

Agenda

1. Welcome & Overview (10 min)
2. Rule Process & Authorities (10 min)
3. Actions Outside of Authority (10 min)
4. Draft Proposal:
Recommendations Under
Current Authority (15 min)
5. General Discussion (40 min)
6. Next Steps (10 min)



Fish Passage Rule Update

General Public Outreach, October 25, 2022

Margen Carlson, Habitat Program Director

Gabrielle Stilwater, Fish Passage Rules Coordinator

Tom Jameson, Fish Passage Division Manager

Matt Curtis, Protection Division Manager



Welcome & Introduction to Rule Making

- Orca Task Force: Recommendation #3
- Legislative Direction
 - ESHB 1109 (2019) – Operating budget
- Inclusion of Climate Adapted Water Crossings
 - Co-management agreement in 2019



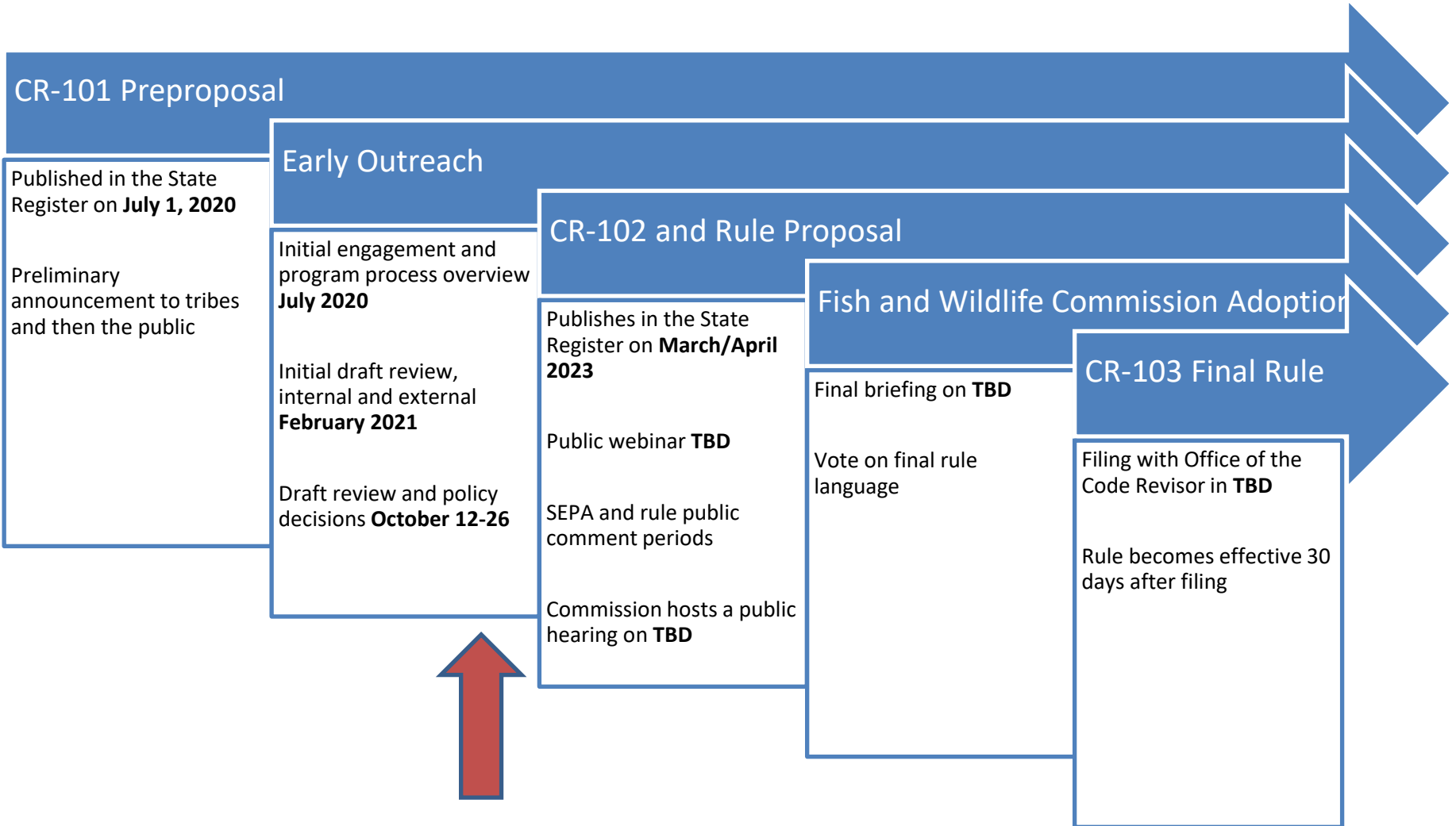
Rule Making

The process of amending or creating rules in the Washington Administrative Code (WAC)

- The intent is to make sure that the rules (WACs) align with the laws (RCWs).
- WDFW is undergoing rule making for a new chapter to clarify RCW 77.57.
- The draft rule applies to current and new fishways and water diversions on lakes, rivers, or stream.



