AN ACT Relating to providing the department of fish and wildlife authority to improve permitting of hydraulic projects; amending RCW 77.55.011, 77.55.021, 77.15.300, and 77.55.291; adding new sections to chapter 77.55 RCW; adding a new section to chapter 76.09 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. (1) The legislature finds that the department of fish and wildlife issues thousands of hydraulic project approval permits each year at a substantial commitment of government resources. The legislature recognizes the importance of the hydraulic project approval process to ensure that hydraulic projects provide for the proper protection of fish life.

(2) The legislature further finds that other permit streamlining measures, such as issuing multiple-site permits or general permits within a defined geographic area, will benefit the applicant and the department, and provide for the protection of fish life.

(3) The legislature further finds that the department of fish and wildlife and the applicant may realize staffing and fiscal efficiencies by using these permit streamlining measures. The department shall use
the savings from those efficiencies to monitor hydraulic projects to
ensure hydraulic projects are achieving the protection of fish life
required by chapter 77.55 RCW, and to emphasize application review and
permitting of hydraulic projects that pose the greatest risk to fish
life.

(4) The legislature further finds that the establishment of a fee
schedule for hydraulic project approval permits will relieve state
taxpayers from a portion of the cost of the hydraulic project approval
permit program. The legislature does not intend the fee schedule to
fully fund the program.

(5) The legislature further finds that private forest landowners
have shown a strong commitment to protecting valuable public resources
and satisfying the needs of the state and federal government in regards
to protecting endangered species by conducting their operations
pursuant to the conditions of a habitat conservation plan approved
under the federal endangered species act. This commitment comes at
great cost to the forest practices industry, and as a reflection of
that financial commitment, the legislature intends to exempt certain
common forest practices from the requirements of chapter 77.55 RCW.

NEW SECTION. Sec. 2. A new section is added to chapter 77.55 RCW
to read as follows:

(1) The department may continue the use of any general permits
authorized as of the effective date of this section and may issue up to
four additional pilot general permits authorizing hydraulic projects
for water crossing structure installation, removal, and replacement to
appropriate, willing, private sector applicants by July 1, 2014.

(2) The department must work with stakeholders identified by the
department to identify appropriate general permit applicants and
projects.

(3) The department shall collect information during the life of the
pilot general permits to determine whether staffing and fiscal
efficiencies are realized by the department and applicants. The
department shall work cooperatively with applicants and tribes to
ensure that the pilot general permits provide for the protection of
fish life. The department shall also use that information to modify
how it uses general permits to authorize hydraulic projects and to
adjust the permit fee schedule authorized under section 6 of this act.
Sec. 3. RCW 77.55.011 and 2009 c 549 s 1028 are each amended to read as follows:

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

(1) "Bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, storm water runoff devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered artificially.

(2) "Board" means the hydraulic appeals board created in RCW 77.55.301.

(3) "Commission" means the state fish and wildlife commission.

(4) "Department" means the department of fish and wildlife.

(5) "Director" means the director of the department of fish and wildlife.

(6) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(7) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state.

(8) "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(9) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(10) "Marine terminal" means a public or private commercial wharf located in the navigable water of the state and used, or intended to be used, as a port or facility for the storing, handling, transferring, or transporting of goods to and from vessels.

(11) "Ordinary high water line" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water line cannot be found,
the ordinary high water line adjoining saltwater is the line of mean
higher high water and the ordinary high water line adjoining fresh
water is the elevation of the mean annual flood.

(12) "Permit" means a hydraulic project approval permit issued
under this chapter.

(13) "Sandbars" includes, but is not limited to, sand, gravel, rock, silt, and sediments.

(14) "Small scale prospecting and mining" means the use of only the
following methods: Pans; nonmotorized sluice boxes; concentrators; and
minirocker boxes for the discovery and recovery of minerals.

(15) "Spartina," "purple loosestrife," and "aquatic noxious weeds"
have the same meanings as defined in RCW 17.26.020.

(16) "Streambank stabilization" means those projects that prevent
or limit erosion, slippage, and mass wasting. These projects include,
but are not limited to, bank resloping, log and debris relocation or
removal, planting of woody vegetation, bank protection using rock or
woody material or placement of jetties or groins, gravel removal, or
erosion control.

(17) "Tide gate" means a one-way check valve that prevents the
backflow of tidal water.

