Recommended Adjustments to the CR-102 Rules

1) **Grammar, punctuation and numbering corrections**

2) **Plain talk improvements**

   a. **Use everyday words**

   Example changes

   "Commencing" is changed to "starting".

   "May be granted for" is changed to "are valid for".

   "Provided" is changed to "if".

   "Infrastructure" is changed to "structures or other improvements of value".

   "A minimum" is changed to "at least".

   b. **Reduce sentence clutter**.

   Example change

   Was However, an HPA is required for the construction of appurtenance hydraulic structures, such as bulkheads or boat ramps that use, divert, obstruct, or change the bed or flow of any of the salt or fresh waters of the state.

   Now However, an HPA is required to construct accessory hydraulic structures, such as bulkheads or boat ramps.

   c. **Place key points upfront**

   Example change

   Was Any remaining unavoidable impacts must be mitigated or a mitigation plan must be submitted to the department for approval within ninety days after completion of a hydraulic project authorized in an expedited HPA.

   Now Within ninety days after a hydraulic project authorized in an expedited HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

3) **Changes to improve consistency**

   Example changes

   "Below the ordinary high water line" is changed to "waterward of the ordinary high water line".

   "Fish habitat" is changed to "habitat the supports fish life".

   "Work site" is changed to "job site".

   "Prevent" is changed to "avoid".

   "Stocks" is changed to "populations".

   "Avoid and minimize" is changed to "protect".

   "Timber" is changed to "trees".

   "Addressed" is changed to "mitigated".

   "Quantity" is changed to "quantity by habitat type".

   "Critical life history stages" is changed to "sensitive life history stages".

4) Changes to improve clarity

Example changes

We added "authorizing agencies". For example, "…the department will provide to tribes and local, state, and federal permitting or authorizing agencies…

Was 030(4) Examples include nutria, waterfowl, amphibians, fish, and shellfish.

Now 030(4) Examples include certain species of waterfowl, amphibians, fish, and shellfish; and nutria.

Was Design and locate structures to avoid and minimize unavoidable impacts to freshwater habitats of special concern.

Now The design and location of structures must follow the mitigation sequence to protect freshwater habitats of special concern.

5) Other changes to improve consistency and clarity

Amendments to WAC 220-110-030 Definitions

83) "Lake" means any natural standing fresh waters or artificially-impounded natural fresh waters of the state, except impoundments of the Columbia and Snake rivers.

(87) "Major modification" means any change to a hydraulic project approval that is not a minor modification.

(102) "Mitigation sequence ~~ing~~" means ~~taking~~ the successive steps that ~~in~~ the ~~mitigation sequence. The~~ department and the applicant must consider and implement to protect fish life when constructing or performing work. These steps must be considered and implemented in the order listed: mitigation actions in the following sequential order: …

105) "Nearshore" means shallow waters where sunlight reaching the bed is sufficient to support the growth of submerged aquatic vegetation.

(106) "No net loss" means:
(a) ~~Avoidance or mitigation~~ Sequentially for avoiding impacts, minimizing unavoidable impacts, and compensating for remaining adverse impacts to fish life.
(b~~) Avoidance or mitigation~~ Sequentially avoiding impacts, minimizing unavoidable impacts, and compensating for net loss of habitat functions necessary to sustain fish life.
(c)~~Avoidance or mitigation~~ Sequentially avoiding impacts, minimizing unavoidable impacts, and compensating for loss of area by habitat type.
(d) Mitigation required to achieve no net loss should benefit the fish life being impacted.

(120) "Qualified professional" means a scientist, engineer, or technologist specializing in a relevant applied science or technology including fisheries or wildlife biology, engineering, geomorphology, geology, hydrology, or hydrogeology. This person may be certified with an

appropriate professional organization, and acting under that association's code of ethics and subject to disciplinary action by that association. A qualified professional can also be someone who, through demonstrated education, experience, accreditation, and knowledge relevant to the particular matter, may be reasonably relied on to provide advice within that person's area of expertise. This definition does not supersede other state laws that govern the qualifications of professionals that perform hydraulic projects.

