

SB 5862 and HB 2008

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Reforming Hydraulic Project Approval and Forest Practices Application Processes

Regarding the Administration of Natural Resources Programs



The Washington Department of Fish and Wildlife (DFW) and Washington Department of Natural Resources (DNR) review applications and issue approvals for proposed activities in or near water on more than 12 million acres of forestland in the state.

Under the state's hydraulic code (RCW 77.55), DFW is required to review applications and issue permits for proposed construction work in or near water. The department's Hydraulic Project Approval (HPA) program is the state's primary tool for protecting fish life. DNR administers the Forest Practices Act (76.09 RCW) and rules (222 WAC) to protect water, fish and other public resources from impacts of forest practices on private, county and state forestland. The department's Forest Practices Application (FPA) process is required for timber harvesting, road construction and other forestry related activities.



Washington Department of
FISH and WILDLIFE



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Natural Resources

Problem

The current HPA and FPA permitting process is inefficient for applicants, who currently must seek approval from both DNR and DFW for proposals in or near water on forestland. These permit processes have different timeframes—FPAs must be issued within 30 days, while HPAs are issued within 45 days.

FPA and HPA approval periods are different. An FPA approval is good for two years, an HPA for five years; all of which create uncertainty for applicants. In addition, compliance with FPA and HPA provisions is below target for the two agencies.

At the same time, DFW's enforcement authority for HPAs is not adequate to protect fish and does not align with other natural resource agencies' civil enforcement tools.

Current funding is insufficient to maintain the two permitting programs' effectiveness, due to reductions in state General Fund support. The HPA program costs approximately \$3 million annually in state general funds and—unlike most permitting programs—HPA permits are issued without charge to applicants.

The current fee for an FPA is \$50; the fee for an FPA associated with conversion of forestland to another land use is \$500. This fee structure generates about 2% of the DNR Forest Practices program's operating budget.

Proposed Solution

To increase efficiency and better protect fish and other public resources, DFW and DNR propose to reform the HPA and FPA permitting process by:

- ▶ Integrating FPAs and HPAs to streamline the permitting process for hydraulic projects related to forest practices. HPAs related to forest practices would no longer require a permit from DFW; an FPA approved by DNR would cover both forest practice and hydraulic activities.

- ▶ Establishing a uniform processing period of 45 days for both FPAs and HPAs.

- ▶ Expanding the approval period for FPAs from the current two years to four years, but approved applications may be reviewed and further conditioned if certain forest practices rules change during the approval period.

- ▶ Conducting compliance and effectiveness monitoring to ensure hydraulic projects meet approval conditions and protect fish life.

- ▶ Enhancing DFW's HPA civil enforcement authority to allow issuance of compliance notices or stop-work orders for violation of permit condition for non-forestry-related HPAs or for failure to comply with statutory or rule requirements. DFW would be allowed to levy civil penalties of up to \$10,000 for violations, based on factors established in a penalty schedule.

- ▶ Reducing reliance on the state General Fund through a fee schedule that would establish fees for HPA permits and increase fees for FPA permits.

BENEFITS

A combined HPA-FPA permitting process will reduce paperwork burdens and uncertainty for applicants, enhance compliance and effectiveness monitoring, and reduce reliance on the state General Fund while maintaining or improving the protection of fish and other natural resources.

Proposal Detail

Integrate FPAs and HPAs: This proposal would streamline the permitting process for hydraulic projects related to forest practices by integrating HPA and FPAs. Under this provision, HPAs related to forest practices would no longer require a permit from DFW; an FPA approved by DNR would instead cover both forest practices and hydraulic activities.

HPA rules would continue to serve as the standard for forest practices activities affecting the bed or flow of state waters:

DFW would conduct site visits for hydraulic projects related to forest practices as needed; submit comments to DNR on all hydraulic projects related to forest practices within 30 days; and assist DNR in conducting compliance monitoring for hydraulic projects related to forest practices. DFW would be responsible for effectiveness monitoring of hydraulic projects associated with forest practices.

Enhance DFW's HPA civil enforcement authority: This proposal would allow DFW to issue a compliance notice or stop-work order if an applicant violates permit conditions for a non-forestry-related HPA or fails to comply with statutory or rule requirements. This provision would also allow DFW to levy civil penalties of up to \$10,000 for violations, based on factors established in a penalty schedule.

Create HPA fees: The proposal would allow DFW to develop a fee structure for all hydraulic projects. It would generate approximately \$2.5 million per year through HPAs. Fee revenues would be deposited into a dedicated HPA account. Funds collected in the HPA account would be used solely for operation and improvement of the HPA program.

Increase FPA fees: This proposal would raise FPA fees to cover approximately 25% of the Forest Practices program budget. FPA fees would go from the current \$50 to \$150–\$2500 dependent upon size, complexity and risk to public resources from the proposal—90% of FPAs would be \$150 or \$250. Forestland conversion FPA fees would go from \$500 to \$5000. Revenue generated from the new fee structure would be dedicated to administering the Forest Practices Act and rules.