
HOUSE BILL 1428

State of Washington

65th Legislature

2017 Regular Session

By Representatives Blake, Fitzgibbon, Lytton, Morris, and Tharinger;
by request of Department of Fish and Wildlife

Read first time 01/19/17. Referred to Committee on Agriculture &
Natural Resources.

1 AN ACT Relating to construction projects in state waters;
2 amending RCW 77.55.141, 77.55.181, 77.55.231, and 77.55.291; adding
3 new sections to chapter 77.55 RCW; repealing RCW 77.55.321; and
4 prescribing penalties.

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

6 **Sec. 1.** RCW 77.55.141 and 2010 c 210 s 28 are each amended to
7 read as follows:

8 (1) In order to protect the property of marine waterfront
9 shoreline owners it is necessary to facilitate issuance of permits
10 for bulkheads or rockwalls under certain conditions.

11 (2) The department (~~shall~~) may issue a permit with (~~or~~
12 ~~without~~) conditions within forty-five days of receipt of a complete
13 and accurate application which authorizes commencement of
14 construction, replacement, or repair of a marine beach front
15 protective bulkhead or rockwall for single-family type residences
16 (~~or property~~) under the following conditions:

17 (a) The applicant provides a geotechnical analysis that
18 demonstrates that erosion from waves or currents is imminently
19 threatening or that, unless the new bulkhead or rockwall is
20 constructed, damage is expected to occur within three years;

21 (b) The erosion is not caused by upland conditions;

1 (c) The proposed bulkhead or rockwall will provide greater
2 protection than feasible, nonstructural alternatives such as slope
3 drainage systems, vegetative growth stabilization, gravel berms, and
4 beach nourishment;

5 (d) The proposal is the minimum necessary to protect existing
6 legally established single-family type residences;

7 (e) Adequate mitigation measures will be provided to maintain
8 existing shoreline processes and critical food fish or shellfish
9 habitats;

10 (f) The waterward face of a new bulkhead or rockwall shall be
11 located only as far waterward as is necessary to excavate for
12 footings or place base rock for the structure and under no conditions
13 shall be located more than six feet waterward of the ordinary high
14 water line;

15 ~~((b))~~ (g) Any bulkhead or rockwall to replace or repair an
16 existing bulkhead or rockwall shall be placed along the same
17 alignment as the bulkhead or rockwall it is replacing. However, the
18 replaced or repaired bulkhead or rockwall may be placed waterward of
19 and directly abutting the existing structure only in cases where
20 removal of the existing bulkhead or rockwall would result in
21 environmental degradation or removal problems related to geological,
22 engineering, or safety considerations; ~~((and~~

23 ~~(e))~~ (h) Construction of a new bulkhead or rockwall, or
24 replacement or repair of an existing bulkhead or rockwall waterward
25 of the existing structure shall not result in the ~~((permanent))~~ net
26 loss of critical food fish or shellfish habitats; and

27 ~~((d))~~ (i) Timing constraints shall be applied on a case-by-case
28 basis for the protection of critical habitats, including but not
29 limited to migration corridors, rearing and feeding areas, and
30 spawning habitats, for the proper protection of fish life.

31 (3) Any bulkhead or rockwall construction, replacement, or repair
32 not meeting the conditions in this section shall be processed under
33 this chapter in the same manner as any other application.

34 (4) Any person aggrieved by the approval, denial, conditioning,
35 or modification of a permit under this section may appeal the
36 decision as provided in RCW 77.55.021~~((4))~~ (8).