(130) "Saltwater area" means those state waters ~~with salinity as high as 35 parts per thousand of dissolved salts. It includes~~ and ~~the~~ associated beds ~~below (~~waterward of~~)~~ the ordinary high water line in Puget Sound, the Strait of Juan de Fuca and the open coast. Saltwater areas include estuaries and other surface- water -connected wetlands that provide or maintain fish habitat that supports fish life ~~populations. Salinity in estuaries may range from 0.5 to 30 parts per thousand of dissolved salts.~~ This definition does not include irrigation ditches, canals, storm water treatment and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

(151) "Waterbody" means "waters of the state".

Amendments to WAC 220-660-040 Applicability of hydraulic project approval authority.

Portable Boat Hoists

(2)(i) We better defined "portable boat hoist" We added a maximum frame length of 15 feet and a provision that the hoist does not have a canopy. We also added timing windows for portable boat hoists installed in lakes where sockeye spawn on the beaches.

(2)(k) Forest practices hydraulic projects, as defined in chapter 76.09 RCW and governed in Chapter 222 WAC; and…

Amendments to WAC 220-660-050 Procedures

(3)(ii)(A)(III) The department may make an exception for a projects the department has scoped prior to application submittal or when no pre-permit issuance site visits are needed.

(14)(e) … as long as the modifications do not adversely affect fish life or ~~their habitats~~ the habitat that supports fish life ~~populations~~. The permittee should contact the ~~biologist who issued the HPA~~ habitat program's Olympia headquarters office through email or the department online permit application system to request a minor modification.

(16)(f) The department will issue a letter documenting approved minor modification and a written HPA ~~if the request~~ documenting approved major modifications ~~is approved~~.

Amendments to WAC 220-660-060 Integration of hydraulic project approvals and forest practices applications.

The original WAC section was approved before all steps in the integration process occurred. The language is changed to reflect that integration has occurred but no substantial changes are made to the requirements.

Amendments to WAC 220-660-080 Mitigation requirements for hydraulic projects

(3)(c) … However, the department may not impose permit conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(3)(d) Mitigation includes all of the action steps in the mitigation sequence. We do not repeat the mitigation sequence here since it is defined in the definitions section.

(3)(g) All maintenance work must comply with the applicable common technical construction provisions and project-specific and site-specific construction provisions. Maintenance work that rehabilitates and replaces a structure must also comply with the applicable common technical design provisions.

(4)(b) When compensatory mitigation is needed to offset impacts, the department prefers compensatory mitigation actions that restore impacted habitat types and functions on-site or immediately adjacent to the impact site. If mitigation actions on or near the project ~~on-site or at an adjacent site~~ cannot mitigate the project impacts, then the department prefers compensatory mitigation actions at another location benefit the same fish life populations, habitat types and functions as those impacted by the project. However, the department must give due consideration to any compensatory mitigation proposal that improves the overall habitat functions in the watershed for the affected fish life populations at the project site.

(4)(c) ~~The department may not limit the scope of compensatory mitigation options to areas on or near the project site, or to habitat types that are the same type as those on the project site. The department must fully review and give due consideration to compensatory mitigation proposals that improve the overall fish habitat functions and values in the watershed for the affected fish populations at the project site. At the request of the project proponent,~~ The department must ~~also~~ accommodate the mitigation needs of the infrastructure or non-infrastructure development, including proposals or portions of proposals that are explored or developed in RCW 90.74.040. However, the department will not approve compensatory mitigation that does not provide equal or better ~~fish~~ habitat functions, ~~and~~ value~~s~~ and quantity.

(4)(f) …Structures that predate the hydraulic code or structures that were previously authorized under past versions of the hydraulic code are deemed legal structures.

(4)(h)(ii) The maintenance work does not comply with (3)(g)in this section.

(4)(i) ~~Maintenance work that rehabilitates and replaces a structure must comply with the applicable common technical provisions and project-specific and site-specific provisions.~~

(4)(k) The department may require monitoring to determine the extent and severity of impacts and the effectiveness of the compensation projects. The department may require ~~corrective measures to ensure performance goals and objectives specified in the HPA are achieved. The~~ a monitoring and contingency plan ~~must~~ to ensure the compensatory mitigation meets the performance goals and objectives specified in the HPA. This plan may be part of a larger mitigation plan.

