the negotiated

1 agreement are presumed to at least meet local environmental permit
2 requirements. A city, town, or county choosing to use this option is
3 eligible for a permit fee set by local ordinances associated with the
4 issuance of the project permits.

5 (3) If the city, town, or county elects not to participate in the
6 coordinated processes for the pilot projects designated in this chapter
7 or transportation projects of statewide significance the department
8 will issue the locally required permits, when allowable. The
9 department shall comply with all provisions of city, town, and county
10 ordinances, and the department permit approval is presumed to at least
11 meet the local environmental review and permit requirements.

12 (4) Any city, town, or county shall notify the department within
13 sixty days of receipt of the committee's notification of project
14 designation, as to whether it elects to be considered as a
15 participating entity or an assigning entity, or elects not to
16 participate in the coordinated process provided in this chapter.

17 (5) The committee shall review and evaluate the process by which
18 local governments review and approve pilot projects and transportation
19 projects of statewide significance, and shall provide recommendations
20 to the legislature to improve the coordination of the local process
21 with state and federal reviews as part of the reports required by this
22 chapter.

23 (6) A city, town, or county is not liable for decisions made by the
24 department that result in a failure to comply with city, town, or
25 county ordinances except as provided in the interlocal agreements, and
26 the department shall defend and answer to any actions or complaints
27 challenging the validity of permits issued under this section.

28 NEW SECTION. **Sec. 7.** INTERIM PERMIT PROCESS. Until integrated
29 standards and best management practices have been adopted by the
30 committee, the department may use the following process for
31 transportation projects of statewide significance, including projects
32 requested by a project sponsor.

33 (1) Step 1: Conceptual description. The department will identify
34 project purposes, the approximate location or alternative locations,
35 and the federal, state, and local agencies that might have authority to
36 review and approve the project or portions of it at any such locations,
37 and a preliminary interagency communication list identifying agencies
38 that may be interested in the proposed project and, where known,

1 contact persons in such agencies. If the department is going to
2 proceed with step 2 or to abandon the project, it may complete step 1
3 by: (a) Providing a summary of the outcome to all agencies on the
4 list; and (b) making the summary available to the public.

5 (2) Step 2: Early involvement of other agencies. (a) At any time
6 after completing step 1, the department will provide notice to all
7 agencies on the interagency communication list and the public. Within
8 thirty days, or a longer time if specified by the department, each
9 state, local, and federal agency will be encouraged to identify:

10 (i) A primary contact person to coordinate future communications
11 with the department and other interested agencies regarding the
12 project, or indicate that it has no interest in the project and need
13 not remain on the project information list;

14 (ii) Its role with respect to the proposed project;

15 (iii) Additional alternative locations the department should
16 consider and the roles it would expect to have with the project at
17 those locations;

18 (iv) Other agencies it believes should be added to the list for the
19 project; and

20 (v) Other information the agency requests the department to
21 consider.

22 (b) After all state and local agencies on the list have responded,
23 or at least ten days after expiration of the specified response time,
24 the department may complete step 2 by: (i) Proposing one or more
25 conceptual designs for the project at a proposed location and any
26 alternative locations then being considered; (ii) providing a summary
27 of the results of step 2, including a statement that the department
28 considers step 2 to be complete or complete except for specified issues
29 remaining to be resolved with specified agencies, to all agencies on
30 the interagency communication list; and (iii) making the summary
31 available to the public.

32 (3) Step 3: Identify environmental reviews, permits, and other
33 approvals, application procedures, and decision standards. (a) At any
34 time after completing step 2, the department may initiate step 3 by
35 notice to all agencies on the list and the public. This notice may
36 include a threshold determination on whether an environmental impact
37 statement (EIS) or supplemental EIS will be prepared or an
38 environmental checklist and request for comments on what steps should
39 be taken to comply with chapter 43.21C RCW, the State Environmental

1 Policy Act (SEPA). Within thirty days, or a longer time if specified
2 by the department, each state, local, and federal agency will be
3 encouraged to identify:

4 (i) The procedures under which it expects environmental reviews of
5 the project to occur;

6 (ii) All permits and other approvals it might require for the
7 project at each alternative location and conceptual design;

8 (iii) What is needed for the department to file a complete
9 application for each permit or other approval;

10 (iv) The laws, regulations, ordinances, and policies it would
11 administer with respect to the project at each alternative location and
12 conceptual design; and

13 (v) Other information the agency requests the department to
14 consider in deciding whether, when, where, or how to proceed with the
15 project.

