

# Summary Sheet for Fish Passage Project HPAs and the Fish Habitat Enhancement Project Process

## Background/Design Considerations

WSDOT expects fish passage projects to result in beneficial impacts to the environment and are identified in state law as eligible for Fish Habitat Enhancement Project (FHEP) status per [RCW 77.55.181](#) (1)(c)(vii), “Through the department of transportation's environmental retrofit program as a stand-alone fish passage barrier correction project, or the fish passage barrier correction portion of a larger transportation project.” FHEP projects are not subject to SEPA and local agencies cannot require permits or fees, unless a floodplain development permit is required per national floodplain insurance requirements ([RCW 77.55.181](#)).

This expedited process is important for efficient implementation of the State’s obligation to correct barriers to allow fish movement. WSDOT’s intention is that the Department’s fish passage projects will utilize this form of permitting unless there is some very unusual attribute of the project that may raise concerns about public health and safety. WDFW can deny the FHEP streamlined process if projects have public health and safety concerns ([RCW 77.55.181](#)) or if the local government raises concerns during the comment period that impacts from the project cannot be mitigated by conditioning the HPA ([WAC 220-660-050\(3\)\(b\)\(i\)\(C\)](#)). Projects that include unrelated components within hydraulic project jurisdiction or get denied for FHEP processing would need to use the standard HPA process, including going through SEPA and applying for local permits. However, projects for which the primary purpose is fish passage are exempt from local Shoreline Substantial Development permits ([RCW 90.58.147\(3\)](#)).

WSDOT must ensure that the project activities within WDFW’s Hydraulic Project jurisdiction focus on restoration of fish passage and fish habitat. WDFW confirmed that bank stabilization and stream realignment are acceptable under FHEP as long as it is part of a fish passage barrier removal effort. Adding other activities within **WDFW’s Hydraulic Project** ([RCW 77.55.011\(11\)](#)) **jurisdiction** that do not relate to fish passage barrier removal or fish habitat restoration would jeopardize the use of FHEP. If a larger transportation project includes work within hydraulic project jurisdiction beyond FHEP allowances, you must submit a separate HPA application for non-FHEP related activities.

WSDOT also needs to ensure that FHEP projects do not raise concerns regarding public health and safety from local governments. It is important for environmental staff to closely coordinate with the WSDOT Hydraulics staff early in the process. [Environmental Manual Ch. 432](#) includes additional information on Floodplain Development Permits, Flood Risk Assessment for WSDOT Fish Passage Projects, and Outreach to Local Governments on Flood Risk Assessment for WSDOT Fish Passage Projects. Early coordination with WDFW, local governments, and adjacent property owners is essential to determine potential issues (including identifying hydraulic project jurisdiction and potential floodplain impacts) before submitting an official HPA application and resolve them before potential project schedule issues occur.

## Early Coordination for FHEP projects

1. Start the early coordination assuming that FHEP processes as described in [RCW 77.55.181](#) are applicable to your project (see background information above). Check with the Hydraulics and Design team to verify that the project has no public health or safety issues such as stream flow changes flooding residential property. See the preliminary hydraulic design report to obtain flooding information. In the rare circumstance where downstream affects are anticipated that raise a health and safety concern, WSDOT will proceed through the normal (non-FHEP) permit channels. Early coordination will allow more extensive local coordination and compliance with FEMA flood map revision requirements. If any issues arise about a fish passage project's qualifications for FHEP during the permitting process, please contact Kim Mueller, Environmental Services Office (ESO) Fish Passage Delivery Manager, and Paul Wagner, ESO Biology Branch manager.
2. Coordinate with the WDFW Permitting Biologist to discuss the project, permit application requirements, parts of the project within WDFW's hydraulic project jurisdiction, and HPA provisions. Ensure the Permitting Biologist knows you are working on a WSDOT-sponsored fish passage project through the environmental retrofit program that does not have any public health and safety concerns. Using the pre-application process through [Aquatic Protection Permit System](#) (APPS) is strongly encouraged. APPS is WDFW's online permitting system for HPAs.
3. Coordinate with the local agency planning/community development office to avoid potential schedule delays during the 30-day FHEP HPA timeframe. Suggested topics to discuss include: how the project meets WDFW's FHEP criteria per [RCW 77.55.181](#), the efforts to avoid and minimize environmental impacts, and explain the FHEP process. It is important to emphasize how these projects improve fish habitat/stream conditions. This is a good opportunity to determine local agency concerns about the project and find ways to resolve them before officially submitting the permit application to WDFW. If local concerns arise that cannot be resolved at the region level, elevate the conversation per instructions in number 1 within this section. Considerations should include the ongoing relationship between WSDOT and the local agency.
4. Additional information on early coordination is available in the [Memorandum of Agreement concerning Implementation of the Fish and Wildlife Hydraulic Code for Transportation Activities](#) (also known as the WDFW-WSDOT Hydraulic Code MOA) and section 2 of this document. The WDFW-WSDOT Hydraulic Code MOA also includes a Conflict Resolution chapter.