(5)(c) When reviewing a mitigation plan under RCW 77.55.021, the department must, at the request of the applicant, follow the guidance contained in RCW 90.74.005 through 90.74.030. ~~An applicant may use a mitigation plan to propose compensatory mitigation within a watershed.~~ Pursuant to RCW 90.74.020, a mitigation plan must do the following:

(5)(c)(iii) The ability of the mitigation to address scarce fish habitat functions or types ~~or values~~ within a watershed;

WAC 220-660-110 Authorized work times in freshwater areas

(3)(a)(D)(vi) Other circumstances and conditions pertaining to the proper protection of fish life.

WAC 220-660-120 Common freshwater construction provisions.
(1~~) Common freshwater construction provisions can apply to many hydraulic projects. However,~~ Only applicable common construction provisions will be applied to a specific hydraulic project…

(4)(b) The ~~D~~ design and l~~ocate~~ location of new temporary access roads ~~to avoid or and minimize unavoidable~~ must follow the mitigation sequence to protect ~~erosion and delivery of sediment to~~ waters of the state from erosion and delivery of sediment.

(~~5)(a) Avoid or and minimize unavoidable intentional damage to or removal of riparian, aquatic, and wetland vegetation by confining the use of equipment to specific access and work corridors~~. ~~(5)(b)Avoid or and minimize unavoidable the use of equipment below the OHWL of rivers, streams, and lakes.~~ (5)(a) Confine the use of equipment to specific access and work corridors to protect riparian, wetland and aquatic vegetation.

(5)(d) Equipment used in or near water must use environmentally acceptable lubricants composed of biodegradable base oils. These are vegetable oils, ~~based lubricants~~ synthetic esters, and polyalkylene glycols. The department may waive this requirement for a small project

that has minimal use of equipment in or near the water if the duration of the project is forty-eight hours or less or if containment prevents the lubricants from entering waters of the state.

(6)(b) Do not stockpile construction material ~~below~~ waterward of the OHWML in waters of the state ~~rivers, streams, and lakes~~ unless authorized ~~to do so in the HPA~~ by the department.

(8) The provisions in this section were reordered to reflect the order of this work.

(8) Do not install block nets at sites with heavy vegetation, large cobble or boulders, undercut banks, or deep pools unless nets can be secured and maintained. ~~there is no difficulty securing and/or maintaining the nets.~~

(9)(b) … The department will ~~may~~ not require hydraulic analysis for ~~short-term~~ a bypass on a stream with low ~~stream~~ flow~~s~~.

(13)(i) Using a proven methodology, replace native riparian zone and aquatic vegetation, and wetland vascular plants (except noxious weeds) damaged or destroyed by construction. The department may require a vegetation monitoring and contingency plan.

(13)(j) The department must approve species composition, planting densities, and a maintenance plan for replanting on a site-specific basis. The species composition should be similar to the surrounding native vegetation whenever feasible.

(13)(m) The department may require fencing or other structures to prevent livestock, wildlife, or unauthorized persons from accessing the replanted riparian and wetland sites until the plantings are well established.

WAC 220-660-130 Stream bank protection and lake shoreline stabilization

(2) Stream bank protection and lake shoreline stabilization alter the bed or beach and the physical processes that form and maintain ~~fish~~ habitat that supports fish life. Direct loss of habitat may include loss of aquatic vegetation ~~cover~~, spawning gravel ~~beds~~, large woody material, riparian zone vegetation ~~function~~, and floodplain connectivity as well as alteration of the channel/beach. These losses and alterations decrease the complexity and diversity of ~~fish~~ habitats.

(3)(a) …This requirement does not apply to projects that address ~~localized~~ constriction or drop/weir scour or other scour caused by an existing structure.