(18) "Waters of the state" and "state waters" means all salt and
fresh waters waterward of the ordinary high water line and within the
territorial boundary of the state.

(19) "Application submittal fee" means the fee that accompanies an
application for hydraulic project approval submitted under RCW
77.55.021 for the initial application intake, entry into the
department's database, determination of application completeness, and
assessment of appropriate permit processing fees.

(20) "Emergency permit" means a verbal hydraulic project approval
or the written follow-up to the verbal approval issued to a person or
government agency under RCW 77.55.021(11).

(21) "Expedited permit" means a hydraulic project approval issued
to a person or government agency under RCW 77.55.021 (13), (14), or
(15).

(22) "General permit" means a hydraulic project approval issued to
a person or government agency under RCW 77.55.021 for multiple
hydraulic projects occurring over a defined geographic area but for
which specific project sites have not been designated, and for which
impacts are well-understood and proven mitigation measures exist.

(23) "Multiple-site permit" means a hydraulic project approval
issued to a person or government agency under RCW 77.55.021 for
hydraulic projects occurring at more than one specific location.

(24) "Permit modification" means a hydraulic project approval
issued to a person or government agency under RCW 77.55.021 that
extends, renews, or changes the conditions of a previously issued
hydraulic project approval.

(25) "Permit processing fee" means the fee for evaluating the
impacts of, and resultant mitigation for, proposed hydraulic projects,
and for processing applications under RCW 77.55.021.

(26) "Single-site permit" means a hydraulic project approval issued
to a person or government agency under RCW 77.55.021 for a single
hydraulic project location.

Sec. 4. RCW 77.55.021 and 2008 c 272 s 1 are each amended to read
as follows:

(1) Except as provided in RCW 77.55.031, (77.55.051, and)
77.55.041, 77.55.051, and section 10 of this act, in the event that any
person or government agency desires to undertake a hydraulic project,
the person or government agency shall, before commencing work thereon,
secure the approval of the department in the form of a permit as to the
adequacy of the means proposed for the protection of fish life.

(2) A complete written application for a permit ((may)) must be
submitted ((in person or by registered mail)) to the department and
must contain the following:

(a) General plans for the overall project;

(b) Complete plans and specifications of the proposed construction
or work within the mean higher high water line in saltwater or within
the ordinary high water line in freshwater;

(c) Complete plans and specifications for the proper protection of
fish life; ((and))

(d) Notice of compliance with any applicable requirements of the
state environmental policy act, unless otherwise provided for in this
chapter; and

(e) Payment of all applicable application submittal and permit
processing fees charged by the department under section 6 of this act.
(3) The department may accept complete, written applications as provided in this section for multiple-site permits and general permits. For multiple-site permits, each specific location must be identified.

(4) With the exception of emergency permits as provided in subsection (11) of this section, applications for permits must be submitted to the department's headquarter office. Requests for emergency permits as provided in subsection (11) of this section may be made to the permitting biologist assigned to the location in which the emergency occurs, to the department's regional office in which the emergency occurs, or to the department's headquarter office.

(5) Except as provided in subsections (11) and (13) of this section, the department may not proceed with permit review until the fees required by section 6 of this act are paid in full.

(6)(a) Protection of fish life is the only ground upon which approval of a permit may be denied or conditioned. Approval of a permit may not be unreasonably withheld or unreasonably conditioned. Except as provided in this subsection and subsections ((8), (10), and (12)) (11), (13), and (15) of this section, the department has forty-five calendar days upon receipt of a complete application to grant or deny approval of a permit. The forty-five day requirement is suspended if:

(i) After ten working days of receipt of the complete application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;
(ii) The site is physically inaccessible for inspection;
(iii) The applicant requests a delay; or
(iv) The department is issuing a permit for a storm water discharge and is complying with the requirements of RCW 77.55.161(3)(b).

(b) Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(c) The period of forty-five calendar days may be extended if the permit is part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

((4)) (7) If the department denies approval of a permit, the department shall provide the applicant a written statement of the specific reasons why and how the proposed project would adversely
1 affect fish life. Only the issuance, denial, conditioning, or modification of a permit shall be appealable to the department or the board as specified in RCW 77.55.301 within thirty days of the notice of decision.

5 (((5))) (8) (a) The permittee must demonstrate substantial progress on construction of that portion of the project relating to the permit within two years of the date of issuance.

(b) Approval of a permit is valid for a period of up to five years from the date of issuance, except as provided in (c) of this subsection and in RCW 77.55.151.

