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**SUBSTITUTE HOUSE BILL 1428**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives Blake, Fitzgibbon, Lytton, Morris, and Tharinger; by request of Department of Fish and Wildlife)

READ FIRST TIME 02/17/17.

1       AN ACT Relating to construction projects in state waters;  
2       amending RCW 77.55.181, 77.55.231, and 77.55.021; adding a new  
3       section to chapter 77.55 RCW; and repealing RCW 77.55.321.

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

5       **Sec. 1.** RCW 77.55.181 and 2014 c 120 s 1 are each amended to  
6       read as follows:

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

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

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

18      (iii) Placement of woody debris, spawning material, or other  
19      ~~((instream))~~ habitat structures that benefit naturally reproducing  
20      fish stocks;

1        (iv) Restoration of marine and lake shorelines by removing  
2 armoring and other hard shoreline stabilization structures, or  
3 replacing hard shoreline structures with natural or soft techniques,  
4 with primary emphasis on using native vegetation, root wads, large  
5 woody material, and beach nourishment to mimic natural shoreline  
6 processes; or

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

9        ~~(b) ((The department shall develop size or scale threshold tests~~  
10 ~~to determine if projects accomplishing any of these tasks should be~~  
11 ~~evaluated under the process created in this section or under other~~  
12 ~~project review and approval processes.))~~ A project proposal shall not  
13 be reviewed under the process created in this section if the  
14 department or the local government determines that the scale of the  
15 project raises environmental and public health and safety concerns  
16 ~~((regarding public health and safety))~~ or if the department  
17 determines that fish or fish habitat would be adversely impacted by  
18 the project.

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

22        (i) By the department pursuant to chapter 77.95 or 77.100 RCW;  
23        (ii) By the sponsor of a watershed restoration plan as provided  
24 in chapter 89.08 RCW;

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

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

30        (v) Through the review and approval process for conservation  
31 district-sponsored projects, where the project complies with design  
32 standards established by the conservation commission through  
33 interagency agreement with the ~~((United States fish and wildlife~~  
34 ~~service and the natural resource conservation service))~~ department;

35        (vi) Through a formal grant program established by the  
36 legislature or the department for fish habitat enhancement or  
37 restoration;

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

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

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

6 (x) Through other formal review and approval processes  
7 established by the legislature.

8 (2) Fish habitat enhancement projects meeting the criteria of  
9 subsection (1) of this section are expected to result in beneficial  
10 impacts to the environment. Decisions pertaining to fish habitat  
11 enhancement projects meeting the criteria of subsection (1) of this  
12 section and being reviewed and approved according to the provisions  
13 of this section are not subject to the requirements of RCW  
14 43.21C.030(2)(c).

15 (3)(a) A permit is required for projects that meet the criteria  
16 of subsection (1) of this section and are being reviewed and approved  
17 under this section. An applicant shall use the department's online  
18 permit application system or a joint aquatic resource permit  
19 application form developed by the office of regulatory assistance to  
20 apply for approval under this chapter. (~~On the same day, the~~  
21 ~~applicant shall provide copies of~~) Upon receipt of a complete  
22 application, the department shall notify the local government that  
23 the completed application form ((to the department and to each  
24 appropriate local government)) is available for review in the online  
25 permit system.

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

31 (c) Within forty-five days, the department shall either issue a  
32 permit, with or without conditions, deny approval, or make a  
33 determination that the review and approval process created by this  
34 section is not appropriate for the proposed project. The department  
35 shall base this determination on identification during the comment  
36 period of adverse impacts that cannot be mitigated by the  
37 conditioning of a permit.

38 (d) If the department determines that the review and approval  
39 process created by this section is not appropriate for the proposed  
40 project, the department shall notify the applicant and the

appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

(e) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may appeal the decision as provided in RCW 77.55.021(~~((8))~~) (9).

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

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

**Sec. 2.** RCW 77.55.231 and 2012 1st sp.s. c 1 s 106 are each amended to read as follows:

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

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

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

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

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

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

NEW SECTION. **Sec. 3.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The department shall charge fees for hydraulic project approvals issued under RCW 77.55.021 to recover a portion of the

1 costs for processing and issuing decisions on permit applications,  
2 administering fee collections, and compliance and effectiveness  
3 monitoring and enforcement of projects requiring a permit. The fees  
4 are based on the scale and complexity of the project and the relative  
5 effort required for department staff to review the application,  
6 conduct site visits, consult with applicants as necessary, and issue  
7 or deny the permit.