(3)(e) Where technically feasible, the toe of the structure must be located landward of the OHWL, unless an alternative is shown to have a net benefit to fish life and the habitat that supports fish life. ~~Restrict the placement of material waterward of the OHWL to installing~~

~~mitigation features (e.g., logs, and rootwads) approved by the department.~~ Large wood or other materials consistent with natural stream processes can be placed waterward of the OHWL when approved by the department.

WAC 220-660-140 Residential and public recreational docks, piers, ramps, floats, watercraft lifts, and buoys in freshwater areas

(3)(a)(ii)(D)(III) In waterbodies with a high density of piers and docks, the department may require that grating cover entire deck surface of the pier or dock.

(3)(b)(i)(D) …Any objects that are not part of the structure on, above, or below the grating should not block light penetration.

(3)(f) Embedded anchor(s)~~Helical screw, "duckbill,"~~ or other approved anchor(s) or piling may hold floats in place.

(3)(h) The structure must have been usable at the site within the ~~past~~ twelve months immediately before ~~of~~ the time of application submittal to be considered a replacement structure. Usable means no major deterioration or section loss in critical structural components is present.

(3)(i) Replacement of more than thirty-three percent or two hundred fifty square feet of decking or replacement of decking substructure requires installation of functional grating in the replaced portion only. The grating must conform to the requirements in this section.

(4) Use the smallest diameter and ~~minimum~~ number of pilings required to construct a safe structure.

(7)(a) Operate and anchor vessels and barges during construction in a manner that ~~avoids or minimizes unavoidable such that they do not adversely impacts to~~ protects native ~~submerged~~ aquatic vegetation.

WAC 220-660-160 Marinas and terminals in freshwater areas

(4)(b) …Any objects that are not part of the structure on, above, or below the grating should not block light penetration.

(7)(e)(iii)(A) Cap all buried stumps with clean sediment that matches the native material.

WAC 220-660-170 Dredging in freshwater areas

(1) Dredging includes removing substrate or sediment from rivers and lakes to improve vessel navigation and to maintain navigational channels ~~and sediment traps for~~ flow conveyance. ~~River~~ Dredging is also used to ~~for flood abatement and to~~ clean up contaminated sediments.

(3)(c) The department may require a pre-project channel survey or assessment by a qualified professional to determine the root causes of a sediment deposition problem and the potential channel changes that may result from dredging. This provision does not apply to maintenance dredging of navigational channels and berthing areas, boat ramp and boat launch approaches, and hydroelectric dams.

WAC 220-660-190 Water crossing structures

(3)(b) ~~The water crossing structure must be designed to avoid and minimize measurable impacts to the expected channel functions and processes found at the site, or mitigate for impacts to them.~~ The design of the water crossing structure must follow mitigation sequencing to prevent measurable unmitigated impacts to the expected channel functions and processes found at the site.

(3)(f) The design must have at least three feet of clearance between the bottom of the bridge structure and the water surface at the 100-year peak flow unless ~~The department may grant an exception based on~~ or engineering justification shows a lower clearance ~~provided by the applicantfor sufficient~~ will ~~clearance that~~ allow~~s~~ ~~for~~ the free passage of anticipated debris.

(4)(d) … The department will approve encroachment into the expected pathway of lateral migration if the design follows the mitigation sequence ~~can be shown to avoid or minimize impacts~~ to protect s fish life and the habitat that supports fish life.

(10)(f) Vented (grade-separated) fords are preferred over at-grade fords because there is less aquatic disturbance and delivery of sediment and contaminants when traffic is separated from flowing water. ~~Traffic should be separated from flowing water by utilizing vented fords or other appropriate alternatives.~~

WAC 220-660-200 Fish passage improvement structures

(7)(a) If target fish species are present and actively migrating, fish ladders with AWS must have enough water ~~must be~~ available at all stream flows to pass fish safely and efficiently through the fish ladder or the main channel without the need of a fish ladder.

WAC 220-660-210 Channel relocation and realignment

(1) … Channel realignment is used to restore a single-thread, straightened channel(s) to a more natural sinuous pattern.

