Habitat Recovery Pilot Program
HCICAG

December 16, 2021

Josh Peters & Kelly Still

WDFW Habitat Program
What is the Habitat Recovery Pilot Program?

...and how did we get here?

- E2SHB 1382
- 2021 legislative session
- Effective 7/25/21
Implementation – Process

Habitat Recovery Pilot Program

1. Pre-qualifications
2. HPA application (with distribution)
3. HPA completeness (with notification)
4. Multiagency Permitting Team review (as needed)
5. HPA permit (as only state/local permit*)
Apply to WDFW using APPS

**Applicant sends a copy of the application to:**
- Local government
- Members of MAP
- Affected federally recognized tribes

WDFW reviews for statutory completeness
- Restoration project and is reviewed/approved or funded by qualifying restoration program
- Pre-qualifications satisfied/documented

**APPS Status: Accepted**
WDFW notifies
- Local government
- Affected federally recognized tribe
- MAP

**APPS Status: Statutorily incomplete**
Missing application material is requested

**APPS Status: On Hold**
MAP can exclude a project from the streamline process if it concludes that the project may adversely impact human health, public safety, or the environment, or that the project’s scope or complexity makes it not appropriate.

**APPS Status: Rejected**
Can reapply using standard application form

WDFW permitting biologist makes a decision on the application before 45 days

**APPS Status: HPA issued**
25-day comment period

**During 25-day comment period**
- Local govt.
- Member of MAP team
- Affected federally recognized tribe

Can request application be placed ON HOLD to convene MAP team and applicant in meeting

*Must provide WDFW with a written basis for its objections**

WDFW notifies local govt. and affected federally recognized tribes of this determination

MAP concludes streamlined review process is appropriate for the project, hold is lifted and WDFW makes decision in the time remaining
Project pre-qualification
RCW 77.55.480 – emphasis added

(2)(a) In order to be included in this statewide pilot program and qualify for the permit review and approval process created in this section, an environmental restoration project must directly benefit freshwater, estuarine, or marine fish, or the habitat they rely on, and must be included on a list of projects reviewed, approved, or funded by one of the following restoration programs:

   (i) The Bonneville power administration restoration program;
   (ii) The Brian Abbott fish barrier removal board;
   (iii) The estuary and salmon restoration program;
   (iv) The floodplains by design program;
   (v) The office of Chehalis basin aquatic species restoration program;
   (vi) The office of Columbia river habitat recovery projects;
   (vii) The Puget Sound acquisition and restoration fund;
   (viii) The Puget Sound national estuary program;
   (ix) The salmon recovery funding board;
   (x) The Washington coast restoration and resiliency initiative;
   (xi) The Yakima tributary access and habitat program;
   (xii) Fish recovery projects sponsored by a federally recognized tribe; and
   (xiii) Fish acclimation facility projects sponsored or operated by a federally recognized tribe.
Pre-qualification process

Flood Risk
Must document consistency with local, state, and federal flood risk reduction requirements. *Local government role.*

Cultural Resources
(c)(i) With regard to cultural resources, a project applicant or funding agency must review the project with the Department of Archaeology and Historic Preservation and complete any required site surveys before the project applicant files an application under this section. A project applicant must document consistency in the application with applicable cultural resource protection requirements.

*At least 60 days prior to applying for the HPA...*

**Plan A:** Funding agency coordinates review – often RCO. Grant contract contains information needed to “document consistency” – *include with HPA application.*

**Plan B:** Proponent provides copies of applications to DAHP and affected federally recognized tribes at least 60 days prior to applying to WDFW for HPA. *Need DAHP letter.*

*Tribal role in coordination with DAHP per standard project review – archeology.*
Flood risk reduction

RCW 77.55.480(2)(b) – emphasis added

(b) A project application reviewed under this section must document consistency with local, state, and federal flood risk reduction requirements. A project may not be reviewed under the process created in this section if the local government within whose geographical jurisdiction the project will be located determines that the project does not meet applicable flood risk reduction requirements, or otherwise determines that the project raises concerns regarding public health and safety, and the local government provides timely notice of its determination to [WDFW].

As with Fish Habitat Enhancement Project (FHEP) process...  
...need National Flood Insurance Program (NFIP) review / approval / permit
Cultural resources

RCW 77.55.480(2)(c) – emphasis added

(iii) [WDFW] may not review a project under the expedited process created in this section if a cultural resource site is identified at the project site or if an affected federally recognized tribe withholds its consent that the project should be expedited according to the process set forth in this section. Such consent may be withheld upon a determination that the project may adversely impact cultural resources. Notice of such a determination must be provided to the department by the affected federally recognized tribe in a timely manner.