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

- 11 (a) Emergencies;
- 12 (b) Freshwater beach habitat creation;
- 13 (c) Beaver dams;
- 14 (d) Breeding substrate;
- 15 (e) Large woody material work;
- 16 (f) Riparian habitat work;
- 17 (g) Wetlands or estuarine habitat work;
- 18 (h) Conduit or cable work using boring;
- 19 (i) Dredging less than fifty cubic yards of bed material;
- 20 (j) Water crossings, including a bridge, culvert, or ford, in  
21 nonfish-bearing waters;
- 22 (k) Bridge work exclusively above the ordinary high water line;
- 23 (l) Shoreline modification or bank protection of less than one  
24 hundred feet, not associated with jetties, dikes, or levees;
- 25 (m) Booms;
- 26 (n) Anchoring or mooring buoys and navigation aids;
- 27 (o) Piling work;
- 28 (p) Overwater structures, not including marinas or marine  
29 terminals;
- 30 (q) Boat lifts or railway launches;
- 31 (r) Boat ramps or launches;
- 32 (s) Temporary or permanent stream gauges or other scientific  
33 instruments;
- 34 (t) Outfalls;
- 35 (u) Tidegates;
- 36 (v) Mechanical aquatic plant control not addressed by the aquatic  
37 plants and fish pamphlet;
- 38 (w) Pump water diversions and fish screens; and
- 39 (x) Gravity water diversions and fish screens.

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

- 4 (a) Beaver dams;
- 5 (b) Conduit or cable work using boring;
- 6 (c) Bridge work exclusively above the ordinary high water line;
- 7 (d) Booms;
- 8 (e) Anchoring or mooring buoys and navigation aids;
- 9 (f) Overwater structures in the current footprint, not including  
10 marinas or marine terminals;
- 11 (g) Boat ramps or launches within the existing footprint of an  
12 existing structure; and
- 13 (h) Temporary or permanent stream gauges or other scientific  
14 instruments.

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

- 18 (a) Aquaculture;
- 19 (b) Off channel, side channel, or in-channel enhancement or  
20 restoration work, not including projects that are exclusively large  
21 woody material work;
- 22 (c) Channel realignment work;
- 23 (d) Bed modification, not including habitat enhancement or  
24 restoration and dredging;
- 25 (e) Conduit or cable work using trenching;
- 26 (f) Dredging greater than fifty cubic yards of bed material;
- 27 (g) Water crossings, including a bridge, culvert, or ford, in  
28 fish-bearing waters, not including fish passage retrofits;
- 29 (h) Fish passage barrier removal with replacement or retrofit  
30 using such methods as baffles or log controls for passage through or  
31 over a structure;
- 32 (i) Fish passage not associated with a water crossing structure,  
33 such as a bypass of a natural barrier or a fishway to bypass a dam;
- 34 (j) Shoreline modification or bank protection greater than one  
35 hundred feet that is not associated with jetties, dikes, or levees;
- 36 (k) Jetties, dikes, or levees;
- 37 (l) Overwater structures outside of the footprint of an existing  
38 structure, not including marinas or marine terminals;
- 39 (m) Marinas and marine terminals; and

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

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

- 6 (a) Emergencies;
- 7 (b) Aquaculture;
- 8 (c) Freshwater beach habitat creation;
- 9 (d) Breeding substrate;
- 10 (e) Large woody material work;
- 11 (f) Riparian habitat work;
- 12 (g) Conduit or cable work using trenching;
- 13 (h) Dredging less than fifty cubic yards of bed material;
- 14 (i) Water crossings, including a bridge, culvert, or ford, in  
15 nonfish-bearing waters;
- 16 (j) Shoreline modification or bank protection less than one  
17 hundred feet, not associated with jetties, dikes, or levees;
- 18 (k) Piling work;
- 19 (l) Overwater structures outside of the footprint of an existing  
20 structure, not including marinas or marine terminals;
- 21 (m) Boat lifts or railway launches;
- 22 (n) Boat ramps or launches outside of the footprint of an  
23 existing structure;
- 24 (o) Outfalls;
- 25 (p) Tidegates;
- 26 (q) Mechanical aquatic plant control not addressed by the aquatic  
27 plants and fish pamphlet;
- 28 (r) Mineral prospecting not addressed by the gold and fish  
29 pamphlet;
- 30 (s) Pump water diversions and fish screens; and
- 31 (t) Gravity water diversions and fish screens.