WAC 220-660-220 Large woody material placement, repositioning, and removal in freshwater areas

(2)(a) The removal and cutting of large woody material can adversely affect the natural channel-forming processes associated with wood accumulation in the channel…

(3)(a) If large woody material must be removed from the channel, the department will require compensatory mitigation if the wood removal including cutting diminishes ~~fish~~ habitat functions ~~of~~ or value.

WAC 220-660-290 Aquatic plant removal and control

Modified the list of sockeye lakes to those with beach spawning only.

WAC 220-660-320 Saltwater habitats of special concern

(1)(a)(vi) Feeder bluffs and other shoreforms that support geomorphic processes such as sediment delivery and movement that creates and maintains habitat that supports fish life.

(3)(b)(i) Pacific sand lance (Ammodytes hexapterus) spawning beds are located in the upper beach area in saltwater areas typically composed of fine to coarse sand and ~~d/or~~ small pea gravel;

(3)(b)(iv) Lingcod (Ophiodon elongatus) nesting areas located in high-relief rock;

(4)(a) The location and construction of hydraulic projects should ~~be located and constructed to~~ avoid impacts to geomorphic processes that create and maintain nearshore zone habitats ~~(geomorphic processes) that supports fish lifein the nearshore zone~~. ~~This is because iImpacts to~~ Geomorphic processes are difficult to replace or compensate for. ~~mitigate.~~

WAC 220-660-330 Authorized work times in saltwater areas

(3)(b)… April 1 through December 31 for projects in or adjacent to lingcod nests.

WAC 220-660-350 Seagrass and /macroalgae habitat surveys

(3)(b)(ii) ~~Evaluate if~~ Help the applicant ~~can~~ locate and construct the project ~~to avoid or minimize impacts~~ while following the mitigation sequence to protect seagrass and ~~,~~kelp beds, and ~~or~~ in herring spawning beds other macroalgae used as spawning substrate~~.; and~~
~~(iii) Establish a location for the project that will minimize impacts when avoidance is not possible.~~

(3)(d) The department will use an advanced surveys to estimate project impacts to seagrass and kelp beds and in herring spawning areas other macroalgae beds used as in herring spawning substrate. beds. Advanced surveys must occur between June 1 and October 1 and are conducted to:

WAC 220-660-360 Common saltwater construction provisions

(5)(c) Equipment used in or near water must use environmentally acceptable lubricants composed of biodegradable base oils. These are vegetable-based lubricants oils, synthetic esters, and polyalkylene glycols. The department may waive this requirement for a small project that has minimal use of equipment in or near the water if the duration of the project is forty-eight hours or less or if containment prevents the lubricants from entering waters of the state.

(7)(d) The department discourages the use of whole tires. However, products made from recycled tires specifically manufactured for use in the aquatic environment are approved by the department.

(9)(f) The department must approve species composition, planting densities and a maintenance plan requirements for replanting on a site-specific basis. The species composition should be similar to the surrounding native vegetation whenever feasible.

(9)(i) The department may require fencing or other structures to prevent livestock, wildlife, or unauthorized persons from accessing the replanted riparian and wetland sites until the plantings are well established.

WAC 220-660-370 Bank protection in saltwater areas

(1) To, but to be considered soft, the total area of the project must consist of at least eighty-five percent of the total project area in aerial extent must be constructed with naturally occurring materials used in a manner ways that mimics are consistent with the natural shore processes taking place in the vicinity of the project. In addition, the remaining fifteen percent of the total project area must not interrupt sediment delivery to the beach (e.g., must not bulkhead a feeder bluff) and still be called soft. The total project area extends cross-shore from MLLW to the OHWL, and long-shore from a line perpendicular to the shoreline at the beginning of one end of construction to the other end.

(3)(a) If repairs to the existing structure are completed an application for an HPA is submitted for repairs within three years of the breach, the bank protection structure may be repaired or replaced in the original footprint.

(3)(b) ~~Avoid or minimize adverse impacts to fish life by~~ Use ~~using~~ the least- impacting technically feasible alternative. The common alternatives below are in order from most preferred to least preferred:

WAC 220-660-380 Residential and public recreational docks, piers, ramps, floats, watercraft lifts, and buoys in saltwater areas

(3)(b) The design and ~~locate~~ location of structures must follow the mitigation sequence ~~to avoid or minimize impacts~~ to protect salt water habitats of special concern.

