



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Washington Department of Fish and Wildlife

Subject of possible rule making: SHB 2935, which was signed by the Governor to take effect on July 1, 2010, revises the manner in which appeals of hydraulic project approval (HPA) decisions and orders imposing civil penalties are handled. The Washington Department of Fish and Wildlife (WDFW) needs to update its rules consistent with SHB 2935. In addition, the department will modify the methods of filing informal appeals.

Statutes authorizing the agency to adopt rules on this subject: RCW 77.12.047; 77.55.021 as amended by SHB 2935; and 77.55.181

Reasons why rules on this subject may be needed and what they might accomplish: SHB 2935 eliminates the Hydraulic Appeals Board and replaces it with the Pollution Control Hearings Board created in chapter 43.21B RCW. All formal appeals of HPA decisions and orders that impose civil penalties and were formerly heard by the Hydraulic Appeals Board or an administrative law judge through the Office of Administrative Hearings will now be heard by the Pollution Control Hearings Board. SHB 2935 also allows appeals for denied, issued, conditioned, or modified HPAs, and impositions of civil penalties for chapter 77.55 RCW violations, to be informally made to WDFW or formally taken to the pollution control hearings board. WDFW must amend its HPA rules to be consistent with SHB 2935.

In addition, technological advances allow requests for appeals to be submitted in ways not currently allowed by rule. WDFW anticipates modifying the rules to allow additional methods of submitting appeal requests.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The Environmental and Land Use Hearings Office of the State of Washington, which houses the Pollution Control Hearings Board. WDFW will send its rule proposals to the Environmental and Land Use Hearings Office for review and comment.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Contact Lisa Wood, WDFW Habitat Program, 600 Capitol Way North, Olympia, WA 98501-1091
Phone (360) 902-2260; e-mail at Lisa.wood@dfw.wa.gov.

Contact by June 9, 2010. Expected proposal filing on or after June 23, 2010.

DATE
April 29, 2010

NAME (TYPE OR PRINT)
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

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