37 **Sec. 2.** RCW 77.55.181 and 2014 c 120 s 1 are each amended to
38 read as follows:

1 (1)(a) In order to receive the permit review and approval process
2 created in this section, a fish habitat enhancement project must meet
3 the criteria under this section and must be a project to accomplish
4 one or more of the following tasks:

5 (i) Elimination of human-made or caused fish passage barriers,
6 including culvert repair and replacement;

7 (ii) Restoration of an eroded or unstable stream bank employing
8 the principle of bioengineering, including limited use of rock as a
9 stabilization only at the toe of the bank, and with primary emphasis
10 on using native vegetation to control the erosive forces of flowing
11 water; ~~((or))~~

12 (iii) Placement of woody debris, spawning material, or other
13 ~~((instream))~~ habitat structures that benefit naturally reproducing
14 fish stocks;

15 (iv) Restoration of marine and lake shorelines by removing
16 armoring and other hard shoreline stabilization structures, or
17 replacing hard shoreline structures with natural or soft techniques,
18 with primary emphasis on using native vegetation, root wads, large
19 woody material, and beach nourishment to mimic natural shoreline
20 processes; or

21 (v) Restoration of lake and marine nearshore by removing docks
22 and other human-made structures.

23 (b) ~~((The department shall develop size or scale threshold tests
24 to determine if projects accomplishing any of these tasks should be
25 evaluated under the process created in this section or under other
26 project review and approval processes.))~~ A project proposal shall not
27 be reviewed under the process created in this section if the
28 department or the local government determines that the scale of the
29 project raises environmental and public health and safety concerns
30 ~~((regarding public health and safety))~~ or if the department
31 determines that fish or fish habitat would be adversely impacted by
32 the project.

33 (c) A fish habitat enhancement project must be approved in one of
34 the following ways in order to receive the permit review and approval
35 process created in this section:

36 (i) By the department pursuant to chapter 77.95 or 77.100 RCW;

37 (ii) By the sponsor of a watershed restoration plan as provided
38 in chapter 89.08 RCW;

39 (iii) By the department as a department-sponsored fish habitat
40 enhancement or restoration project;

1 (iv) (~~Through the review and approval process for the jobs for~~
2 ~~the environment program;~~) By a tribe as a tribal sponsored fish
3 habitat enhancement or restoration project;

4 (v) Through the review and approval process for conservation
5 district-sponsored projects, where the project complies with design
6 standards established by the conservation commission through
7 interagency agreement with the (~~United States fish and wildlife~~
8 ~~service and the natural resource conservation service~~) department;

9 (vi) Through a formal grant program established by the
10 legislature or the department for fish habitat enhancement or
11 restoration;

12 (vii) Through the department of transportation's environmental
13 retrofit program as a stand-alone fish passage barrier correction
14 project;

15 (viii) Through a local, state, or federally approved fish barrier
16 removal grant program designed to assist local governments in
17 implementing stand-alone fish passage barrier corrections;

18 (ix) By a city or county for a stand-alone fish passage barrier
19 correction project funded by the city or county; and

20 (x) Through other formal review and approval processes
21 established by the legislature.

22 (2) Fish habitat enhancement projects meeting the criteria of
23 subsection (1) of this section are expected to result in beneficial
24 impacts to the environment. Decisions pertaining to fish habitat
25 enhancement projects meeting the criteria of subsection (1) of this
26 section and being reviewed and approved according to the provisions
27 of this section are not subject to the requirements of RCW
28 43.21C.030(2)(c).

29 (3)(a) A permit is required for projects that meet the criteria
30 of subsection (1) of this section and are being reviewed and approved
31 under this section. An applicant shall use the department's online
32 permit application system or a joint aquatic resource permit
33 application form developed by the office of regulatory assistance to
34 apply for approval under this chapter. (~~On the same day, the~~
35 ~~applicant shall provide copies of~~) Upon receipt of a complete
36 application, the department shall notify the local government that
37 the completed application form (~~to the department and to each~~
38 ~~appropriate local government~~) is available for review in the online
39 permit system.

1 (b) Notification by the department to the local governments shall
2 (~~accept the application~~) serve as notice of the proposed project.
3 The department shall provide a (~~fifteen-day~~) thirty-day comment
4 period during which it will receive comments regarding potential
5 environmental and public health and safety impacts.