(3)(d) The structure must have been usable at the site within the past twelve months of the time of application submittal to be considered a replacement structure. Usable means no major deterioration or section loss in critical structural components is present.

(3)(e) Replacement of more than thirty-three percent or two hundred fifty square feet of decking or replacement of decking substructure requires installation of functional grating in the replaced section only. The grating must conform to the requirements in this section.

(4)(f) … Any objects that are not part of the structure on, above, or below the grating should not block light penetration.

(4)(i) Embedded ~~Helical screw or "duckbill"~~ anchor(s), pilings (with stops), and float support/stub pilings may be used to hold floats in place.

(6)(a) Use the smallest diameter and ~~minimum~~ number of pilings required to construct a safe structure.

(9)(d) …Any objects that are not part of the structure on, above, or below the grating should not block light penetration.

~~(10(a) Operate and anchor vessels and barges so that they do not adversely impact seagrass, kelp, or forage fish spawning beds.~~

10(e)(iv) Cap all buried stumps with clean sediment that matches the native material.

WAC 220-660-390 Boat ramps and launches in saltwater areas

(2) A boat ramp or launch covers ~~removes~~ seabed habitat that supports fish life ~~from use by fish and shellfish~~.

(3)(a)(i) The department ~~may~~ will require a~~n~~ seagrass/macroalgae habitat survey for all new ramp or launch construction unless the department can determine the project will not impact

seagrass and kelp beds and in herring spawning beds other macroalgae used as spawning substrate. A survey is not required ~~for replacement of~~ to replace an existing structure within its original footprint.

(3)(d) The department will authorize boat ramps and launches on marine accretion shoreforms (such as barrier beaches, points, spits, and hooks) only if there will be no impact to ~~natural physical~~ geomorphic processes that create and maintain ~~shoreform~~ nearshore habitats.

WAC 220-660-400 Marinas and terminals in saltwater areas

(3)(b) The department will ~~may~~ require a seagrass/macroalgae habitat survey for a new construction unless the department can determine the project will not impact seagrass and kelp beds and in herring spawning beds other macroalgae used as spawning substrate.

(3)(c)(iii) Locate new marinas and terminals in areas with existing low or impaired biological value such as heavily industrialized areas.

(3)(d) Whenever feasible, design marinas and terminals to allow light penetration to intertidal and shallow subtidal water areas.

(4)(b) The ~~Locate~~ location and ~~construct~~ construction of new marinas must follow the mitigation sequence ~~to avoid and minimize adverse im-pacts~~ to protect surf smelt and Pacific sand lance spawning beds, seagrass and kelp beds , kelp and intertidal wetland vascular plants.

(5) The ~~Locate~~ location and ~~construct~~ construction of new terminals must follow the mitigation sequence ~~to avoid or and minimize unavoidable adverse impacts~~ to protect saltwater habitats of special concern.

WAC 220-660-410 Dredging in saltwater areas

(3)(b) The ~~Design~~ design and construction of dredging projects must follow the mitigation sequence ~~to avoid or and minimize unavoidable dredging and expansions that convert~~ to avoid or minimize converting intertidal to subtidal habitat.

WAC 220-660-420 Artificial aquatic habitat structures in saltwater areas

(3)(d) ~~Artificial aquatic habitat structures must fill a habitat need identified in (a) of this subsection.~~ HPA applications must include the target fish species, species groups, or life stages that a person wants to enhance or rebuild. The critical habitat and environmental requirements of those species must be identified.

WAC 220-660-430 Outfall and tide and flood gate structures in saltwater areas

(4)(b) The ~~Design~~ design and ~~locate~~ location of outfalls ~~so that the~~ outflow~~, or~~ and any associated energy dissipaters must follow the mitigation sequence to ~~do not cause loss of fish and shellfishto avoid or and minimize unavoidable impacts to~~ protect saltwater habitats of special concern.

