

HPA Rule Making Regarding SHB 1085 Plastics Reduction

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Chapter 220-660 WAC: Hydraulic Code Rules

Establish regulations for administration of the Hydraulic Project Approval (HPA) permitting program

- Definitions
- Administrative procedures for obtaining an HPA
- Criteria generally used by the department to review and condition hydraulic projects to protect fish life
- Steps for HPA appeals and civil compliance



SHB 1085

Substitute House Bill 1085 was passed by the state legislature in 2023

- Bill intent was to reduce unnecessary plastic waste and sources of plastic pollution in the environment
- Bill section 3 amended Chapter 70A.245 RCW (Environmental Health and Safety-Recycling, Waste, and Litter Reduction)
 - Administered by the Dept. of Ecology



SHB 1085

Section 3

Prohibits the sale, distribution, or installation of overwater structures, blocks or floats containing polystyrene foam that is not fully enclosed and contained in a shell made of:

- plastic with a minimum thickness of 0.15 inches
- concrete
- aluminum
- steel

Effective January 1, 2024



Who is in charge?

New law “belongs to” Ecology

- Statutory authority from RCW 70A.245
- Ecology responsible for the administration and enforcement

WDFW has already been regulating the use of floats for years in HPA permits (WAC 220-660)

- Statutory authority from RCW 77.55, including administration and enforcement





Rule Making

Rule Making Objectives

WDFW is undergoing rule making for Chapter 220-660 WAC to create consistency with the new law in RCW 70A.245.

Differences in language between the new law and the Hydraulic Code Rules could be confusing even though both regulate floats.

Opportunity to create uniform language for both the freshwater and saltwater HPA rules regarding flotation.



Rule Proposal

Freshwater: WAC 220-660-140(3)(e)

~~Fully enclose and contain~~ Flotation for the structure must be fully enclosed and contained in a shell ~~(tub) or 20 - 25 mm polyethylene or polyurethane wrap~~. Flotation containing expanded or extruded plastic foam must be enclosed in a shell made of plastic with a minimum thickness of 0.15 inches, concrete, aluminum, or steel. The shell ~~or wrap~~ must prevent breakup or loss of the flotation material into the water. The shell ~~or wrap~~ must not be readily subject to damage by ultraviolet radiation and abrasion.



Rule Proposal

Saltwater (float design): WAC 220-660-380(5)(h)

Flotation for the structure must be fully enclosed and contained in a shell ~~(tub)~~. Flotation containing expanded or extruded plastic foam must be enclosed in a shell made of plastic with a minimum thickness of 0.15 inches, concrete, aluminum, or steel. The shell ~~or wrap~~ must prevent breakup or loss of the flotation material into the water. The shell ~~or wrap~~ must not be readily subject to damage by ultraviolet radiation and abrasion.



Rule Proposal

Saltwater (replacement docks): WAC 220-660-380(9)(f)

Flotation for the structure must be fully enclosed and contained in a shell ~~(tub)~~. Flotation containing expanded or extruded plastic foam must be enclosed in a shell made of plastic with a minimum thickness of 0.15 inches, concrete, aluminum, or steel. The shell ~~or wrap~~ must prevent breakup or loss of the flotation material into the water. The shell ~~or wrap~~ must not be readily subject to damage by ultraviolet radiation and abrasion.