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

- 35 (a) Off channel, side channel, or in-channel enhancement or  
36 restoration work, not including projects that are exclusively large  
37 woody material work;
- 38 (b) Wetland or estuarine habitat work;
- 39 (c) Channel realignment work;

1 (d) Bed modification, not including habitat enhancement or  
2 restoration and dredging;

3 (e) Dredging greater than fifty cubic yards of bed material;

4 (f) Water crossings, including a bridge, culvert, or ford, in  
5 fish-bearing waters, not including fish passage retrofits;

6 (g) Fish passage barrier removal with replacement or retrofit  
7 using such methods as baffles or log controls for passage through or  
8 over a structure;

9 (h) Fish passage not associated with a water crossing structure,  
10 such as a bypass of a natural barrier or a fishway to bypass a dam;

11 (i) Shoreline modification or bank protection greater than one  
12 hundred feet, not associated with jetties, dikes, or levees;

13 (j) Jetties, dikes, or levees;

14 (k) Marinas and marine terminals; and

15 (l) Dams not under jurisdiction of the federal energy regulatory  
16 commission.

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

22 (8) The department must charge the following fees. Until January  
23 1, 2018, the fee is one hundred fifty dollars. Beginning January 1,  
24 2018, the following applies:

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (a) Hydraulic projects approved under applicant-funded contracts  
16 with the department that pay for the costs of processing those  
17 projects;

18 (b) Pamphlet hydraulic projects;

19 (c) Mineral prospecting and mining activities;

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

22 (e) Fish habitat enhancement projects as provided for in RCW  
23 77.55.181.

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

29 (13) The department shall refund one hundred percent of all fees  
30 if:

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

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

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

1       **Sec. 4.**   RCW 77.55.021 and 2012 1st sp.s. c 1 s 102 are each  
2 amended to read as follows:

3       (1)(a) Except as provided in RCW 77.55.031, 77.55.051, 77.55.041,  
4 and 77.55.361, in the event that any person (~~or government agency~~)  
5 desires to undertake a hydraulic project, the person (~~or government~~  
6 ~~agency~~) shall(~~, before commencing work thereon,~~) secure the  
7 approval of the department (~~in the form of a permit as to the~~  
8 ~~adequacy of the means proposed for the protection of fish life~~)  
9 before conducting work on that project.

10       (b) When issuing approval for hydraulic projects, the department  
11 shall provide for the protection of fish life.

12       (2) A person must secure the approval of the department for the  
13 following hydraulic projects:

14       (a) Any hydraulic project conducted at or below the ordinary high  
15 water mark and associated upland components;

16       (b) Any shoreline or stream bank protection; bank reshaping or  
17 regrading; dike or levee; avulsion prevention techniques; floodplain  
18 or tidal channel fill; channel creation, relocation, or realignment;  
19 floodplain mining; or mineral prospecting; and

20       (c) New and replacement bridge construction; replacement, repair,  
21 and maintenance of substructure and superstructure, abutments, wing  
22 walls, and piers; and scour protection. A permit is also required for  
23 bridge painting and other maintenance where there is the potential  
24 for paint, sandblasting material, sediments, deck overlay material,  
25 or bridge parts to fall into the water unless the work is conducted  
26 in compliance with a valid national pollutant discharge elimination  
27 system and state waste discharge permit for discharges issued by the  
28 Washington state department of ecology.

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

32       (a) General plans for the overall project;

33       (b) Complete plans and specifications of the proposed  
34 construction or work (~~within the mean higher high water line in~~  
35 ~~saltwater or within the ordinary high water line in freshwater~~)  
36 listed in subsection (2) of this section;

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

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

4 (e) Payment of all applicable application fees charged by the  
5 department under ~~((RCW 77.55.321))~~ section 3 of this act.

6 ~~((3))~~ (4) The department may establish direct billing accounts  
7 or other funds transfer methods with permit applicants to satisfy the  
8 fee payment requirements of ~~((RCW 77.55.321))~~ section 3 of this act.

