

“GREEN SHEET”

Meeting dates: July 2, 2010, Commission conference call

Agenda item A: **Hydraulic Permitting Approvals (HPA) Administrative Appeals Process Changes – Rule Briefing**

Staff Contact: Lisa Veneroso, Assistant Director, Habitat Program

Presenter(s): Lisa Wood, HPA Appeals Coordinator, Habitat Program

Background:

During the 2010 legislative session, the Legislature passed SHB 2935, a bill requested by the Governor to save money by consolidating various boards and committees. SHB 2935 made several changes to statutes governing state environmental and land use hearings boards. One change eliminates the Hydraulic Appeals Board and replaces it with the Pollution Control Hearings Board created in Chapter 43.21B RCW, effective July 1, 2010.

All formal appeals of HPA actions and orders imposing civil penalties 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. Washington Department of Fish and Wildlife (WDFW) must amend its HPA appeal rules to be consistent with the changes that SHB 2935 makes to Chapter 77.55 RCW. In addition, WDFW is clarifying its rules for informal appeals. The Director approved emergency rules to implement this statute and clarify informal appeal procedures in June, 2010. Those rules expire in October, 2010.

Policy issue(s) you are bringing to the Commission for consideration:

The Commission is being asked to adopt rules for HPA appeals under Chapter 77.55 RCW.

Public involvement process used and what you learned:

On July 7, 2010, the Department sent out the proposed rules for a 20-day public comment period. Staff will brief the Commission on any comments received.

Action requested:

This is a rule briefing only. The public hearing opportunity will be at the August 6-7, 2010, Commission meeting. Because we anticipate limited public comment on HPA appeals and the proposed rules have very minor impact on the public, we request that the Commission consider adoption of final rules at the same August 6-7, 2010, meeting.

Draft motion language:

N/A

Justification for Commission action:

WDFW must amend its HPA appeal rules to be consistent with the changes that SHB 2935 makes to Chapter 77.55 RCW. In addition, WDFW is clarifying its rules for informal appeals. The Commission is authorized to adopt rules changing Chapter 77.55 RCW under RCWs 77.12.047 and 77.04.020.

Communications Plan:

WDFW will send out a press release summarizing the modified rules, modify the appeal language that is printed on issued HPAs, and add a section on HPA appeals to Habitat Program’s HPA “Frequently Asked Questions” Internet webpage.