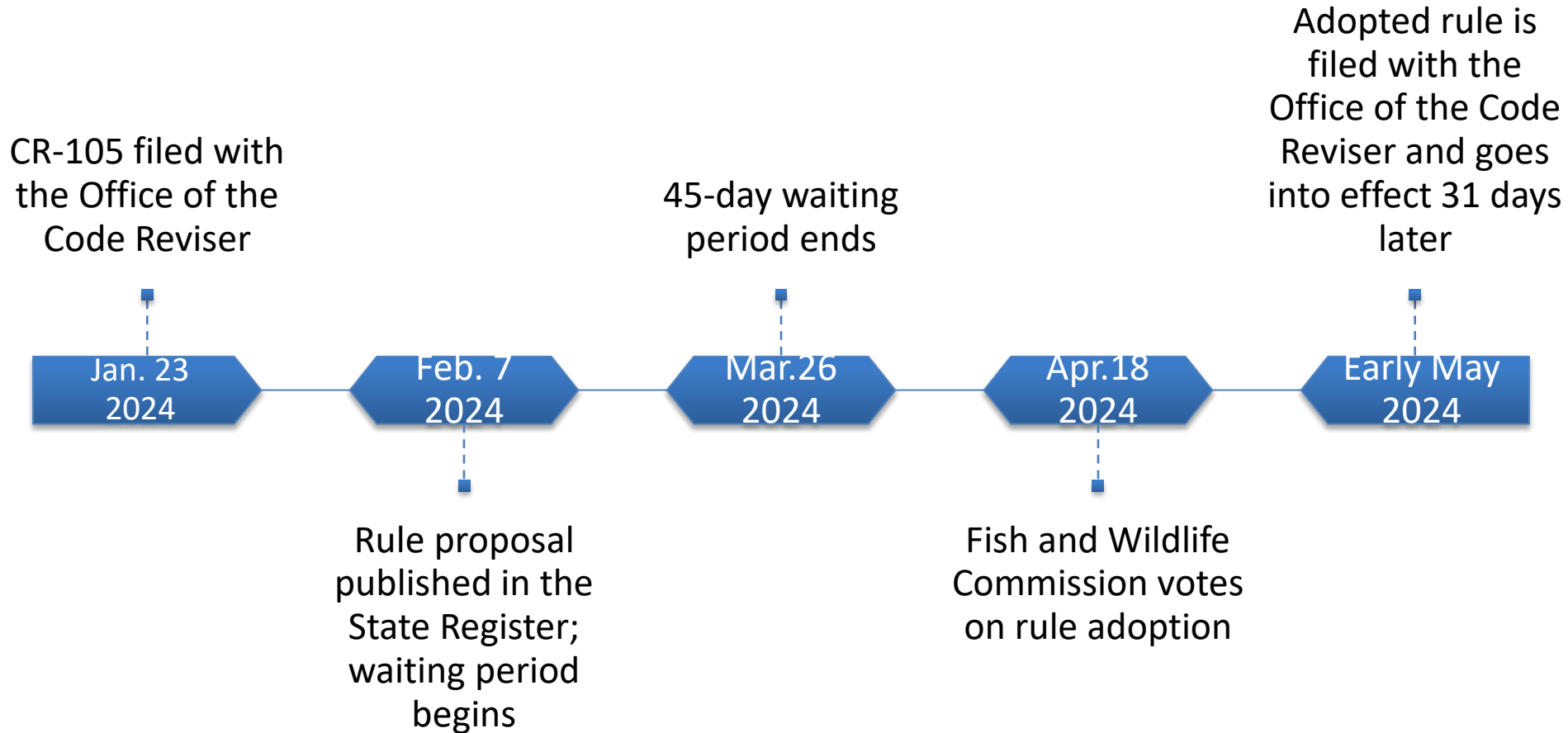
Rule Making Timeline

Expedited rule steps

1. File a notice and proposed rule with the Office of the Code Reviser (OCR) for publication in the State Register.
2. APA requirements waived: SBEIS, significant legislative rule analysis, and public hearing.
3. A 45-day waiting period is initiated the day the rule proposal is published in the State Register. Any person may file a written objection to expedited rule making during this time.
4. If no objection is filed, the rule may be adopted by the FWC without any further notice.
5. An order adopting the rule is then filed with OCR. The new rule becomes effective 31 days after filing.



Expedited rule timeline



Outreach

Input requested from the following:

Department of Ecology

Department of Natural Resources

Tribes

Hydraulic Code Implementation Community Advisory Group

Industry: Marine Floats

Bellingham Marine

Northwest Marine Trade Association

US Army Corps of Engineers



Questions?

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