(c) A permit remains in effect without need for periodic renewal for hydraulic projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. A permit for streambank stabilization projects to protect farm and agricultural land as defined in RCW 84.34.020 remains in effect without need for periodic renewal if the problem causing the need for the streambank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the permit.

(((6))) (9) The department may, after consultation with the permittee, modify a permit due to changed conditions as long as the design, size, and scope of the previously approved project remains unchanged. The modification becomes effective unless appealed to the department or the board as specified in RCW 77.55.301 within thirty days from the notice of the proposed modification. For hydraulic projects that divert water for agricultural irrigation or stock watering purposes, or when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the department to show that changed conditions warrant the modification in order to protect fish life. The department may not charge fees under section 6 of this act if the modification is not requested by the permittee.

(((7))) (10) A permittee may request modification of a permit due to changed conditions as long as the design, size, and scope of the previously approved project remains unchanged. The request must include payment of the permit modification fee charged by the
department under section 6 of this act. The request must be processed
((within forty-five calendar days of receipt of the written request))
according to subsections (4), (5), and (6) of this section. A decision
by the department may be appealed to the board within thirty days of
the notice of the decision. For hydraulic projects that divert water
for agricultural irrigation or stock watering purposes, or when the
hydraulic project or other work is associated with streambank
stabilization to protect farm and agricultural land as defined in RCW
84.34.020, the burden is on the permittee to show that changed
conditions warrant the requested modification and that such a
modification will not impair fish life.

((9))) (11)(a) The department, the county legislative authority,
or the governor may declare and continue an emergency. If the county
legislative authority declares an emergency under this subsection, it
shall immediately notify the department. A declared state of emergency
by the governor under RCW 43.06.010 shall constitute a declaration
under this subsection.

(b) The department, through its authorized representatives, shall
issue immediately, upon request, oral approval for a stream crossing,
or work to remove any obstructions, repair existing structures, restore
streambanks, protect fish life, or protect property threatened by the
stream or a change in the stream flow without the necessity of
obtaining a written permit prior to commencing work. Conditions of the
emergency oral permit must be established by the department and reduced
to writing within thirty days and complied with as provided for in this
chapter.

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

((9))) (d) The department shall charge permittees application
submittal and permit processing fees authorized by section 6 of this
act after an emergency permit is reduced to writing and issued under
this subsection. The department may not require payment of permit fees
prior to the department reducing the emergency permits to writing.

(12) All state and local agencies with authority under this chapter
to issue permits or other authorizations in connection with emergency
water withdrawals and facilities authorized under RCW 43.83B.410 shall
expedite the processing of such permits or authorizations in keeping
with the emergency nature of such requests and shall provide a decision
to the applicant within fifteen calendar days of the date of
application.

((10)) (13)(a) The department or the county legislative authority
may determine an imminent danger exists. The county legislative
authority shall notify the department, in writing, if it determines
that an imminent danger exists. In cases of imminent danger, the
department shall issue an expedited written permit, upon request, for
work to remove any obstructions, repair existing structures, restore
banks, protect fish resources, or protect property. Expedited permit
requests require a complete written application as provided in
subsection (2) of this section and must be issued within fifteen
calendar days of the receipt of a complete written application.
Approval of an expedited permit is valid for up to sixty days from the
date of issuance. The department may not require the provisions of the
state environmental policy act, chapter 43.21C RCW, to be met, or the
payment of a permit processing fee, as a condition of issuing a permit
under this subsection.

((11)) (b) The department shall charge permittees permit
processing fees authorized by section 6 of this act after an expedited
permit is issued under this subsection.

((14)(a) For any property, except for property located on a marine
shoreline, that has experienced at least two consecutive years of
flooding or erosion that has damaged or has threatened to damage a
major structure, water supply system, septic system, or access to any
road or highway, the county legislative authority may determine that a
chronic danger exists. The county legislative authority shall notify
the department, in writing, when it determines that a chronic danger
exists. In cases of chronic danger, the department shall issue a
permit, upon request, for work necessary to abate the chronic danger by
removing any obstructions, repairing existing structures, restoring
banks, restoring road or highway access, protecting fish resources, or
protecting property. Permit requests must be made and processed in
accordance with subsections (2) and (3) and (4) of this section.