9 ~~((4))~~ (5) The department may accept complete, written  
10 applications as provided in this section for multiple site permits  
11 and may issue these permits. For multiple site permits, each specific  
12 location must be identified.

13 ~~((5))~~ (6) With the exception of emergency permits as provided  
14 in subsection ~~((12))~~ (13) of this section, applications for permits  
15 must be submitted to the department's headquarters office in Olympia.  
16 Requests for emergency permits as provided in subsection ~~((12))~~  
17 (13) of this section may be made to the permitting biologist assigned  
18 to the location in which the emergency occurs, to the department's  
19 regional office in which the emergency occurs, or to the department's  
20 headquarters office.

21 ~~((6))~~ (7) Except as provided for emergency permits in  
22 subsection ~~((12))~~ (13) of this section, the department may not  
23 proceed with permit review until all fees are paid in full as  
24 required in ~~((RCW 77.55.321))~~ section 3 of this act.

25 ~~((7))~~ (8)(a) Protection of fish life is the only ground upon  
26 which approval of a permit may be denied or conditioned. Approval of  
27 a permit may not be unreasonably withheld or unreasonably  
28 conditioned.

29 (b) Except as provided in this subsection and subsections  
30 ~~((12))~~ (13) through ~~((14))~~ (15) and ~~((16))~~ (17) of this  
31 section, the department has forty-five calendar days upon receipt of  
32 a complete application to grant or deny approval of a permit. The  
33 forty-five day requirement is suspended if:

34 (i) After ten working days of receipt of the application, the  
35 applicant remains unavailable or unable to arrange for a timely field  
36 evaluation of the proposed project;

37 (ii) The site is physically inaccessible for inspection;

38 (iii) The applicant requests a delay; or

1 (iv) The department is issuing a permit for a storm water  
2 discharge and is complying with the requirements of RCW  
3 77.55.161(3)(b).

4 (c) Immediately upon determination that the forty-five day period  
5 is suspended under (b) of this subsection, the department shall  
6 notify the applicant in writing of the reasons for the delay.

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

11 ~~((8))~~ (9) If the department denies approval of a permit, the  
12 department shall provide the applicant a written statement of the  
13 specific reasons why and how the proposed project would adversely  
14 affect fish life.

15 (a) Except as provided in (b) of this subsection, issuance,  
16 denial, conditioning, or modification of a permit shall be appealable  
17 to the board within thirty days from the date of receipt of the  
18 decision as provided in RCW 43.21B.230.

19 (b) Issuance, denial, conditioning, or modification of a permit  
20 may be informally appealed to the department within thirty days from  
21 the date of receipt of the decision. Requests for informal appeals  
22 must be filed in the form and manner prescribed by the department by  
23 rule. A permit decision that has been informally appealed to the  
24 department is appealable to the board within thirty days from the  
25 date of receipt of the department's decision on the informal appeal.

26 ~~((9))~~ (10)(a) The permittee must demonstrate substantial  
27 progress on construction of that portion of the project relating to  
28 the permit within two years of the date of issuance.

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

32 (c) A permit remains in effect without need for periodic renewal  
33 for hydraulic projects that divert water for agricultural irrigation  
34 or stock watering purposes and that involve seasonal construction or  
35 other work. A permit for stream bank stabilization projects to  
36 protect farm and agricultural land as defined in RCW 84.34.020  
37 remains in effect without need for periodic renewal if the problem  
38 causing the need for the stream bank stabilization occurs on an  
39 annual or more frequent basis. The permittee must notify the

1 appropriate agency before commencing the construction or other work  
2 within the area covered by the permit.

3 ~~((10))~~ (11) The department may, after consultation with the  
4 permittee, modify a permit due to changed conditions. A modification  
5 under this subsection is not subject to the fees provided under ~~((RCW~~  
6 ~~77.55.321))~~ section 3 of this act. The modification is appealable as  
7 provided in subsection ~~((8))~~ (9) of this section. For a hydraulic  
8 project that diverts water for agricultural irrigation or stock  
9 watering purposes, when the hydraulic project or other work is  
10 associated with stream bank stabilization to protect farm and  
11 agricultural land as defined in RCW 84.34.020, the burden is on the  
12 department to show that changed conditions warrant the modification  
13 in order to protect fish life.