6 (c) Within forty-five days, the department shall either issue a
7 permit, with or without conditions, deny approval, or make a
8 determination that the review and approval process created by this
9 section is not appropriate for the proposed project. The department
10 shall base this determination on identification during the comment
11 period of adverse impacts that cannot be mitigated by the
12 conditioning of a permit.

13 (d) If the department determines that the review and approval
14 process created by this section is not appropriate for the proposed
15 project, the department shall notify the applicant and the
16 appropriate local governments of its determination. The applicant may
17 reapply for approval of the project under other review and approval
18 processes.

19 (e) Any person aggrieved by the approval, denial, conditioning,
20 or modification of a permit under this section may appeal the
21 decision as provided in RCW 77.55.021(8).

22 (4) No local government may require permits or charge fees for
23 fish habitat enhancement projects that meet the criteria of
24 subsection (1) of this section and that are reviewed and approved
25 according to the provisions of this section.

26 (5) No civil liability may be imposed by any court on the state
27 or its officers and employees for any adverse impacts resulting from
28 a fish enhancement project permitted by the department under the
29 criteria of this section except upon proof of gross negligence or
30 willful or wanton misconduct.

31 **Sec. 3.** RCW 77.55.231 and 2012 1st sp.s. c 1 s 106 are each
32 amended to read as follows:

33 (1) Conditions imposed upon a permit must be reasonably related
34 to the project. The permit conditions must ensure that the project
35 provides proper protection for fish life, but the department may not
36 impose conditions that attempt to optimize conditions for fish life
37 that are out of proportion to the impact of the proposed project.

1 (2) The permit must contain provisions (~~(allowing for minor)~~)
2 exempting the following modifications from all fees listed under this
3 section:

4 (a) Minor modifications to the plans and specifications (~~(without~~
5 ~~requiring reissuance of the permit.~~

6 ~~(3) The permit must contain provisions that allow for~~);

7 (b) Minor modifications to the required work timing (~~(without~~
8 ~~requiring the reissuance of the permit)~~). "Minor modifications to the
9 required work timing" means a minor deviation from the timing window
10 set forth in the permit when there are no spawning or incubating fish
11 present within the vicinity of the project; and

12 (c) Transfer of a permit to a new permittee or authorized agent.

13 NEW SECTION. Sec. 4. A new section is added to chapter 77.55
14 RCW to read as follows:

15 (1) When the department determines that a violation has or is
16 about to occur, it shall first attempt to achieve voluntary
17 compliance, provided the violation is not causing harm to fish life
18 or fish habitat.

19 (2) As part of this first response, the department must offer
20 information and technical assistance to the person, identifying one
21 or more means to accomplish the person's purposes within the
22 framework of the law. The department must provide a reasonable
23 timeline for voluntary compliance to be achieved that takes into
24 consideration factors specific to the violation, such as the
25 complexity of the hydraulic project, the actual or potential risk to
26 fish life or fish habitat, and the environmental conditions at the
27 time of the first response.

28 (3) If the department determines that a violation is causing harm
29 to fish life or fish habitat, the department shall take immediate
30 action to end the violation.

31 (4) If a person violates this chapter, or any of the rules
32 adopted by the department that implement this chapter, the department
33 may issue a notice to comply, stop work order, or civil penalty.

34 NEW SECTION. Sec. 5. A new section is added to chapter 77.55
35 RCW to read as follows:

36 (1) The department has the authority to serve a person a stop
37 work order, which is a final order of the department, if:

1 (a) There is any violation of the provisions of this chapter or
2 the department's rules;

3 (b) There is a deviation from the hydraulic project approval; or

4 (c) Immediate action is necessary to prevent continuation of or
5 to avoid material damage to fish life.

6 (2)(a) A stop work order must set forth:

7 (i) The specific nature, extent, and time of the violation,
8 deviation, damage, or potential damage;

9 (ii) The specific course of action needed to correct or prevent a
10 continuing violation, deviation, damage, or potential damage; and

11 (iii) The right of the person to a hearing before the board.