(b) Any projects proposed to address a chronic danger identified
under (a) of this subsection that satisfies the project description
identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions
of the state environmental policy act, chapter 43.21C RCW. However, the project is subject to the review process established in RCW 77.55.181(3) as if it were a fish habitat improvement project.

(15)(a) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met, or the payment of a permit processing fee, as a condition of issuing a permit under this subsection.

(b) The department shall charge permittees permit processing fees authorized by section 6 of this act after an expedited permit is issued under this subsection.

Sec. 5. RCW 77.15.300 and 2000 c 107 s 239 are each amended to read as follows:

(1) A person is guilty of unlawfully undertaking hydraulic project activities if the person:

(a)(i) Constructs any form of hydraulic project or performs other work on a hydraulic project; and((+ 
(a+)) (ii) Fails to have a hydraulic project approval required under chapter 77.55 RCW for such construction or work; or

(b) Violates any requirements or conditions of the hydraulic project approval for such construction or work; or

(c) Violates any rule adopted under RCW 77.55.021, 77.55.081, 77.55.091, or section 2 of this act that identifies the time, manner, locations, methods, or other conditions under which an activity is approved or not approved.

(2) Unlawfully undertaking hydraulic project activities is a gross misdemeanor.

NEW SECTION. Sec. 6. A new section is added to chapter 77.55 RCW to read as follows:

(1) The department shall charge fees for permits issued under RCW
77.55.021 to recover a portion of the existing costs for processing and
issuing decisions on permit applications, for the new costs of
administering fee collections, and for costs related to compliance
monitoring and enforcement of projects requiring a permit. The fees
are based on the scale and complexity of the project and the relative
effort required for department staff to review the application, conduct
site visits, consult with applicants as necessary, and issue or deny
the permit.

(2) For the purposes of assessing fees for permits under subsection
(1) of this section, the department must categorize the following
repair or maintenance hydraulic projects as low complexity:

(a) Emergencies;
(b) Freshwater beach habitat creation;
(c) Beaver dams;
(d) Breeding substrate;
(e) Large woody material work;
(f) Riparian habitat work;
(g) Wetlands or estuarine habitat work;
(h) Conduit or cable work using boring;
(i) Dredging less than fifty cubic yards of bed material;
(j) Water crossings, including a bridge, culvert, or ford, in
nonfish-bearing waters;
(k) Bridge work exclusively above the ordinary high water line;
(l) Shoreline modification or bank protection of less than one
hundred feet, not associated with jetties, dikes, or levees;
(m) Booms;
(n) Anchoring or mooring buoys and navigation aids;
(o) Piling work;
(p) Overwater structures, not including marinas or marine
terminals;
(q) Boat lifts or railway launches;
(r) Boat ramps or launches;
(s) Timber felling and yarding activities;
(t) Temporary or permanent stream gauges or other scientific
instruments;
(u) Outfalls;
(v) Tidegates;
(w) Mechanical aquatic plant control not addressed by the aquatic plants and fish pamphlet;
(x) Pump water diversions and fish screens; and
(y) Gravity water diversions and fish screens.
(3) When assessing fees for permits under subsection (1) of this section, the department must categorize the following new, replacement, or removal hydraulic projects as low complexity:
(a) Beaver dams;
(b) Conduit or cable work using boring;
(c) Bridge work exclusively above the ordinary high water line;
(d) Booms;
(e) Anchoring or mooring buoys and navigation aids;
(f) Overwater structures in the current footprint, not including marinas or marine terminals;
(g) Boat ramps or launches within the existing footprint of an existing structure;
(h) Timber felling and yarding activities; and
(i) Temporary or permanent stream gauges or other scientific instruments.
(4) When assessing fees for permits under subsection (1) of this section, the department must categorize the following repair or maintenance hydraulic projects as medium complexity:
(a) Aquaculture;
(b) Off channel, side channel, or in-channel enhancement or restoration work, not including projects that are exclusively large woody material work;
(c) Channel realignment work;
(d) Bed modification, not including habitat enhancement or restoration and dredging;
(e) Conduit or cable work using trenching;
(f) Dredging greater than fifty cubic yards of bed material;
(g) Water crossings, including a bridge, culvert, or ford, in fish-bearing waters, not including fish passage retrofits;
(h) Fish passage barrier removal with replacement or retrofit using such methods as baffles or log controls for passage through or over a structure;
(i) Fish passage not associated with a water crossing structure, such as a bypass of a natural barrier or a fishway to bypass a dam;
(j) Shoreline modification or bank protection greater than one hundred feet that is not associated with jetties, dikes, or levees;
(k) Jetties, dikes, or levees;
(l) Overwater structures outside of the footprint of an existing structure, not including marinas or marine terminals;
(m) Marinas and marine terminals; and
(n) Dams not under jurisdiction of the federal energy regulatory commission.

