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HOUSE BILL 1208

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State of Washington

69th Legislature

2025 Regular Session

By Representative Tharinger

Prefiled 01/09/25.

1 AN ACT Relating to extending a program to streamline the  
2 environmental permitting process for salmon recovery projects;  
3 amending RCW 77.55.480 and 43.21C.515; creating a new section;  
4 providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that in 2021 the  
7 legislature created the habitat recovery pilot program to streamline  
8 project permitting for habitat restoration projects that have been  
9 determined to contribute to the recovery of watersheds throughout the  
10 state. The legislature also finds that the pilot project's intent to  
11 advance projects to construction as quickly and efficiently as  
12 possible has been realized, with projects experiencing time and cost  
13 savings by utilizing the streamlined process.

14 (2) Therefore, the legislature intends to make the pilot program  
15 permanent and to improve the streamlined process.

16 **Sec. 2.** RCW 77.55.480 and 2021 c 75 s 2 are each amended to read  
17 as follows:

18 (1) The habitat (~~(recovery pilot)~~) restoration permit pathway  
19 program is created.

1 (2) (a) In order to be included in this statewide (~~(pilot)~~) permit  
2 pathway program and qualify for the permit review and approval  
3 process created in this section, an environmental restoration project  
4 must directly benefit freshwater, estuarine, or marine fish, or the  
5 habitat they rely on, and must be included on a list of projects  
6 (~~(reviewed)~~) approved(~~(r)~~) or funded by one of the following  
7 restoration programs:

- 8 (i) The Bonneville power administration restoration program;
- 9 (ii) The Brian Abbott fish barrier removal board;
- 10 (iii) The estuary and salmon restoration program;
- 11 (iv) The floodplains by design program;
- 12 (v) The office of Chehalis basin aquatic species restoration  
13 program;
- 14 (vi) The office of Columbia river habitat recovery projects;
- 15 (vii) The Puget Sound acquisition and restoration fund;
- 16 (viii) The Puget Sound national estuary program;
- 17 (ix) The salmon recovery funding board;
- 18 (x) The Washington coast restoration and resiliency initiative;
- 19 (xi) The Yakima tributary access and habitat program;
- 20 (xii) Fish recovery projects sponsored by a federally recognized  
21 tribe; (~~and~~)
- 22 (xiii) Fish acclimation facility projects sponsored or operated  
23 by a federally recognized tribe;
- 24 (xiv) Clean water section 319 and centennial clean water program  
25 grants installing instream and riparian nonpoint source projects; and  
26 (xv) The Washington wildlife and recreation program, funded by  
27 the habitat conservation account created in RCW 79A.15.020.

28 (b) A project application reviewed under this section must  
29 document consistency with local, state, and federal flood risk  
30 reduction requirements. A project may not be reviewed under the  
31 process created in this section if the local government within whose  
32 geographical jurisdiction the project will be located determines that  
33 the project does not meet applicable flood risk reduction  
34 requirements, or otherwise determines that the project raises  
35 concerns regarding public health and safety, and the local government  
36 provides timely notice of its determination to the department.

37 (c) (i) With regard to cultural resources, a project applicant or  
38 funding agency must review the project with the department of  
39 archaeology and historic preservation and complete any required site  
40 surveys before the project applicant files an application under this

1 section. A project applicant must document consistency in the  
2 application with applicable cultural resource protection  
3 requirements.

4 (ii) A project applicant must provide a ~~((copy of its~~  
5 ~~application))~~ description of the proposed project and the project's  
6 area of potential effect, including vertical and horizontal limits  
7 and any additional ground disturbance activities, to the department  
8 of archaeology and historic preservation, and to affected federally  
9 recognized tribes, no fewer than 60 days before the application may  
10 be filed with the department. A project applicant must provide a copy  
11 of its application under this section to an affected federally  
12 recognized tribe at the tribe's request.

13 (iii) The department may not review a project under the expedited  
14 process created in this section if a cultural resource site is  
15 identified at the project site or if an affected federally recognized  
16 tribe withholds its consent that the project should be expedited  
17 according to the process set forth in this section. Such consent may  
18 be withheld upon a determination that the project may adversely  
19 impact cultural resources. Notice of such a determination must be  
20 provided to the department by the affected federally recognized tribe  
21 in a timely manner.

22 (iv) In the event of an inadvertent discovery of cultural  
23 resources or human remains, the project applicant shall immediately  
24 notify the department, the department of archaeology and historic  
25 preservation, and affected federally recognized tribes. In the event  
26 of an inadvertent discovery of cultural resources or human remains,  
27 existing requirements applicable to inadvertent discoveries of  
28 cultural resources and human remains, including those set forth in  
29 chapters 27.53, 27.44, and 68.60 RCW, apply.

30 (d) For those projects that require a ~~((lease or other))~~ land use  
31 authorization from the department of natural resources, the project  
32 applicant must include in its application for a permit under this  
33 section a signed joint aquatic resources permit application,  
34 attachment E. The project applicant must provide a copy of a  
35 completed application to the department of natural resources ~~((no~~  
36 ~~fewer than 30 days before the application may be filed with the~~  
37 ~~department))~~. The project applicant may submit its completed  
38 application for a permit under this section to the department either:  
39 (i) 30 days after providing a copy of a completed application to the  
40 department of natural resources; or (ii) upon receipt of a signed

1 attachment E from the department of natural resources, whichever  
2 comes first. If the project applicant submits their application 30  
3 days after filing the signed joint aquatic resources permit  
4 application, attachment E, with the department of natural resources,  
5 the department of natural resources must make a final decision on  
6 applications for projects under this section within 30 days of the  
7 issuance of a permit under this section.