12 (b) A stop work order may require that the person stop all work
13 connected with the violation until corrective action is taken.

14 (3) The department shall mail a copy of such an order to the
15 applicant and landowner at the address shown on the hydraulic project
16 application within five business days.

17 (4) Issuance of a stop work order may be informally appealed by
18 the applicant or landowner to the department within thirty days from
19 the date of receipt of the penalty. Requests for informal appeal must
20 be filed in the form and manner prescribed by the department by rule.
21 A stop work order that has been informally appealed to the department
22 is appealable to the appeals board within thirty days from the date
23 of receipt of the department's decision on the informal appeal.

24 (5) The applicant or landowner may commence an appeal to the
25 board within thirty days from the date of receipt of the stop work
26 order. If such an appeal is commenced, the proceeding is an
27 adjudicative proceeding under chapter 34.05 RCW, the administrative
28 procedure act. The recipient must comply with the order of the
29 department immediately upon being served, but the board may
30 discontinue the order, upon motion, under such conditions as the
31 board may impose.

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

34 (1)(a) If a violation, deviation, damage, or potential damage to
35 fish life has occurred and the department determines that a stop work
36 order is unnecessary, then the department shall issue and serve upon
37 the applicant and landowner a notice to comply, which must clearly
38 set forth:

39 (i) The nature, extent, date, and time of the violation;

- 1 (ii) Any necessary corrective action; and
2 (iii) The right of the person to an appeal.

3 (b) The notice to comply may require that the person take
4 corrective action to prevent, correct, or compensate for adverse
5 impacts to fish life.

6 (2) The department shall mail a copy of such a notice to the
7 applicant and landowner at the address shown on the hydraulic project
8 application within five business days.

9 (3) Issuance of such a notice may be informally appealed by the
10 applicant or landowner to the department within thirty days from the
11 date of receipt of the penalty. Requests for informal appeal must be
12 filed in the form and manner prescribed by the department by rule. A
13 notice to comply that has been informally appealed to the department
14 is appealable to the appeals board within thirty days from the date
15 of receipt of the department's decision on the informal appeal.

16 (4) The applicant or landowner may commence an appeal to the
17 board within thirty days from the date of receipt of the notice. If
18 such an appeal is commenced, the proceeding is an adjudicative
19 proceeding under chapter 34.05 RCW, the administrative procedure act.
20 The recipient must comply with the notice to comply immediately upon
21 being served, but the board may discontinue the notice to comply,
22 upon motion, under such conditions as the board may impose.

23 **Sec. 7.** RCW 77.55.291 and 2010 c 210 s 31 are each amended to
24 read as follows:

25 (1) The department may levy civil penalties of up to ((one
26 hundred dollars per day for violation of any provisions of RCW
27 77.55.021. The penalty provided shall be imposed by notice in
28 writing, either by certified mail or personal service to the person
29 incurring the penalty, from the director or the director's designee
30 describing the violation)) ten thousand dollars for every violation
31 of this chapter or the rules adopted to implement this chapter. Each
32 and every violation is a separate and distinct civil offense. The
33 penalty provided must be imposed by notice in writing by the
34 department, either by certified mail or personal service to the
35 person incurring the penalty, describing the violation. The civil
36 penalty notice must specify the:

- 37 (a) Basis for the penalty and the amount levied; and
38 (b) Right of the person to an appeal.

1 (2)(a) Except as provided in (b) of this subsection, any person
2 incurring any penalty under this chapter may appeal the same under
3 chapter 34.05 RCW to the board. Appeals shall be filed within thirty
4 days from the date of receipt of the penalty in accordance with RCW
5 43.21B.230.

6 (b) Issuance of a civil penalty may be informally appealed by the
7 applicant or landowner to the department within thirty days from the
8 date of receipt of the penalty. Requests for informal appeal must be
9 filed in the form and manner prescribed by the department by rule. A
10 civil penalty that has been informally appealed to the department is
11 appealable to the board within thirty days from the date of receipt
12 of the department's decision on the informal appeal.