(5) When assessing fees for permits under subsection (1) of this section, the department must categorize the following new, replacement, or removal hydraulic projects as medium complexity:

(a) Emergencies;
(b) Aquaculture;
(c) Freshwater beach habitat creation;
(d) Breeding substrate;
(e) Large woody material work;
(f) Riparian habitat work;
(g) Conduit or cable work using trenching;
(h) Dredging less than fifty cubic yards of bed material;
(i) Water crossings, including a bridge, culvert, or ford, in nonfish-bearing waters;

(j) Shoreline modification or bank protection less than one hundred feet, not associated with jetties, dikes, or levees;
(k) Piling work;
(l) Overwater structures outside of the footprint of an existing structure, not including marinas or marine terminals;
(m) Boat lifts or railway launches;
(n) Boat ramps or launches outside of the footprint of an existing structure;
(o) Outfalls;
(p) Tidegates;
(q) Mechanical aquatic plant control not addressed by the aquatic plants and fish pamphlet;
(r) Mineral prospecting not addressed by the gold and fish pamphlet;
(s) Pump water diversions and fish screens; and
(t) Gravity water diversions and fish screens.
(6) When assessing fees for permits under subsection (1) of this
section, the department must categorize the following new, replacement,
or removal hydraulic projects as high complexity:
(a) Off channel, side channel, or in-channel enhancement or
restoration work, not including projects that are exclusively large
woody material work;
(b) Wetland or estuarine habitat work;
(c) Channel realignment work;
(d) Bed modification, not including habitat enhancement or
restoration and dredging;
(e) Dredging greater than fifty cubic yards of bed material;
(f) Water crossings, including a bridge, culvert, or ford, in fish-
bearing waters, not including fish passage retrofits;
(g) Fish passage barrier removal with replacement or retrofit using
such methods as baffles or log controls for passage through or over a
structure;
(h) Fish passage not associated with a water crossing structure,
such as a bypass of a natural barrier or a fishway to bypass a dam;
(i) Shoreline modification or bank protection greater than one
hundred feet, not associated with jetties, dikes, or levees;
(j) Jetties, dikes, or levees;
(k) Marinas and marine terminals; and
(l) Dams not under jurisdiction of the federal energy regulatory
commission.
(7) If the department receives applications for project types not
identified in subsections (2) through (6) of this section, it shall
categorize them as low, medium, or high risk and charge fees based on
those categories consistent with the most similar project types
identified in subsections (2) through (6) of this section.
(8) When applicable and except as provided in this section, the
department must charge the following fees, as modified as provided in
subsection (12) of this section:
(a) An application submittal fee, which is two hundred fifty
dollars for a:
(i) Low complexity permit;
(ii) Medium complexity permit;
(iii) High complexity permit; and
(iv) General permit;
(b) A permit processing fee for medium and high complexity permits, which is:

   (i) Two hundred seventy-five dollars for a medium complexity, single-site permit; and
   (ii) One thousand two hundred dollars for a high complexity, single-site permit;

(c) A multiple-site permit processing fee, which is the applicable permit processing fee assessed under this subsection (8)(c) for one of the hydraulic project sites identified in the permit application, and twenty percent of the applicable permit processing fee for each additional site;

(d) A general permit processing fee, which is the lesser of five thousand two hundred fifty dollars or a fee level negotiated between the department and the general project applicant; and

(e) A permit modification fee, which is one hundred fifty dollars.

(9) In cases where hydraulic projects include work that falls into more than one of the permit categories outlined in subsection (8) of this section, the fee charged must be based on the most complex component of the project.

(10) The following hydraulics projects are exempt from fees listed under this section: Projects approved under the cost-sharing program for fish passage barriers authorized in RCW 76.13.150; projects conducted pursuant to pamphlets developed under RCW 77.55.081 or 77.55.091; and projects associated with an approved forest practices permit granted under chapter 76.09 RCW.

(11) Hydraulic projects approved under applicant-funded contracts with the department that pay for the costs of processing those projects are exempt from fees listed under this section.

