

RCW 77.55.231 Conditions imposed upon a permit—Reasonably related to project—Least impactful modifications—Minor modifications to plans/work timing. (1) (a) 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.

(b) In the event that any person desires to replace residential marine shoreline stabilization or armoring, a person must use the least impacting technically feasible bank protection alternative for the protection of fish life. Unless the department provides an exemption depending on the scale and nature of the project, a person that desires to replace residential marine shoreline stabilization or armoring must conduct a site assessment to consider the least impactful alternatives. A person should propose a hard armor technique only after considering site characteristics such as the threat to major improvements, wave energy, and other factors in an analysis of alternatives. The common alternatives identified in (b) (i) through (vii) of this subsection are in order from most preferred to least preferred:

- (i) Remove the structure and restore the beach;
- (ii) Remove the structure and install native vegetation;
- (iii) Remove the structure and control upland drainage;
- (iv) Remove the structure and replace it with a soft structure constructed of natural materials, including bioengineering;
- (v) Remove the hard structure and construct upland retaining walls;
- (vi) Remove the hard structure and replace it with a hard structure located landward of the existing structure, preferably at or above the ordinary high water line; or
- (vii) Remove the hard structure and replace it with hard shoreline structure in the same footprint as the existing structure.

(c) For the purposes of this subsection, "feasible" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(2) The permit must contain provisions allowing for minor modifications to the plans and specifications without requiring reissuance of the permit.

(3) The permit must contain provisions that allow for 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. [2021 c 279 § 2; 2012 1st sp.s. c 1 § 106; 2005 c 146 § 601; 2002 c 368 § 5. Formerly RCW 77.55.350.]

Findings—2021 c 279: "The legislature finds that the state of Washington will continue to be negatively impacted by the effects of climate change, including reduced winter snowpack, drought, increased frequencies of forest fires, and acidifying oceans that disrupt marine ecosystem viability. In the nearshore environment, climate change contributes to the rise in average sea-surface temperatures and rising sea levels. Hardened shoreline structures are not always well-suited for their intended purpose and may have unintended consequences in the

nearshore environment. Soft shorelines or natural shorelines may protect and restore shoreline ecosystems through the use of natural plants and materials, and the legislature finds that landowners must consider alternatives to hardening shorelines to restore ecosystem function and recover threatened and endangered species to help address the impacts of climate change in the nearshore environment." [2021 c 279 § 1.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Part headings not law—2005 c 146: See note following RCW 77.55.011.

Finding—Intent—2002 c 368: See note following RCW 77.55.161.