13 (3) The penalty imposed shall become due and payable thirty days
14 after receipt of a notice imposing the penalty unless an appeal is
15 filed. Whenever an appeal of any penalty incurred under this chapter
16 is filed, the penalty shall become due and payable only upon
17 completion of all review proceedings and the issuance of a final
18 order confirming the penalty in whole or in part. When the penalty
19 becomes past due, it is also subject to interest at the rate allowed
20 by RCW 43.17.240 for debts owed to the state.

21 (4) If the amount of any penalty is not paid within thirty days
22 after it becomes due and payable, the attorney general, upon the
23 request of the director, shall bring an action in the name of the
24 state of Washington in the superior court of Thurston county or of
25 ~~((any))~~ the county in which such ~~((violation occurred))~~
26 violation occurred, to recover such penalty. In all such actions the
27 procedure and rules of evidence shall be the same as an ordinary
28 civil action. All penalties ~~((recovered under this section shall be~~
29 ~~paid into the state's general fund))~~ received or recovered by state
30 agency action for violations as prescribed in subsection (1) of this
31 section must be deposited into the state's general fund. The
32 department is also entitled to recover reasonable attorneys' fees and
33 costs incurred in connection with the penalty recovered under this
34 section.

35 (5) The department shall adopt by rule a penalty schedule to be
36 effective by January 1, 2018. The schedule must be developed in
37 consideration of the following:

38 (a) Previous violation history;

39 (b) Severity of the impact on fish and fish habitat;

1 (c) Whether the violation of this chapter or its rules was
2 intentional;

3 (d) Cooperation with the department;

4 (e) Reparability of the adverse effect from the violation; and

5 (f) The extent to which a penalty to be imposed on a person for a
6 violation committed by another should be reduced if the person was
7 unaware of the violation and has not received a substantial economic
8 benefit from the violation.

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

11 The department may apply for an administrative inspection warrant
12 in either Thurston county superior court or the superior court in the
13 county where the project is located. The court may issue an
14 administrative inspection warrant where:

15 (1) Department personnel need to inspect the project site to
16 ensure compliance with this chapter and rules adopted to implement
17 this chapter; or

18 (2) Department personnel have probable cause to believe that a
19 violation of this chapter or of the rules adopted to implement this
20 chapter is occurring or has occurred.

21 NEW SECTION. Sec. 9. A new section is added to chapter 77.55
22 RCW to read as follows:

23 (1) The department shall charge fees for hydraulic project
24 approvals issued under RCW 77.55.021 to recover a portion of the
25 costs for processing and issuing decisions on permit applications,
26 administering fee collections, and compliance and effectiveness
27 monitoring and enforcement of projects requiring a permit. The fees
28 are based on the scale and complexity of the project and the relative
29 effort required for department staff to review the application,
30 conduct site visits, consult with applicants as necessary, and issue
31 or deny the permit.

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

35 (a) Emergencies;

36 (b) Freshwater beach habitat creation;

37 (c) Beaver dams;

38 (d) Breeding substrate;