(12) On September 30th of each year, the department shall calculate adjusted fees by the rate of inflation. The adjusted fees must be calculated to the nearest dollar using the consumer price index for the twelve months prior to each September 1st as calculated by the United States department of labor. Each adjusted fee calculated under this section takes effect on the following January 1st.

(13) All fees collected under this section must be deposited in the hydraulic project approval account created in section 8 of this act.
NEW SECTION. Sec. 7. By December 31, 2012, the department of fish and wildlife shall report to the legislature consistent with RCW 43.01.036 on the effectiveness of streamlined permitting authorized by this act, the impact of fees on applicants, actual versus expected fees collected by the department, the impact of fee collection on the department's hydraulic project approval permit program, and recommendations for improving the department's permit streamlining efforts and permit fee schedule.

NEW SECTION. Sec. 8. A new section is added to chapter 77.55 RCW to read as follows:

(1) The hydraulic project approval account is created in the state treasury. All receipts from application submittal fees and permit processing fees for hydraulic project approval applications in section 6 of this act must be deposited into the account.

(2) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the hydraulic project approval account may be spent only after appropriation.

(3) Expenditures from the hydraulic project approval account may be used only to fund department activities relating to processing and issuing hydraulic project approval decisions, compliance monitoring, enforcement activities related to permits issued under RCW 77.55.021, conducting or participating in administrative or judicial appeals of hydraulic project approval decisions, and for the associated management and administrative costs incurred to implement and operate the program.

Sec. 9. RCW 77.55.291 and 2005 c 146 s 701 are each amended to read as follows:

(1)(a) The department may levy civil penalties of up to one hundred dollars per day (for violation of any provisions of RCW 77.55.021.) when a person:

(i) Constructs any form of hydraulic project or performs other work on a hydraulic project and fails to have a hydraulic project approval required under this chapter for the construction or work;

(ii) Violates any requirements or conditions of the hydraulic project approval for the construction or work;

(iii) Fails to pay applicable application submittal or permit
processing fees within thirty days of receipt of expedited permits or emergency permits reduced to writing under RCW 77.55.021; or

(iv) Violates any rule adopted under RCW 77.55.021, 77.55.081, 77.55.091, or section 2 of this act that identifies the time, manner, locations, methods, or other conditions under which an activity is approved or not approved.

(b) The penalty provided shall be imposed by notice in writing, either by certified mail or personal service to the person incurring the penalty, from the director or the director's designee describing the violation.

(2) Any person incurring any penalty under this chapter may appeal the same under chapter 34.05 RCW to the director. Appeals shall be filed within thirty days of receipt of notice imposing any penalty.

(3) The penalty imposed and any fees due for violations of section 6 of this act shall become due and payable thirty days after receipt of a notice imposing the penalty unless an appeal is filed. Whenever an appeal of any penalty incurred under this chapter is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part.

(4) If the amount of any penalty is not paid within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action. All penalties recovered under this section shall be paid into the state's general fund.

NEW SECTION. Sec. 10. A new section is added to chapter 77.55 RCW to read as follows:

(1) The following common forest practices do not require a hydraulic project approval permit under this chapter when those projects are conducted under an approved forest practices permit granted under chapter 76.09 RCW that incorporates rules adopted under subsection (2) of this section:

(a) The removal or modification of newly constructed beaver dams;
(b) Timber felling and yarding activities;
(c) Bridge repair, including painting, redecking, and curbing or railing repair;

(d) Construction and repair of a ford, including the use of standard equipment to do so;

(e) Removal of woody debris from culverts and culvert openings;

(f) Removal of woody debris not imbedded in the stream bed or stream banks from upstream bridge openings; and

(g) Single lane forestry road water crossing structures on type F waters, as defined in WAC 222-16-030 as it existed on the effective date of this section, including bridges, temporary culvert installations, or permanent culvert installations.

(2) The department and the forest practices board, in collaboration with interested and affected parties, shall jointly establish by rule the requirements for the project types in subsection (1) of this section necessary to protect fish life. The rules must be incorporated into forest practices permits for those activities.

NEW SECTION. Sec. 11. A new section is added to chapter 76.09 RCW to read as follows:

The board must ensure that forest practices permits issued for activities identified in section 10 of this act incorporate the requirements of the rules adopted pursuant to that section.

NEW SECTION. Sec. 12. This act takes effect July 1, 2010.

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