16 (b) After all state and local agencies on the list have responded,
17 or at least ten days after expiration of the specified response time,
18 the department may complete step 3 by:

19 (i) Adopting a list of all environmental reviews, permits, and
20 other approvals it believes are needed for the project under each
21 alternative being considered;

22 (ii) Providing all agencies on the list a copy of that list and a
23 summary of the other results of step 3, including a statement that the
24 department considers step 3 to be complete or complete except for
25 specified issues remaining to be resolved with specified agencies; and

26 (iii) Making the list and summary available to the public.

27 (c) The list and summary will be presumed to accurately identify
28 all environmental reviews, permits, and other approvals needed for each
29 alternative described, what is required for applications to be
30 considered complete, and the standards under which applications will be
31 reviewed and approved, unless an aggrieved agency or person files
32 objections within thirty days after the list and summary are
33 distributed.

34 (4) Step 4: Tentative selection of preferred alternative. (a) At
35 any time after completing step 3, the department may initiate step 4 by
36 notice to all agencies on the list and the public. This notice may be
37 accompanied by a scoping notice for an EIS or supplemental EIS or, if
38 available, be accompanied by a draft EIS or supplemental EIS. It also
39 may be accompanied by the department's preliminary analysis of the

1 advantages and disadvantages of each identified alternative, or other
2 information that may be helpful to other interested agencies and the
3 public in identifying advantages and disadvantages. Within fourteen
4 days, or a longer time if specified by the department, each state,
5 local, and federal agency will be encouraged to identify:

6 (i) For each identified alternative, the specific features it
7 considers significant with respect to its role in environmental
8 reviews, permits, or other approvals for the project; the reasons these
9 features are significant, and any concerns it may have about the
10 alternative because of potential adverse impacts of these features on
11 resources or social policies within its jurisdiction;

12 (ii) For each feature for which it raises concerns, recommendations
13 on how the potential adverse impacts could be avoided, minimized, and
14 mitigated;

15 (iii) For each feature for which it raises concerns, an assessment
16 of the relative ranking of each alternative with respect to whether and
17 to what extent these concerns apply;

18 (iv) Recommendations the agency may have as to which alternatives
19 should be retained or dropped from further consideration, and ways in
20 which alternatives might be modified or combined to address its
21 concerns, recognizing that final decisions can be made only through the
22 applicable environmental review, permit, and other approval processes
23 and the agency making them is not bound with respect to any future
24 decisions it may make regarding the project;

25 (v) Other information the agency requests the department to
26 consider in deciding whether, when, where, or how to proceed with the
27 project.

28 (b) After all state and local agencies on the list have responded,
29 or at least ten days after expiration of the specified response time,
30 the department may complete step 4 by:

31 (i) Selecting a preferred alternative for purposes of all
32 environmental reviews, permits, and other approvals needed for the
33 project;

34 (ii) Providing all agencies on the list a description of the
35 preferred alternative and summary of the other results of step 4,
36 including a statement that the department considers step 4 to be
37 complete or complete except for specified issues remaining to be
38 resolved with specified agencies; and

1 (iii) Making the preferred alternative and summary available to the
2 public. The preferred alternative will be identified in all
3 environmental reviews, permits, and other approvals needed for the
4 project.

5 (5) Step 5: Completing environmental reviews and applications for
6 permits and other approvals. (a) At any time after completing step 4,
7 the department may initiate step 5 by notice to all agencies on the
8 list and the public. A draft EIS or supplemental EIS, the department's
9 draft plans and specifications for the project, and draft applications
10 for some or all permits and other approvals may be provided with the
11 notice or when they subsequently become available. Within thirty days,
12 or a longer time if specified by the department, each state, local, and
13 federal agency will be encouraged to identify:

14 (i) All concerns it previously raised regarding the alternative,
15 and other alternatives still under consideration, that have not been
16 resolved to its satisfaction;

17 (ii) Additional concerns it may have, particularly concerns
18 resulting from additional information about the project location and
19 design, and other new information received since the completion of step
20 4;