(iv) In the event of an inadvertent discovery of cultural resources or human remains, the project applicant shall immediately notify [WDFW], [DAHP], and affected federally recognized tribes. In the event of an inadvertent discovery of cultural resources or human remains, existing requirements applicable to inadvertent discoveries of cultural resources and human remains, including those set forth in chapters 27.53, 27.44, and 68.60 RCW, apply.
When on state-owned aquatic land

RCW 77.55.480(4)

(d) For those projects that require a lease or other land use authorization from the department of natural resources, the project applicant must include in its application for a permit under this section a signed joint aquatic resources permit application, attachment E. The project applicant must provide a copy of a completed application to the department of natural resources no fewer than 30 days before the application may be filed with the department. The department of natural resources must make a final decision on applications for projects under this section within 30 days of the issuance of a permit under this section.

DNR aquatic land use authorization required:
In most cases, the instrument will be a license (i.e., right-of-entry) – technically, not a permit – proprietary (public land) not regulatory
(3) Fish recovery and fish habitat restoration projects meeting the criteria of subsection (2) of this section [i.e., pre-qualification] are expected to result in beneficial impacts to the aquatic environment. Projects approved for inclusion in this pilot program and that are reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2) and are not required to obtain local or state permits or approvals other than the permit issued under this section, except permits minimally necessary as a requirement of participation in a federal program.

**One permit:**
HPA, but no other* local or state permit (such as a shoreline permit)

**No SEPA review:**
Exempt from State Environmental Policy Act threshold determination
Permits & fees

RCW 77.55.480 – emphasis added

(5) No local or state government may require permits or charge fees other than the permit issued under this section, except permits minimally necessary as a requirement of participation in a federal program, for fish recovery pilot projects that meet the criteria of subsection (2) of this section [i.e., pre-qualification] and that are reviewed and approved according to the provisions of this section.

No permits or permit fees:
Except as required for flood risk reduction (NFIP), other federal program(s)

No fee for applying for / receiving HPA from WDFW
HPA process

Proponent applies for HPA through APPS (online) ...while providing copies of application to local government, affected tribes, and state agencies on multiagency permitting team ("MAP Team")

WDFW makes determination of completeness ...and notifies local government with regulatory jurisdiction, affected tribes, and state agencies on MAP Team

45 days to issue HPA
However, within 25 days, any member of the MAP Team or an affected tribe may "stop the clock" in order to review and evaluate project.

MAP Team review process cannot exceed 45 days from request for review.
When project review is requested

RCW 77.55.480(4)(b) – *italics added*

(ii) **Within 25 days** of receiving a copy of the complete project application, the local government within whose geographical jurisdiction the project would be located, any member of the multiagency permitting team, or a potentially affected federally recognized tribe may request that [WDFW] place the application on hold and *immediately* convene a meeting with the requesting entity and the multiagency permitting team to review and evaluate the project.

(iii) All parties involved in this review process shall *work in good faith to expedite permitting* and any party with concerns shall *provide the basis for its concerns and potential pathways to address those concerns*. Any party *objecting to expedited permitting* shall provide a *written basis* for its objections to [WDFW] or the multiagency permitting team.

(iv) The multiagency review process *may not exceed 45 days* from the request for review.
MAP Team

RCW 77.55.480(4)(c)

- Local government with jurisdiction (ad hoc, case-by-case)
- WDFW
- Ecology
- Recreation and Conservation Office (RCO)
- DNR (if project on state-owned aquatic land)
- Puget Sound Partnership (if project located in the Puget Sound basin)

*If a project review meeting is convened:*
- For projects located in the Puget Sound basin, meetings of the MAP Team are facilitated by the Puget Sound Partnership.
- All other meetings of the MAP Team are facilitated by RCO.
### MAP Team

state agency roster

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**Habitat Recovery Pilot Program (HB 1382) Multiagency Permitting Team (MAP Team):**