## Application Package Preparation and Submittal

1. Fill out the permit application in APPS or the most current version of the [Joint Aquatic Resource Permit Application](#) (JARPA) form for electronic submittals. If you submit by paper or email, you must use the JARPA.
  - a. Be sure to select "Fish Habitat Enhancement Project" when you start a new application.
  - b. Ensure the project name is the same name as the WDFW fish passage list so WDFW knows it is a confirmed WSDOT sponsored project per FHEP requirements. If your project is not on this list, WDFW will determine it is an incomplete application. The most current list is uploaded on WSDOT's [Fish Passage Site Management Database](#) (click on the "Program Delivery" tab). Contact Susan Kanzler if you do not find the exact project name on this list.

- c. Within the project description, specify that the project is WSDOT sponsored stand-alone fish passage project through the environmental retrofit program that does not have any health or safety risks. Also include the fish passage ID number.
  - d. If the project was designed using stream simulation or bridge, this needs to be specified for fish passage injunction projects.
  - e. Include requests for any exceptions to work windows needed like getting in a week early for fish exclusion.
  - f. An APPS question asks if the project is within a 100-year floodplain. Look at the floodplain changes section in the preliminary hydraulic design (PHD) report to obtain floodplain information. Add a summary of the report findings on floodplains to the 100-year floodplain question. If there is no anticipated change in the floodplain, please state this information at the end of the question. If the PHD is attached to the permit application package, consider referencing the floodplain changes section.
2. Make sure the project drawings meet the requirements in [WDFW's Water Crossing Structure Drawing Checklist](#). There are similar drawing requirements as the Corps' drawing requirements. Two additional requirements from WDFW include the 100-year floodplain and the conceptual location of the stream bypass, if it's part of the project. Here are some items that are often missing in the drawings:
    - a. Tree impacts (how many trees are being removed larger than 4"DBH, location for these to be left onsite where possible).
    - b. Vegetation plan (where are we planting and what species).
    - c. Show the 2 yr and 100 yr water surface elevations in cross section.
    - d. Show any new or modified stormwater outfalls and energy dissipation with relation to the 100 year elevation.
    - e. Show any temporary crossings used for construction (temporary bridge span, or shoofly, etc.).
    - f. Show any utility crossings that are proposed as part of the permit.
  3. You do not need to submit the FHEP form or FHEP sponsorship letter for WSDOT-sponsored fish passage barrier removal projects as long as the project is on the WDFW fish passage project list. If the project is not on the list, fill out the most current version of the FHEP form, which is available on the [JARPA](#) webpage and attach a FHEP sponsorship letter. See 1b for more information about the WDFW fish passage project list.
  4. Upload supplemental information and make sure the content is relevant to the HPA submittal.
  5. Review the permit application package for QA/QC and make sure stream quantities do not conflict between the applications, drawings, and supplemental information.
  6. Submit the permit application package to WDFW using the [APPS](#).
  7. Submit the permit application package to the local government on the same day as submitting to WDFW. A pdf of the permit application will be available to download from [APPS](#) after submitting your permit application that can be sent to the local government. An FHEP template letter for locals is available in Tools, Templates, and tools tab [on the WSDOT Fish website](#). Local government(s) have 15 days to provide comments. WSDOT is responsible for resolving any local concerns such as public health, safety, or any other issue. If local issues are not resolved and there is not a way to adapt the project accordingly, WDFW will recommend pursuing a standard HPA instead of FHEP which requires SEPA compliance and applying for local permits.

8. If you did not review draft HPA provisions as part of a pre-application process, ask the WDFW Permitting Biologist for an opportunity to review the draft HPA provisions. This is a great opportunity to provide feedback on provisions and avoid future HPA modifications.
9. If the Permitting Biologist asks questions, please answer them as quickly as possible. For WSDOT-sponsored fish passage projects under FHEP, WDFW only has 30 days to issue the HPA after receiving a complete permit application. If any issues arise that can't be resolved within 30 days, send the Permitting Biologist an email asking them to place a hold on the HPA processing. This will pause the 30-day timeline, so issues can be resolved without WDFW requiring us to go through the standard non-FHEP HPA permitting process.
10. Additional information about the HPA application process is available in sections 3 and 4 of this document.

### **After the WDFW issues the HPA**

1. Review the issued HPA provisions for feasibility. Coordination with the project office(s) is strongly encouraged.
2. ESO developed a crosswalk that links HPA provisions to contracts that is available on the [WSDOT Fish](#) webpage and it is also available in CTS.
3. If the project description, the project area, or end date changes, the HPA may need to be modified. Be sure to coordinate with your WDFW permitting Biologist to determine if your HPA requires a major or a minor modification. The HPA modification process is described in section 6 of this document.