

CERTIFICATION OF ENROLLMENT

**ENGROSSED SENATE BILL 6188**

Chapter 2, Laws of 2001

57th Legislature  
2001 First Special Session

TRANSPORTATION PERMIT EFFICIENCY AND ACCOUNTABILITY COMMITTEE

EFFECTIVE DATE: 5/29/01

Passed by the Senate May 22, 2001  
YEAS 39 NAYS 3

BRAD OWEN  
**President of the Senate**

Passed by the House May 24, 2001  
YEAS 96 NAYS 0

FRANK CHOPP  
**Speaker of the  
House of Representatives**

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

Approved May 29, 2001

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6188** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK  
**Secretary**

FILED

May 29, 2001 - 10:08 a.m.

**Secretary of State  
State of Washington**

---

ENGROSSED SENATE BILL 6188

---

Passed Legislature - 2001 Regular Session

State of Washington

57th Legislature 2001 First Special Session

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

      Passed the Senate May 22, 2001.

      Passed the House May 24, 2001.

      Approved by the Governor May 29, 2001.

      Filed in Office of Secretary of State May 29, 2001.