<table>
<thead>
<tr>
<th>Agency</th>
<th>Role</th>
<th>Name</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>WDFW</td>
<td>primary</td>
<td>Josh Peters</td>
<td>Protection Division Manager</td>
</tr>
<tr>
<td>WDFW</td>
<td>alternate</td>
<td>TBD</td>
<td>Pilot Program Coordinator</td>
</tr>
<tr>
<td>ECY</td>
<td>primary</td>
<td>Jeremy Sikes</td>
<td>Senior Shoreline Planner</td>
</tr>
<tr>
<td>ECY</td>
<td>alternate</td>
<td>Sydney Fishman</td>
<td>Shoreline Armoring Planning Associate</td>
</tr>
<tr>
<td>RCO</td>
<td>primary</td>
<td>Marc Duboisiki</td>
<td>Salmon Section Manager</td>
</tr>
<tr>
<td>GSRO</td>
<td>primary</td>
<td>Jeannie Abbott</td>
<td>Lead Entity Program Manager</td>
</tr>
<tr>
<td>DNR</td>
<td>primary</td>
<td>Michal Rechner</td>
<td>Assistant Division Manager, Aquatics</td>
</tr>
<tr>
<td>DNR</td>
<td>alternate</td>
<td>Hannah Blackstock</td>
<td>Environmental Planner 4, Aquatics</td>
</tr>
<tr>
<td>PSP</td>
<td>primary</td>
<td>Stephanie Suter</td>
<td>Planning Program Manager</td>
</tr>
<tr>
<td>PSP</td>
<td>alternate</td>
<td>TBD</td>
<td>Pilot Program staff</td>
</tr>
</tbody>
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Criteria / process for exclusion

RCW 77.55.480(4) – emphasis added

(d) [WDFW] or, where applicable, the multiagency permitting team, shall exclude any project from the review and approval process created by this section if it concludes that the project may adversely impact human health, public safety, or the environment, or that the project's scope or complexity renders it inappropriate for expedited review.

(e) If [WDFW] or the multiagency permitting team determines that the review and approval process created by this section is not appropriate for the proposed project, [WDFW] shall notify the applicant, the appropriate local government, and potentially affected federally recognized tribes of its determination. The applicant may reapply for approval of the project under generally applicable review and approval processes. If the multiagency permitting team determines that the review and approval process created by this section is appropriate for the proposed project, the hold on the application must be lifted and [WDFW] shall make a decision within the time that remains of the original 45-day decision deadline.

(f) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may appeal the decision as provided in RCW 77.55.021(8).
Two phases of project review

Pre-qualification

*Cultural Resources* – project review for archeology per DAHP process – applicant or funding agency responsibility

*Flood Risk* – initiate prior to HPA review

HPA-MAP Team review

*Health, safety, environment, scope, complexity* – Concerns submitted in writing to WDFW within 25 days of determination of completeness

For more information contact:

Rob Whittam  
State Archaeologist  
(360) 890-2615  
Rob.Whittam@dahp.wa.gov

Lance Wellwage  
Assistant State Archaeologist  
(360) 890-2616  
lance.wellwage@dahp.wa.gov

For specific information about various Federal and State programs and how to comply with regulations relating to historic preservation see left column.

What to send to the SHPO:

- A CR Report Cover Sheet
- A letter and map showing project area asking for the SHPO to concur with the Area of Potential Effect (APE) for the project/undertaking.
- A letter asking for the SHPO to concur with the federal agency’s determinations of Eligibility and/or Effect. The agency should make its own determinations and not ask the
WDFW coordination with tribes

RCW 77.55.480(4)

(g) [WDFW] shall, in a timely manner, provide a copy of any application seeking review under this section and shall thereafter coordinate with affected federally recognized tribes as it implements this section.
WDFW team

Protection Division, Habitat Program, Olympia
- HRPP Coordinator
- Division Manager, Regulatory Services Section Manager, HPA Statewide Coordinator

Regional Operations
- Habitat Biologist
- Assistant & Regional Habitat Program Managers

Other divisions, programs
- Engineering services within Restoration Division, Habitat Program
- Others as needed

Also...
- Standing MAP Team meetings with state agency roster
- Other coordination/outreach as needed
Questions?

Josh Peters – Protection Division Manager
Kelly Still – Regulatory Services Section Manager

HPApilotprogram@dfw.wa.us

wdfw.wa.gov/licenses/environmental/hpa/types/pilot
Setting up APPS Subscription Notices

Interested parties may “subscribe” for automatic notifications, access to permit documents

Log into your APPS account
   Click on e Service → review all application and notifications

*Anyone can create an APPS account. You do not have to be someone who applies for HPAs.*
Setting up APPS subscription notices

Set up notifications by using the search criteria to be selective of the HPA applications for which you would like to receive email notifications.

After selecting the criteria, assign the search a notification name and then click on “Add to my notification.”

Individuals can have multiple notifications sent either daily, weekly, or monthly.