- 1 (e) Large woody material work;
- 2 (f) Riparian habitat work;
- 3 (g) Wetlands or estuarine habitat work;
- 4 (h) Conduit or cable work using boring;
- 5 (i) Dredging less than fifty cubic yards of bed material;
- 6 (j) Water crossings, including a bridge, culvert, or ford, in
7 nonfish-bearing waters;
- 8 (k) Bridge work exclusively above the ordinary high water line;
- 9 (l) Shoreline modification or bank protection of less than one
10 hundred feet, not associated with jetties, dikes, or levees;
- 11 (m) Booms;
- 12 (n) Anchoring or mooring buoys and navigation aids;
- 13 (o) Piling work;
- 14 (p) Overwater structures, not including marinas or marine
15 terminals;
- 16 (q) Boat lifts or railway launches;
- 17 (r) Boat ramps or launches;
- 18 (s) Timber felling and yarding activities;
- 19 (t) Temporary or permanent stream gauges or other scientific
20 instruments;
- 21 (u) Outfalls;
- 22 (v) Tidegates;
- 23 (w) Mechanical aquatic plant control not addressed by the aquatic
24 plants and fish pamphlet;
- 25 (x) Pump water diversions and fish screens; and
- 26 (y) Gravity water diversions and fish screens.
- 27 (3) When assessing fees for permits under subsection (1) of this
28 section, the department must categorize the following new,
29 replacement, or removal hydraulic projects as low complexity:
- 30 (a) Beaver dams;
- 31 (b) Conduit or cable work using boring;
- 32 (c) Bridge work exclusively above the ordinary high water line;
- 33 (d) Booms;
- 34 (e) Anchoring or mooring buoys and navigation aids;
- 35 (f) Overwater structures in the current footprint, not including
36 marinas or marine terminals;
- 37 (g) Boat ramps or launches within the existing footprint of an
38 existing structure;
- 39 (h) Timber felling and yarding activities; and

1 (i) Temporary or permanent stream gauges or other scientific
2 instruments.

3 (4) When assessing fees for permits under subsection (1) of this
4 section, the department must categorize the following repair or
5 maintenance hydraulic projects as medium complexity:

6 (a) Aquaculture;

7 (b) Off channel, side channel, or in-channel enhancement or
8 restoration work, not including projects that are exclusively large
9 woody material work;

10 (c) Channel realignment work;

11 (d) Bed modification, not including habitat enhancement or
12 restoration and dredging;

13 (e) Conduit or cable work using trenching;

14 (f) Dredging greater than fifty cubic yards of bed material;

15 (g) Water crossings, including a bridge, culvert, or ford, in
16 fish-bearing waters, not including fish passage retrofits;

17 (h) Fish passage barrier removal with replacement or retrofit
18 using such methods as baffles or log controls for passage through or
19 over a structure;

20 (i) Fish passage not associated with a water crossing structure,
21 such as a bypass of a natural barrier or a fishway to bypass a dam;

22 (j) Shoreline modification or bank protection greater than one
23 hundred feet that is not associated with jetties, dikes, or levees;

24 (k) Jetties, dikes, or levees;

25 (l) Overwater structures outside of the footprint of an existing
26 structure, not including marinas or marine terminals;

27 (m) Marinas and marine terminals; and

28 (n) Dams not under jurisdiction of the federal energy regulatory
29 commission.

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

33 (a) Emergencies;

34 (b) Aquaculture;

35 (c) Freshwater beach habitat creation;

36 (d) Breeding substrate;

37 (e) Large woody material work;

38 (f) Riparian habitat work;

39 (g) Conduit or cable work using trenching;

40 (h) Dredging less than fifty cubic yards of bed material;

- 1 (i) Water crossings, including a bridge, culvert, or ford, in
2 nonfish-bearing waters;
- 3 (j) Shoreline modification or bank protection less than one
4 hundred feet, not associated with jetties, dikes, or levees;
- 5 (k) Piling work;
- 6 (l) Overwater structures outside of the footprint of an existing
7 structure, not including marinas or marine terminals;
- 8 (m) Boat lifts or railway launches;
- 9 (n) Boat ramps or launches outside of the footprint of an
10 existing structure;
- 11 (o) Outfalls;
- 12 (p) Tidegates;
- 13 (q) Mechanical aquatic plant control not addressed by the aquatic
14 plants and fish pamphlet;
- 15 (r) Mineral prospecting not addressed by the gold and fish
16 pamphlet;
- 17 (s) Pump water diversions and fish screens; and
- 18 (t) Gravity water diversions and fish screens.
- 19 (6) When assessing fees for permits under subsection (1) of this
20 section, the department must categorize the following new,
21 replacement, or removal hydraulic projects as high complexity:
- 22 (a) Off channel, side channel, or in-channel enhancement or
23 restoration work, not including projects that are exclusively large
24 woody material work;
- 25 (b) Wetland or estuarine habitat work;
- 26 (c) Channel realignment work;
- 27 (d) Bed modification, not including habitat enhancement or
28 restoration and dredging;
- 29 (e) Dredging greater than fifty cubic yards of bed material;
- 30 (f) Water crossings, including a bridge, culvert, or ford, in
31 fish-bearing waters, not including fish passage retrofits;
- 32 (g) Fish passage barrier removal with replacement or retrofit
33 using such methods as baffles or log controls for passage through or
34 over a structure;
- 35 (h) Fish passage not associated with a water crossing structure,
36 such as a bypass of a natural barrier or a fishway to bypass a dam;
- 37 (i) Shoreline modification or bank protection greater than one
38 hundred feet, not associated with jetties, dikes, or levees;
- 39 (j) Jetties, dikes, or levees;
- 40 (k) Marinas and marine terminals; and

