



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

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Main Office Location: Natural Resources Building, 1111 Washington Street SE, Olympia, WA

DETERMINATION OF NONSIGNIFICANCE (DNS)

Name of Proposal: DNS 24-006: RULE MAKING TO INCORPORATE SHB 1085 FOR FLOTATION MATERIALS

Description of Proposal:

The Washington Department of Fish and Wildlife (WDFW) is conducting a project to amend the Hydraulic Code Rules. These rules govern the Hydraulic Project Approval (HPA) permitting process and are located in Chapter 220-660 Washington Administrative Code (WAC). This WAC chapter establishes the regulations of the Hydraulic Project Approval (HPA) program. HPA permits are issued to protect fish and their habitat during construction.

SHB 1085, titled Plastic Pollution Reduction--Various Provisions, is a bill passed during the 2023 legislature. The bill includes several sections regarding various subjects. Section 3 establishes standards in law for the sale, distribution, and installation of flotation materials in overwater structures (e.g., docks and swim floats).

WDFW has long regulated the installation and use of flotation materials through HPA permits and the Hydraulic Code Rules. Flotation standards in the Hydraulic Code Rules are similar to Ecology's new law. However, differences in the language may cause confusion. The proposed amendment will align the rule language for freshwater and marine flotation with the new law. Amending the rules provides increased clarity to the regulated community and helps them to comply with both their HPA permit and the new law.

The following sections of the Hydraulic Code Rules are being amended: WAC 220-660-140 and WAC 220-660-380. These sections contain rules for overwater structures in freshwater and saltwater, respectively. The Hydraulic Code Rules already require the containment of flotation materials, but with less detail. Amendments will incorporate the language from SHB 1085 containing the detailed standards for foam flotation. Additionally, erroneous language regarding plastic "wrap" will be eliminated in WAC 220-660-140.

The anticipated effect is that HPA permits will align with standards from SHB 1085 and provide project proponents with information detailed enough to build a legal overwater structure. In practical terms, we do not expect that flotation will change, because HPA permits already require flotation to be contained.

Proponent/Applicant: Washington State Department of Fish and Wildlife (WDFW)
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Location of Proposal, including street, if any: This proposal applies to overwater structures in both freshwater and marine waters of the state.

Lead Agency: Washington Department of Fish and Wildlife (WDFW)

WDFW has determined that this proposal will likely not have a significant adverse impact on the environment. Therefore, state law¹ does not require an environmental impact statement (EIS). WDFW made this determination of nonsignificance (DNS) after we reviewed the environmental checklist and other information on file with us.

We issued this DNS according to state rules.² **We will not act on this proposal for 14 days** from the date we issued the DNS. Agencies, affected tribes, and members of the public are invited to comment on this proposal or DNS. We must receive your comments within 14 days of the date of this letter. The comment period will end at **5:00 pm on February 21, 2024**.

Method of Comment:

SEPA documents related to this proposal can be reviewed at the WDFW SEPA website at: <http://wdfw.wa.gov/licenses/environmental/sepa/open-comments>.

The following procedures shall govern the method to comment on agency SEPA proposals. Comments received through these procedures are part of the official SEPA record for this proposal. You can submit your comments through one of the following ways:

- Online at the Public Input comment portal for this proposal: <https://publicinput.com/FlotationRules>
- Email to: FlotationRules@PublicInput.com

Responsible Official: Lisa Wood

Position/Title: SEPA/NEPA Coordinator, WDFW Habitat Program, Protection Division

Address: P.O. Box 43200, Olympia, WA 98504-3200

After the comment period closes, applicants may view the updated status of this proposal on the WDFW SEPA website: <https://wdfw.wa.gov/licenses/environmental/sepa/closed-final>. Once the status is posted as final, applicants and permittees may take action on the proposal. When a proposal is modified or withdrawn, notice will be given in accordance with state law.¹

If you have questions about this DNS or the details of the proposal, or have difficulty with the Public Input comment portal, contact Lisa Wood at: SEPADesk2@dfw.wa.gov.

DATE OF ISSUE: February 7, 2024

SIGNATURE:



Footnotes

1. RCW 43.21C.030(2)(c)
2. WAC 197-11-340(2).

SEPA Log Number: 24-006.dns

Individuals who need to receive this information in an alternative format or language, or who need reasonable accommodations to participate in WDFW-sponsored public meetings or other activities may contact the Title VI/ADA Compliance Coordinator by phone at 360-902-2349, TTY (711), or email (Title6@dfw.wa.gov).