Rule Making Steps



Regulatory Authority

Statutes for considerations:

Statute	RCW Title
RCW 77.57.010	Fish guards required on diversion devices—Penalties, remedies for failure.
RCW 77.57.030	Fishways required in dams, obstructions—Penalties, remedies for failure.
RCW 77.57.040	Director may modify inadequate fishways and fish guards.
RCW 77.57.050	If fishway is impractical, fish hatchery or cultural facility may be provided in lieu.
RCW 77.57.060	Director may modify inadequate fishways and protective devices.
RCW 77.57.070	Diversion of water—Screen, bypass required.



Regulatory Authority

Chapter 77.57 RCW authorizes WDFW's fishway and screening requirements.

RCW 77.57.010: "A diversion device used for conducting water from a lake, river, or stream for any purpose shall be equipped with a fish guard approved by the director to prevent the passage of fish into the diversion device."

RCW 77.57.040: "If the director determines that a fishway or fish guard... is inadequate, in addition to other authority granted in this chapter, the director may remove, relocate, reconstruct, or modify the device..."



Actions Outside of Rule Making

WDFW recognizes that addressing fish passage presents a complex network of issues that extend beyond this rule making effort.

1. Prioritization
2. Funding



Rule Proposal: Outline

1. Introduction & Instructions
2. Definitions
3. Applicability
4. Standards for Existing and New Fishways and Water Diversions
 - A. Water crossings
 - i. Climate Adapted Water Crossings
 - B. Fish Passage Improvement structures
 - C. Water Diversions
5. Compliance
6. Appeals: Informal and Formal



Rule Proposal

Codifying current, effective standards is a primary goal of this effort.

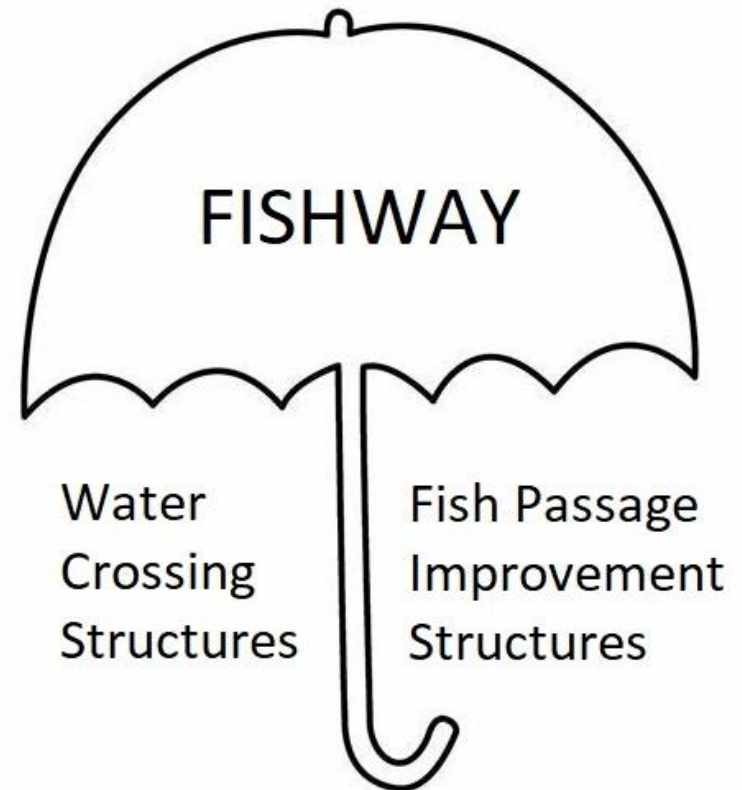
1. Introduction & Instructions
2. Definitions
 - A. New Terms:
 - “Fishways”
 - “Climate Adapted Water Crossings”
4. Applicability
 - A. Performance Standards & Projects
 - B. Exemptions



Rule Proposal

Fishway: term that describes both a water crossing structure or fish passage improvement structure.

- A device or structure that allows fish to pass freely through or around a dam, culvert, fish ladder, bridge, or other obstruction blocking the upstream or downstream fish habitat.



Rule Proposal: Standards

Fishway Standards:

1. Water Crossing Structures:

A. Fish Life Concerns

B. Unimpeded Fish Passage

C. Climate Adapted Water Crossings:

- Considerations for new and replacement culvert. Calculating bankfull width and 100-year peak flow.



Rule Proposal: Standards

Fishway Standards:

1. Fish Passage Improvement Structures:
 - A. Fish Life Concerns
 - B. Standards:
 - Sediment, flow, surface drop
 - Natural barriers



Rule Proposal: Standards

Existing Fishways:

1. Fishways that were legally installed prior to rule adoption:
 - A. Fish Life Concerns
 - B. Standards:
 - No behavioral impediments, excessive water slope, drop or velocity, shallow flow, lack of surface flow, uncharacteristically coarse bed material, and other related conditions
 - Fish passage inventory and assessment guidance

