



Washington's Hydraulic Project Approval Program Hydraulic Code Implementation Citizen Advisory Group

Thursday, September 1, 2022

10:00 a.m. – 12:00 p.m.

Online meeting via Teams

DRAFT Meeting Notes v.9-8-2022

Attendance

Citizen Advisory Group (CAG) Members	
Norm Peck	Kimbal Sundberg
Edrie Risdon	Tony Warfield
Jenny Rotsten	Tina Whitman (alternative)

Washington Department of Fish and Wildlife (WDFW) Staff: Liz Bockstiegel (HPA Coordinator), Matt Curtis (Protection Division Manager), Hannah Faulkner (HRPP Coordinator), Theresa Nation (Environmental Planner and HCICAG Chair).

Facilitation (Triangle Associates): Annalise Ritter, Peter Walters

Action Items

Item	Responsible
Ask CAG for meeting preference and availability for December 2022 meeting.	Triangle
Begin recruitment of new CAG members once the rule making process is less busy.	Theresa
Consider updates to the CAG charter.	Theresa

Welcome and Introductions

The facilitator opened the meeting. WDFW staff and HCICAG members introduced themselves. The agenda was reviewed.

Replacement of the Aquatic Protection Permitting System (APPS)

Hannah Faulkner and Liz Bockstiegel gave an overview of WDFW's effort to replace APPS with a new system. WDFW is contracting with Integrated Solutions Group (ISG) to develop a feasibility study to provide more insight and a cost outline that can be presented to the legislature. Currently ISG is conducting interviews with internal users (staff who evaluate, monitor, and approve applications) to evaluate APPS. Provided funding continues, the next stages would see ISG engage the public, CAG, and other stakeholders in interviews about APPS for information gathering.

Comments and questions from the CAG included:

- **Where are we at with funding?**

Information is being gathered so a funding request can be made. No timeline given for

when that funding request would be made.

- ***Have previous complaints about APPS performance and interface been updated or fixed?***

The feasibility study is nearing a stage to gather external input which will address and identify issues to be changed in the future.

- ***Has the APPS system, as it exists now, seen a decrease in complaints about interface issues for users?***

ISG is pooling information about internal user's experiences to address some of those issues. It was noted that APPS is 8 years old, which is old for software. APPS has had enhancements, but it is due for an update overall.

- **Will there be a mobile version to allow flexibility to access and add documents, or will it be strictly computer accessible?**

The consultant building that software will make that determination based on what we need and how it would impact the overall software. The hope is there will be mobile, and flexibility built in based on user input.

- **Norm recommended including user representatives on the IT / Consultant board to help develop the new system.**

Hannah noted they are at the internal stage but once they hit the public stage, they will include public users and other entities that must access and use the application.

- **Is there a tentative timeline for this process?**

ISG plans to complete internal interviews and the feasibility study by the end of year. The goal is to make a recommendation to the legislation during the 2023 session. The contract for deliverables extends until December 16th, but ISG intends to complete deliverables sooner unless an issue arises.

Update on the Habitat Recovery Pilot Program (HRPP)

Hannah Faulkner gave a presentation about HRPP. See attached slides. Also see links for updates and information.

Link to RCW 77.55.480

[RCW 77.55.480: Habitat recovery pilot program. \(Expires June 30, 2025.\) \(wa.gov\)](#)

Link to WDFW's HRPP Page

[Habitat Recovery Pilot Program | Washington Department of Fish & Wildlife](#)

Comments and questions from the group included:

- **How is permitting streamlined?**

Under HRPP, with exceptions, the only permit required for qualified project is the WDFW's HPA. Permits involving federal programs are still required.

HRPP has a Multi-Agency Permitting (MAP) team. The team meets twice monthly, or as needed for urgent projects, to discuss projects, programs, and updates.

- **How does a project qualify for HRPP?**

A project must directly benefit fish or their habitats; be reviewed, approved or funded by one of the 13 restoration programs listed in statute; fall within documented local, state, and federal flood risk reduction requirements; be reviewed by Department of Archaeology and Historic Preservation including federally recognized tribes; and seek

land use authorization by the Department of Natural Resources if it occurs on state-owned aquatic lands.

How many HRPP projects have been approved?

Three HPAs have been issued under the HRPP for marine shoreline armor removal. Five more have been submitted for various projects.