(4)(e) The department ~~may~~ will require a~~n~~ seagrass/macroalgae habitat survey for new construction unless the department can determine the project will not impact seagrass and kelp beds, and in herring spawning beds, other macroalgae used as spawning substrate. A survey is not required for ~~replacement of~~ to replace an existing structure within its original footprint.

WAC 220-660-440 Utility crossings in saltwater areas

(2) Trenching through banks and beaches alters habitat that supports fish life such as substrate characteristics and riparian zone vegetation, and therefore the~~ir~~ productivity of the nearshore zone.

(3) The design and ~~A person must~~ location of utility crossings must follow the mitigation sequence to protect ~~to avoid impacts to~~ saltwater habitats of special concern.

WAC 220-660-450 Test boring in saltwater areas

(3)(a) Take samples only within the project area approved by the department ~~proposed footprint of the hydraulic project~~;

WAC 220-660-460 Informal appeal of administrative actions An informal appeal is an appeal to the department pursuant to chapter 34-05-060 RCW (Administrative Procedures Act).

(8) Informal Appeal Hearing. If the appeal is received from a person who is not the permittee, or if the appeal involves an order imposing civil penalties, or if a resolution is not reached through the informal conference process, ~~the appellant is not the person who applied for the HPA, or the appeal involves an order imposing civil penalties,~~ then the HPA appeals coordinator or designee may conduct an informal appeal hearing or review.

WAC 220-660-470 Formal appeal of administrative actions A formal appeal is an appeal to the Pollution Control Hearings Board pursuant to chapter 34.05 RCW and chapter 371.08 WAC.

(6) The request must be plainly labeled as "Request for Formal Appeal" and, pursuant to WAC 371-08-340, must include the following:
(a) The appellant's name, mailing address, e-mail address (if available), and phone number; and if represented by another, the representative's name, mailing address, email address, and phone number;
(b) The specific department action that the appellant contests;

(c) The date the department issued, denied, provisioned, or modified an HPA, or the date the department issued the order imposing civil penalties;
(d) A copy of the order or permit you are appealing, and if ap-pealing a permit decision, a copy of the permit application;
(e) A short and plain statement explaining why the appellant considers the department action or order to provide inadequate protection of fish life or to be otherwise unjust or unlawful;
(f) A clear and concise statement of facts to explain the appellant's grounds for appeal;
(g) Whether the appellant is the permittee, HPA applicant, landowner, resident, or another person with an interest in the department action in question;
(h) The specific relief requested;
(i) The signature of the appellant or his or her representative.

(8~~) The request for a formal appeal must contain the information required by WAC 371-08-340~~…

WAC 220-660-480 Compliance with HPA provisions

(1) ~~Department~~ Technical Assistance program: Pursuant to chapter 43.05 RCW…

(1)(a) Technical Assistance is defined in chapter 43.05 RCW as including (i) information on the laws, rules, and compliance methods and technologies applicable to the department's programs; (ii) information on methods to avoid compliance problems; (iii) assistance in applying for permits; and (iv) information on the mission, goals, and objectives of the program.

(1)(b) "Technical Assistance documents" means documents prepared to provide information specified in subsection (a) of this section that is labeled a technical assistance document by the department. Technical assistance documents do not include notices of correction, violation, or enforcement action. Technical assistance documents do not impose mandatory obligations or serve as the basis for a citation.

(2)(a) Pursuant to RCW 43.05.030, ~~For the purposes of this chapter,~~ a technical assistance visit is defined as a visit by the department to a project site or other location that:

(2)(b) Notice of Violation. During a technical assistance visit, or within a reasonable time thereafter, the department must prepare a notice of violation to inform the person of any violations…

(2)(c) A ~~technical assistance~~ notice of violation is not a formal enforcement action and is not subject to appeal.

(3)(a) Procedures for correction of violations. If during any inspection or visit that is not a technical assistance visit,…

(4)(b) The department may issue a civil penalty without first issuing a notice of correction, as provided ~~for by law~~ in RCW 43.05.110,without first issuing a notice of correction if:…