1 (1) Dams not under jurisdiction of the federal energy regulatory
2 commission.

3 (7) If the department receives an application for a project type
4 not identified in subsections (2) through (6) of this section, it
5 shall categorize them as low, medium, or high risk and charge fees
6 based on those categories consistent with the most similar project
7 types identified in subsections (2) through (6) of this section.

8 (8) The department must charge the following fees. Until January
9 1, 2018, the fee is one hundred fifty dollars. Beginning January 1,
10 2018, the following applies:

11 (a) A notification/application submittal fee of one hundred fifty
12 dollars for a low complexity hydraulic project;

13 (b) An application submittal fee of two hundred fifty dollars for
14 a medium complexity hydraulic project;

15 (c) An application submittal fee of five hundred dollars for a
16 high complexity hydraulic project; and

17 (d) An application submittal fee of one thousand dollars for a
18 general hydraulic project approval.

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

23 (10) In addition to the base fee defined in subsection (8) of
24 this section, the department must charge the following additional
25 fees except where exempted in RCW 77.55.231:

26 (a) A one hundred dollar fee for modifications to low complexity
27 hydraulic projects;

28 (b) A one hundred twenty-five dollar fee for modifications to
29 medium complexity hydraulic projects;

30 (c) A two hundred fifty dollar fee for modifications to high
31 complexity hydraulic projects;

32 (d) A five hundred dollar fee for modifications to general
33 hydraulic project approvals;

34 (e) A one hundred fifty dollar fee for extensions to the end date
35 of a project approval; and

36 (f) A thirty dollar fee for applications submitted without using
37 the online system.

38 (11) The following hydraulic projects are exempt from all fees
39 listed under this section:

1 (a) Hydraulic projects approved under applicant-funded contracts
2 with the department that pay for the costs of processing those
3 projects;

4 (b) Pamphlet hydraulic projects;

5 (c) Mineral prospecting and mining activities;

6 (d) Hydraulic projects occurring on farm and agricultural land,
7 as that term is defined in RCW 84.34.020; and

8 (e) Fish habitat enhancement projects as provided for in RCW
9 77.55.181.

10 (12) The department shall refund fifty percent of the permit
11 processing fee to any person that properly applies for any permit or
12 permit modification under RCW 77.55.021 if the department fails to
13 process the application or request within the timelines required by
14 RCW 77.55.021.

15 (13) The department shall refund one hundred percent of all fees
16 if:

17 (a) No permit is required for the proposed work; or

18 (b) The hydraulic project is exempt from substantial development
19 permit requirements under RCW 90.58.147 and the project proponent
20 provides the department a copy of the letter documenting exemption
21 approval by the local government.

22 (14) Prior to submitting its biennial operating budget every two
23 years to the office of financial management, the department shall
24 send a report to the appropriate committees of the legislature on the
25 progress of the hydraulic project approval program.

26 NEW SECTION. **Sec. 10.** RCW 77.55.321 (Application fee for a
27 hydraulic project permit or permit modification—Projects exempt from
28 fees—Disposition of fees) and 2012 1st sp.s. c 1 s 103 are each
29 repealed.

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