- **How does MART assist with federal agency bottlenecks?**

It was noted multiple times that the approval process at the federal level can slow down projects. The Multi-Agency Review Team (MART) is an emerging group of federal and state regulatory staff working together to streamline the permitting process for restoration projects under existing pathways. HRPP is working with MART to support permit streamlining where applicable

- **HRPP states the need to contact local government during the permitting process, how is this done?**

To apply for an HPA under the HRPP, applicants must document and attest prior communication to local governments and provide contact information in the application. After an application is accepted (as statutorily complete) WDFW will also notify the local government, affected Tribes and MAP team. The local government affected tribes and MAP team members have 25 days to present any concerns (as identified in statute).

- **Projects can require water quality modifications; how would that impact the process?**

If the water quality is required federally, it must be done. The HRPP can only streamline local and state permits.

Rule-making Overview and Discussion

Theresa Nation led an overview of rule changes, updates, and discussion. Industrial Economics has been contracted to prepare a Small Business Economic Impact Statement (SBEIS) and cost benefit analysis (CBA) as part of the rule-making process. The SBEIS and CBA will be available online at time of publication. The publication date is October 5th. Public comment periods for both (SEPA) and the proposed rule changes will run Oct. 5-31. The Washington Fish and Wildlife Commission will be briefed on the proposal and host a public hearing on Oct. 28. The Commission will receive a final briefing and vote on rule adoption on Nov. 18. The final rule will be filed at the Office of the Code Reviser in December and go into effect 30 days later. See attached slides for more information.

Comments and questions from the group included:

- **If shoreline stabilization regulation is based on the ordinary high-water mark (OHWM), what does the impact of climate change have on replacement / protections measures?**

Matthew Curtis noted that the current language says proposed plans must consider the least impacting technically feasible alternative. With that framework, the current OHWM or re-established OHWM would be considered for any project. However, currently WDFW has no guidelines on how to design shoreline stabilization plans based on climate change impacts. Staff within WDFW have developed guidance for climate-adapted culverts and may do something similar in the future for marine shoreline stabilization. The senate bill does call out climate change and its impacts.

- **Is the term passive within the statute? If so, what does that mean as it implies no**

action. Changing the term to low impact or restoration would be a better term.

The term passive comes from the Marine Shoreline Design Guidelines and refers to projects that don't involve a structure or modification to the shoreline. Vegetation planting, for example, which also does not require an HPA permit. However, if someone proposed a more impactful project, they would need to conduct an alternatives analysis before they can determine if it is the least impactful alternative. Theresa noted the terminology has been corrected for consistency in the updated rule to address issues like this concern.

- **Sea level rise is already happening. It will be an impetus for more bank stabilization projects and permits. It should be included within the new regulations and considerations. Sea Grant and the Federal Emergency Management Agency (FEMA) provided new maps of sea level rise, high-water marks, and new projections.**

WDFW is approaching climate change regulation through the new fish passage rule under development. While the process is ongoing, the language of the rule attempts to have WDFW keep climate change within consideration going forward. Matthew Curtis noted that permitting for repair, retrofitting or restoration also involves local jurisdictions. Developing and maintaining relationships with those governments will be important to tackle these issues.

- **Does feasible language allow for existing structures (such as septic tanks) to remain with armor? Ideally things would be moved.**

Moving a threatened structure out of harm's way is always preferable. However, the baseline conditions for an HPA application include the presence of the threatened object. The object can continue to be protected by armor if replacement of the armor is shown to be the least impacting technically feasible alternative. Otherwise, the armor must be replaced with a less impacting approach.

Round Table Discussion

Tony noted that there are three open positions needing to be filled. A Port Biologist for the Port of Tacoma and two liaisons for the National Marine Fisheries Service. Both opportunities are posted on GovernmentJobs.com and sent in chat to participants.

Kimbal gave an update about the commercial fishing boat that sunk off the coast of San Juan and the progress by Coast Guard, ECU, and WDFW on the cleanup.

Wrap Up and Next Steps

The group discussed whether to have an in-person, hybrid, or virtual meeting for their next convening in December 2022. CAG members in attendance expressed a preference for virtual or hybrid due to travel logistics; others had no preference. Kimbal noted he is unavailable on the 3rd Thursday of each month for future meetings.

Theresa Nation mentioned the open seats on the CAG and that she will focus on recruitment after the current rule making process slows down. The CAG charter needs to be updated. The group agreed to discuss the timing and needs for charter updates over email.

The group identified the following potential topics for the next meeting:

- Update on HPA rule making
- Overview of rulemaking concerning SSB 5381 regarding fish habitat
- Updates on culvert replacements

- Integration of National Marine Fisheries Service (NMFS) mitigation and in lieu fee programs

There were no public comments or attendees. The meeting adjourned at 12:00 p.m.