

Salmon Recovery Legislation Discussion



WSSC Regular Meeting – January 20, 2022

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BACKGROUND

- Salmon populations continue to decline, and riparian habitat restoration is occurring at a pace insufficient to meet protection goals.
- 2019 Centennial Accord – Gov Inslee commits to working with tribes on solutions for salmon recovery, with particular focus on riparian habitat protection and restoration.
- Discussions begin fall 2019, SCC included with state agencies. Discussions took a hiatus due to the pandemic.
- Fall 2020, discussions resume.

BACKGROUND

- July 2021, the Commission is briefed on the progress of the discussions. After discussion, the Commission unanimously passed the following motion:

Motion by Commissioner Cochran to direct SCC to participate in the state/tribal riparian process, consistent with agency mission, to conserve natural resources on all lands in Washington through technical assistance and voluntary, incentive based solutions in collaboration with conservation districts and other partners. Seconded by Commissioner Crose. Commissioner Beale abstains. Motion carries.

BACKGROUND

- December 2021, discussions facilitated by the Governor's office result in the Governor's request legislation HB 1838.
- Formally titled the Lorraine Loomis Act
- A hearing was held on the bill on Thursday, Jan 19 in the House Rural Development, Agriculture, and Natural Resources Committee.

HB 1838

- Requires all public and private landowners owning property adjacent to a water body identified and mapped on a riparian zone map to establish, maintain, and protect a riparian management zone (RMZ).
- Landowner may request of WDFW a validation of compliance with the requirements of the bill.
- Nothing in the bill limits the ability of the landowner to participate in federal or state conservation programs, including enrolling or reenrolling in federal conservation programs.

HB 1838

Exemptions:

- Enrolled in CREP
- Certain legally permitted uses in the shoreline area
- Covered by road, trail, building, or other structure existing at the time of the act
- Regulated by an NPDES permit
- Regulated by forest practices
- Small parcel where RMZ would cover more than 50 percent of the parcel. Reduction in the size of the RMZ must maximize riparian function and take into consideration opportunities for cost share.

HB 1838

Mapping:

- WDFW is to develop a map of RMZs on salmon and steelhead bearing rivers and streams for each watershed.
- RMZ map must include rivers, streams, and floodplains that support salmon recovery, including those in undeveloped UGAs.
- WDFW must prioritize watersheds in need of RMZ restoration and water quality improvements.
- Priorities must be developed in consultation with tribes.

HB 1838

WDFW shall adopt rules:

- (a) The application of the riparian management zone requirements and timelines;
- (b) The process and criteria for reducing or exempting riparian management zone requirements for small parcels;
- (c) Ensuring exceptions minimize loss of riparian function;
- (d) The process and criteria for prioritization of watersheds; and
- (e) The criteria to be used to establish progress goals for priority watersheds.

HB 1838

The SRFB is to develop and implement a statewide riparian habitat conservation grant program as an opportunity to cost share with landowners.

The board may determine when block grants may be made for the purposes of distributing the funds to the highest priority watersheds.

Funds may only be used for projects consistent with the WDFW riparian zone maps.

HB 1838

- In priority watersheds, WDFW shall provide landowners with an offer of cost share.
- The offer may also come from a state agency, board, office, or commission where WDFW determines the offer meets the riparian conditions.
- Cost share is 70 percent, 90 percent if economic hardship.
- Cost share covers establishing the zone, labor, equipment, fencing, yearly maintenance up to 5 years.
- If more than .5 acres is removed from production, cost share offer is to include costs of removing the land from production.

HB 1838

- In priority watersheds where progress on goals established by WDFW have not been met, and where a cost share offer has been made, WDFW shall take additional action to secure compliance.
- If landowner not in compliance, WDFW provides landowner with list of action needed with a timeline.
- If the landowner does not comply, WDFW shall pursue compliance and enforcement and must notify Ecology.
- Any act of commission or omission that procures, aids, or abets in the violation of the bill is considered a violation under the provisions of this section and subject to the penalty provided.

HOW DOES THE BILL IMPACT OUR WORK?

- The bill adds a new element to landowner technical assistance, by providing WDFW with new authority to engage with landowners and provide technical assistance.
- But the bill also allows other entities to provide a cost share offer.
- Not clear who handles the cost share contract.
- If a CD provides technical assistance to a landowner in a priority watershed with mapped RMZ, the district must inform the landowner of the new buffer requirements.

HOW IS THE RIPARIAN ZONE DETERMINED

- There are no specific buffer widths in the bill.
- Buffers are determined based on the applicable riparian zone at the site.
- The width is based on a number of considerations of the key riparian ecosystem functions that are sought.
- The functions will change with distance from the stream channel.
- Refer to diagrams in the memo.

HOW DOES THE BILL AFFECT EXISTING BUFFERS?

- Existing buffers are not specifically mentioned, other than CREP buffers.
- There is no specific exemption for existing buffers. Therefore if an existing buffer is in place and not enrolled in CREP, it is not exempt.
- However, WDFW is authorized to develop a process where a landowner may request from WDFW a “validation of compliance”.
- This process is not detailed in the bill and would be left for WDFW rulemaking.

HOW DOES THE BILL AFFECT EXISTING CREP AND RE-ENROLLMENTS?

- Refer to FSA memorandum of January 19, 2022

“As stated under these provisions, land would be determined ineligible if there are restrictions on the land use prior to enrollment in CRP or if there are Tribal, State or other local laws that require any resource conserving or environmental protection measures or practices, and the landowners have been notified. Publication of the law is considered landowner notification.”

WILL CDS STILL BE ABLE TO PROVIDE TA?

- Yes. TA covers a wide variety of issues.
- If providing TA to landowners meeting the criteria of the bill, the district must inform the landowner of the requirements of the bill.
- SCC funding may still be used for BMPs in the riparian area, but must be consistent with the requirements of the bill.
- A district could assist a landowner with obtaining “validation of compliance” from WDFW for existing buffers where appropriate.

HOW DOES THIS AFFECT SCC FUNDED RIPARIAN BMPs?

- WDFW requirements become the standard to be met in the riparian area.
- SCC funding must support the riparian zone requirements.
- Otherwise, the landowner could still be liable for possible enforcement.
- Unless WDFW were to grant a “validation of compliance”

HOW DOES THE BILL IMPACT VSP?

- VSP jurisdictions with priority watersheds and riparian maps completed by WDFW, would need to re-do their VSP work plans to incorporate the new RMZ requirements.
- The new work plans would also need to be modified to incorporate other aspects of the bill such as TA by WDFW.

WHAT HAPPENS TO CREP LAND NOT RE-ENROLLED?

- The riparian buffer would revert to being governed by existing state and local requirements.
- The bill only exempts lands while enrolled in CREP.
- A landowner with land no longer enrolled in CREP would need a “validation of compliance” from WDFW.

OPTIONS

Staff have identified three options for Commission consideration:

- Option 1 – Support the bill.
- Option 2 – Remain neutral and offer ideas on how voluntary, incentive-based approaches can meet the objectives of improving riparian areas and salmon populations.
- Option 3 – Oppose the bill and seek more resources for incentive-based programs.

OPTIONS

- With our voluntary, incentive-based mission in mind, SCC staff recommend option 2.
- If the Commission selects option 2, staff recommends the formation of a “riparian team” consisting of SCC, WACD, and conservation district staff to develop goals and objectives of a SCC riparian program to be presented to the Commission at a later date.

OPTIONS

- The memo outlines several considerations for each option to help Commission members think-through and discuss the options.
- You are not limited to these options. You may identify others.



Discussion



Washington State
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