
**Fisheries, Ecology & Parks
Committee**

HB 1500

Brief Description: Providing the department of fish and wildlife with a range of enforcement options to enforce the hydraulic code.

Sponsors: Representatives Upthegrove, Rockefeller and Cooper.

Brief Summary of Bill

- Authorizes the Department of Fish and Wildlife (DFW) to issue stop work orders to persons failing to follow the requirements of a hydraulic project approval (HPA).
- Repeals specific civil penalties for violations of HPA and authorizes the DFW to adopt rules designating certain violations as natural resource infractions.

Hearing Date: 2/13/03

Staff: Jeff Olsen (786-7157).

Background:

A person is required to obtain a hydraulic permit for any project that will use, divert, obstruct, or change the natural flow or bed of any state waters before beginning work. The permits are issued by the Department of Fish and Wildlife (DFW) to ensure the proper protection of fish life.

The DFW is statutorily authorized to issue programmatic hydraulic project approvals (HPA) for small scale mining and prospecting, and for activities or projects conducted solely for the removal or control of certain aquatic weeds. The programmatic approval is in lieu of an applicant obtaining an individual hydraulic permit. Under the programmatic approval process, the department publishes a pamphlet that states the rules for that activity. As long as the person follows the rules provided in the pamphlet, that person is considered to be in compliance with the law.

Failure to obtain a HPA before commencing work, or failure to follow the conditions of a HPA is a gross misdemeanor. The DFW may also levy civil penalties of up to \$100 per day for violations of the HPA. Civil penalties are appealable within 30 days, and penalties

collected are paid into the general fund.

Certain violations of rules adopted pursuant to Title 77 are natural resource infractions. Natural resource infractions are not considered a criminal offense, but may include monetary penalties not to exceed five hundred dollars for each offense.

Summary of Bill:

The DFW is authorized to issue stop work orders to individuals failing to obtain or follow the conditions of a HPA. The DFW may also require corrective action to restore the nonconforming site. Stop work and corrective orders are appealable within 20 days. Appeals are subject to the Administrative Procedure Act.

Violation of a stop work order, correction order, or a rule governing a hydraulic project activity addressed in a pamphlet is a gross misdemeanor. The DFW may adopt rules to designate certain violations of the HPA permit as natural resource infractions. Authority for the DFW to levy civil penalties for violations of any provisions of a HPA permit is repealed (RCW 34.05).

Appropriation: None.

Fiscal Note: Requested on February 12, 2003.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.