8 (3) Fish recovery and fish habitat restoration projects meeting  
9 the criteria of subsection (2) of this section are expected to result  
10 in beneficial impacts to the aquatic environment. Projects approved  
11 for inclusion in this (~~(((pilot)))~~) permit pathway program and that are  
12 reviewed and approved according to the provisions of this section are  
13 not subject to the requirements of RCW 43.21C.030(2) and are not  
14 required to obtain local or state permits or approvals other than the  
15 permit issued under this section, except permits minimally necessary  
16 as a requirement of participation in a federal program.

17 (4) (a) A permit under this chapter is required for projects that  
18 meet the criteria of subsection (2) of this section and must be  
19 reviewed and, if appropriate, approved under this section. An  
20 applicant shall use the department's online permitting system or a  
21 paper or email joint aquatic resources permit application submission  
22 to apply for approval under this section and shall at the same time  
23 provide a copy of the application to the local government within  
24 whose geographical jurisdiction the project will be located, to the  
25 members of the multiagency permitting team created in this section,  
26 and to potentially affected federally recognized tribes.

27 (b) When the department concludes that a complete application has  
28 been submitted under this section and copies of the application have  
29 been provided as required in this section, the department shall  
30 provide notice to the local government within whose geographical  
31 jurisdiction the project will be located, to potentially affected  
32 federally recognized tribes, and to the members of the multiagency  
33 permitting team of receipt of a complete permit application.

34 (i) Unless the multiagency permitting team process described in  
35 this section is invoked, the department shall evaluate and make a  
36 decision on the application not sooner than 25 days, and not later  
37 than 45 days, after receipt of a complete permit application.

38 (ii) Within 25 days of receiving a copy of the complete project  
39 application, the local government within whose geographical  
40 jurisdiction the project would be located, any member of the

1 multiagency permitting team, or a potentially affected federally  
2 recognized tribe may request that the department place the  
3 application on hold and immediately convene a meeting with the  
4 requesting entity and the multiagency permitting team to review and  
5 evaluate the project.

6 (iii) All parties involved in this review process shall work in  
7 good faith to expedite permitting and any party with concerns shall  
8 provide the basis for its concerns and potential pathways to address  
9 those concerns. Any party objecting to expedited permitting shall  
10 provide a written basis for its objections to the department or the  
11 multiagency permitting team.

12 (iv) The multiagency review process may not exceed 45 days from  
13 the request for review.

14 (c) The multiagency permitting team consists of representatives  
15 of the local government in whose geographical jurisdiction the  
16 project would be located, the department, the department of ecology,  
17 the recreation and conservation office, the governor's salmon  
18 recovery office, the department of natural resources, and, when the  
19 project in question is located in the Puget Sound basin, the Puget  
20 Sound partnership. For projects located in the Puget Sound basin,  
21 meetings of the multiagency permitting team must be facilitated by  
22 the Puget Sound partnership. All other meetings of the multiagency  
23 permitting team must be facilitated by the recreation and  
24 conservation office.

25 (d) The department or, where applicable, the multiagency  
26 permitting team, shall exclude any project from the review and  
27 approval process created by this section if it concludes that the  
28 project may adversely impact human health, public safety, or the  
29 environment, or that the project's scope or complexity renders it  
30 inappropriate for expedited review.

31 (e) If the department or the multiagency permitting team  
32 determines that the review and approval process created by this  
33 section is not appropriate for the proposed project, the department  
34 shall notify the applicant, the appropriate local government, and  
35 potentially affected federally recognized tribes of its  
36 determination. The applicant may reapply for approval of the project  
37 under generally applicable review and approval processes. If the  
38 multiagency permitting team determines that the review and approval  
39 process created by this section is appropriate for the proposed  
40 project, the hold on the application must be lifted and the

1 department shall make a decision within the time that remains of the  
2 original 45-day decision deadline.

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

6 (g) The department shall, in a timely manner, provide a copy of  
7 any application seeking review under this section and shall  
8 thereafter coordinate with affected federally recognized tribes as it  
9 implements this section.

10 (5) No local or state government may require permits or charge  
11 fees other than the permit issued under this section, except permits  
12 minimally necessary as a requirement of participation in a federal  
13 program, for fish recovery (~~(pilot)~~) projects that meet the criteria  
14 of subsection (2) of this section and that are reviewed and approved  
15 according to the provisions of this section.

16 (6) No civil liability may be imposed by any court on the state  
17 or its officers and employees for any adverse impacts resulting from  
18 a fish recovery stimulus (~~(pilot)~~) project permitted by the  
19 department under the criteria of this section except upon proof of  
20 gross negligence or willful or wanton misconduct.

21 (~~((7) This section expires June 30, 2025.))~~)

22 **Sec. 3.** RCW 43.21C.515 and 2021 c 75 s 3 are each amended to  
23 read as follows:

24 (~~((1))~~) A project that receives a permit pursuant to RCW  
25 77.55.480 is not subject to the requirements of RCW 43.21C.030(2).

26 (~~((2) This section expires June 30, 2025.))~~)

27 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of  
29 the state government and its existing public institutions, and takes  
30 effect June 30, 2025.

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