21 (iii) Additional environmental reviews, permits, or other approvals
22 needed for the preferred alternative because of changes in laws,
23 regulations, or policies or changes in the project location or design
24 since these issues were last reviewed in step 3 or 4;

25 (iv) Changes in applicable requirements for complete applications
26 for permits or other approvals under its jurisdiction since these
27 issues were last reviewed in step 3 or 4;

28 (v) Other changes in applicable laws, regulations, ordinances, or
29 policies administered by the agency since these issues were last
30 reviewed in step 3 or 4;

31 (vi) Whether a draft application proposed by the department for a
32 permit or other approval from the agency is complete, and if not, what
33 additional information or other changes are needed for it to be
34 complete.

35 (b) When all state and local agencies on the list have responded,
36 or at least ten days after expiration of the specified response time,
37 the department may complete step 5 by:

1 (i) Completing some or all environmental review processes and draft
2 application forms for permits and other approvals that it reasonably
3 believes to be complete;

4 (ii) Providing all agencies on the interagency communication list
5 with environmental review and application documents and a summary of
6 the other results of step 5, including a statement that the department
7 considers step 5 to be complete or complete except for specified issues
8 remaining to be resolved with specified agencies; and

9 (iii) Making the completed environmental review documents and
10 summary available to the public. The preferred alternative will be
11 identified in all environmental reviews, permits, and other approvals
12 needed for the project.

13 (c) However, if an interested agency or aggrieved person files
14 objections within fourteen days after the preferred alternative and
15 summary are distributed, the objections will be addressed in subsequent
16 environmental reviews and agency decisions regarding the project.

17 (6) Step 6: Completing the environmental review, permit, and other
18 approval processes. (a) At any time after completing step 5, the
19 department may initiate step 6 by notice to all agencies on the list
20 and the public and filing applications for some or all permits and
21 other approvals needed for the project. Within thirty days, or a
22 longer time if specified by the department, each state, local, and
23 federal agency will be encouraged to:

24 (i) Acknowledge receipt of draft environmental review documents
25 provided to them and provide comments on them;

26 (ii) Acknowledge receipt of final environmental review documents
27 and determine that they are adequate for purposes of their roles
28 regarding the project or specify what additional information or changes
29 are needed for them to be considered adequate;

30 (iii) Acknowledge receipt of each application filed with them and
31 determine that the application is complete or specify what additional
32 information or changes are needed for it to be considered complete;

33 (iv) Acknowledge that the applications submitted to them will be
34 processed under the laws, regulations, ordinances, and policies
35 previously identified under steps 3, 4, and 5 or specify what changes
36 have occurred in the governing standards that were in effect on the
37 date a complete application was filed and thus apply to the project;

1 (v) Identify the significant steps necessary for the agency to
2 reach a final decision on applications and the estimated time needed
3 for each step;

4 (vi) Identify ways its decision-making process might be made more
5 efficient and effective through additional coordination with other
6 agencies, with any recommendations for such methods as joint
7 solicitation and review of public comments and jointly conducting
8 public hearings.

9 (b) It is recognized that step 6 may require an iterative process
10 with several drafts of various environmental review documents and
11 applications being considered and revised, and that changes in project
12 location or design resulting from the permit decisions of one agency
13 may require revising applications or even reopening permit decisions of
14 other agencies. All state and local agencies are expected, and federal
15 agencies are encouraged, to communicate and cooperate to minimize the
16 number of iterations required and make the process as efficient and
17 effective as possible. Unless significant new information is obtained,
18 decisions made under step 6 should not be reopened except at the
19 request of the department, and the most recent information available
20 under steps 3, 4, and 5 should be presumed accurate until significant
21 new information becomes available.

22 (c) If all environmental reviews have not been completed and all
23 permits and other approvals obtained within forty-five days after step
24 6 is initiated, the department, by notice to all agencies on the list
25 and the public, may set a deadline for completing reviews and
26 decisions. At any time after the deadline, the department may
27 terminate the coordination process of this section as to some or all of
28 the reviews and decisions that are still not completed.