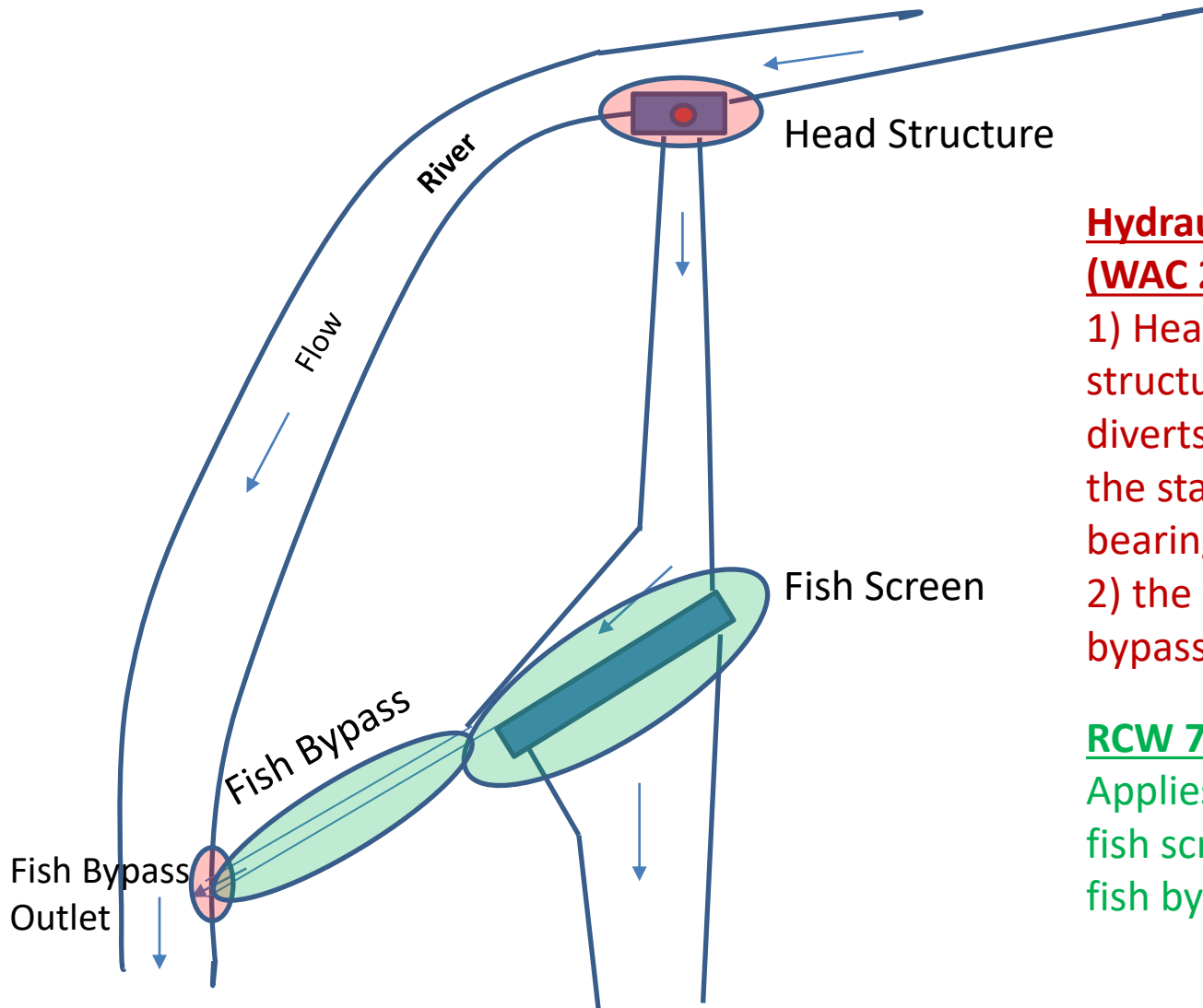


Rule Proposal: Standards

Water Diversion Standards:

1. Fish Life Concerns
2. Standards
 - A. Protection of Fish Life
 - B. Effective Screening
3. Alignment with WAC 220-660-250





**Hydraulic code
(WAC 220-660):**

1) Head structure that diverts waters of the state (fish bearing) and 2) the fish bypass outlet.

RCW 77.57:

Applies to the fish screen and fish bypass.



Rule Proposal: Compliance

1. Technical assistance:

- Steps for achieving voluntary compliance

2. If unsuccessful, then steps for enforcement include:

- 30-day notice to comply
- Public Nuisance
- WDFW Enforcement Actions
- Closure/replacement by DFW
- Liens



Rule Proposal: Appeals

1. Informal Appeals
2. Formal Appeals





Questions?

Margen Carlson, Habitat Program Director

Gabrielle Stilwater, Fish Passage Rules Coordinator

Tom Jameson, Fish Passage Division Manager

Matt Curtis, Protection Division Manager



How to Comment

Due: TBD

Online: <https://publicinput.com/X7702#0>

Email: FishPassage101@PublicInput.com

Mail:

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Attn: Gabrielle Stilwater

P.O. Box 43200

Olympia, WA 98504-3200

Voice Message: 855-925-2801, project code 4535

Fax: (360) 902-2946

Attn: Gabrielle Stilwater

Project Website: For additional project information, please visit:

<https://wdfw.wa.gov/species-habitats/habitat-recovery/fish-passage/rule-making>