14 ~~((11))~~ (12) A permittee may request modification of a permit  
15 due to changed conditions. The request must be processed within  
16 forty-five calendar days of receipt of the written request and  
17 payment of applicable fees under ~~((RCW 77.55.321))~~ section 3 of this  
18 act. A decision by the department is appealable as provided in  
19 subsection ~~((8))~~ (9) of this section. For a hydraulic project that  
20 diverts water for agricultural irrigation or stock watering purposes,  
21 when the hydraulic project or other work is associated with stream  
22 bank stabilization to protect farm and agricultural land as defined  
23 in RCW 84.34.020, the burden is on the permittee to show that changed  
24 conditions warrant the requested modification and that such a  
25 modification will not impair fish life.

26 ~~((12))~~ (13)(a) The department, the county legislative  
27 authority, or the governor may declare and continue an emergency. If  
28 the county legislative authority declares an emergency under this  
29 subsection, it shall immediately notify the department. A declared  
30 state of emergency by the governor under RCW 43.06.010 shall  
31 constitute a declaration under this subsection.

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

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

4 (d) The department may not charge a person requesting an  
5 emergency permit any of the fees authorized by ~~((RCW 77.55.321))~~  
6 section 3 of this act until after the emergency permit is issued and  
7 reduced to writing.

8 ~~((13))~~ (14) All state and local agencies with authority under  
9 this chapter to issue permits or other authorizations in connection  
10 with emergency water withdrawals and facilities authorized under RCW  
11 43.83B.410 shall expedite the processing of such permits or  
12 authorizations in keeping with the emergency nature of such requests  
13 and shall provide a decision to the applicant within fifteen calendar  
14 days of the date of application.

15 ~~((14))~~ (15) The department or the county legislative authority  
16 may determine an imminent danger exists. The county legislative  
17 authority shall notify the department, in writing, if it determines  
18 that an imminent danger exists. In cases of imminent danger, the  
19 department shall issue an expedited written permit, upon request, for  
20 work to remove any obstructions, repair existing structures, restore  
21 banks, protect fish resources, or protect property. Expedited permit  
22 requests require a complete written application as provided in  
23 subsection ~~((2))~~ (3) of this section and must be issued within  
24 fifteen calendar days of the receipt of a complete written  
25 application. Approval of an expedited permit is valid for up to sixty  
26 days from the date of issuance. The department may not require the  
27 provisions of the state environmental policy act, chapter 43.21C RCW,  
28 to be met as a condition of issuing a permit under this subsection.

29 ~~((15))~~ (16)(a) For any property, except for property located on  
30 a marine shoreline, that has experienced at least two consecutive  
31 years of flooding or erosion that has damaged or has threatened to  
32 damage a major structure, water supply system, septic system, or  
33 access to any road or highway, the county legislative authority may  
34 determine that a chronic danger exists. The county legislative  
35 authority shall notify the department, in writing, when it determines  
36 that a chronic danger exists. In cases of chronic danger, the  
37 department shall issue a permit, upon request, for work necessary to  
38 abate the chronic danger by removing any obstructions, repairing  
39 existing structures, restoring banks, restoring road or highway  
40 access, protecting fish resources, or protecting property. Permit

1 requests must be made and processed in accordance with subsections  
2 (~~((2))~~) (3) and (~~((7))~~) (8) of this section.

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

9 (~~((16))~~) (17) The department may issue an expedited written  
10 permit in those instances where normal permit processing would result  
11 in significant hardship for the applicant or unacceptable damage to  
12 the environment. Expedited permit requests require a complete written  
13 application as provided in subsection (~~((2))~~) (3) of this section and  
14 must be issued within fifteen calendar days of the receipt of a  
15 complete written application. Approval of an expedited permit is  
16 valid for up to sixty days from the date of issuance. The department  
17 may not require the provisions of the state environmental policy act,  
18 chapter 43.21C RCW, to be met as a condition of issuing a permit  
19 under this subsection.

20 NEW SECTION. **Sec. 5.** RCW 77.55.321 (Application fee for a  
21 hydraulic project permit or permit modification—Projects exempt from  
22 fees—Disposition of fees) and 2012 1st sp.s. c 1 s 103 are each  
23 repealed.

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