29 NEW SECTION. **Sec. 8.** DEPARTMENT ORGANIZATION AND ADMINISTRATIVE
30 ACTIONS. The legislature finds that an essential component of
31 streamlined permit decision making is the ability of the department to
32 demonstrate the capacity to meet environmental responsibilities.
33 Therefore, the legislature directs that:

34 (1) The department may amend its operating practices applicable to
35 obtaining project permits when:

36 (a) Agreements on standards or best management practices as
37 appropriate, are reached under section 4 of this act;

1 (b) The committee determines that streamlining procedures and
2 methodologies implemented for pilot projects consistent with section 5
3 of this act warrant broader application;

4 (c) The committee determines that the assignment of
5 responsibilities between regulating agencies and the department is
6 appropriate for broader use.

7 (2) The department may develop permits for review by permitting
8 agencies when agreement on the standards and best management practices
9 covered by such permits have been reached under section 4 of this act.
10 Regulating agencies shall review permits based upon the agreed upon
11 standards and timelines developed in section 4 of this act, as well as
12 any other applicable existing standards.

13 (3) Qualified environmental staff within the department shall lead
14 the development of all environmental documentation associated with
15 department projects and permit activities in accordance with the
16 department's project delivery tools.

17 (4) The department shall conduct special prebid meetings for
18 projects that are environmentally complex. In addition, the department
19 shall review environmental considerations related to these projects
20 during the preconstruction meeting held with the contractor who is
21 awarded the bid.

22 (5) Environmental staff at the department shall conduct field
23 inspections to ensure that project activities are performed under
24 permit conditions. These inspectors:

25 (a) May issue stop work orders when compliance with permit
26 standards are not being met; and

27 (b) For this portion of their job duties, are accountable to the
28 director of environmental affairs of the department.

29 (6) Failure to comply with a stop work order may result in civil
30 penalties being assessed against the department and individuals
31 involved. Willful violation of a stop work notice issued by the
32 department is subject to civil penalties assessed on the agency as well
33 as the individuals involved. Persistent violations by the department
34 may result in loss of permit drafting and program management
35 responsibilities.

36 NEW SECTION. **Sec. 9.** TRAINING AND COMPLIANCE. The legislature
37 expects the department to continue its efforts to improve training and
38 compliance. The department shall:

- 1 (1) Provide training in environmental procedures and permit
2 requirements for those responsible for project delivery activities;
- 3 (2) Require wetland mitigation sites to be designed by a qualified
4 interdisciplinary team that meets training requirements developed by
5 the department's environmental affairs office in consultation with the
6 department of ecology. Environmental mitigation site improvements must
7 have oversight by environmental staff;
- 8 (3) Develop an environmental compliance data system to track all
9 permit conditions;
- 10 (4) Report all noncompliance activities to applicable agencies of
11 jurisdiction along with a remedy plan;
- 12 (5) Fund the departments of ecology, natural resources, and fish
13 and wildlife, operating under their permit-granting authority to
14 conduct audits of the department's permit drafting and compliance
15 activities. The department of ecology must collate the audits in an
16 annual report to the legislature;
- 17 (6) Seek federal funding for dedicated technical staff at federal
18 permit decision-making agencies and for state costs associated with
19 implementation of this act;
- 20 (7) Fund dedicated technical staff at federal permit decision-
21 making entities, as appropriate, and the state departments of ecology,
22 natural resources, community, trade, and economic development, and fish
23 and wildlife to implement the requirements of this chapter;
- 24 (8) Fund a technical specialist at the Northwest Indian Fisheries
25 Commission and the Columbia River Intertribal Fisheries Commission for
26 the purpose of implementing this chapter;
- 27 (9) Reimburse local jurisdictions for costs associated with local
28 participation on the committee and technical subcommittees.

29 NEW SECTION. **Sec. 10.** COST REIMBURSEMENT. The committee shall
30 negotiate a method of cost reimbursement for the costs associated with
31 carrying out the purposes of this chapter, including prior departmental
32 agreements with permitting agencies to cover their costs for
33 transportation projects of statewide significance.

34 NEW SECTION. **Sec. 11.** CAPTIONS. Captions used in this chapter
35 are not any part of the law.

1 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act
2 constitute a new chapter in Title 47 RCW.

3 NEW SECTION. **Sec. 13.** This act expires March 31, 2003.

4 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes effect
7 immediately.

8 NEW SECTION. **Sec. 15.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

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