

WAC 220-660-070 Changes to hydraulic project approval technical provisions. (1) The department may modify or delete technical provisions in this chapter through establishing conditions on an HPA permit when any of the following is demonstrated:

- (a) There is no logical application to a project;
- (b) A person provides an alternative to the provision that demonstrates that it provides equal or greater protection for fish life;
- (c) Enforcement of the original provision would result in denial of an HPA when there is enough mitigation defined to allow the project;
- (d) The modification or deletion of the provision will not cause a loss of or injury to fish life, or the loss or permanent degradation of the habitat that supports fish life;
- (e) The proposed hydraulic project is part of an approved cleanup action under Model Toxics Control Act, Comprehensive Environmental Response Compensation and Liability Act, or Superfund Amendment and Reauthorization Act;
- (f) The technical provision or provisions conflict with applicable local, state, or federal regulations that provide equal or better protection for fish life;
- (g) The technical provision or provisions are not feasible due to geological, engineering or environmental constraints or safety concerns; or
- (h) New scientific information is made available that demonstrates the project will result in equal or greater protection of fish life, and the habitat that supports fish life.

(2) The department may add conditions on the HPA permit to protect fish life as needed to address project-specific or site-specific impacts not adequately mitigated by the technical provisions. However, all provisions must relate to the project and be proportional to the impact of the project. The HPA will include all of the technical provisions with which a person will be required to comply.

[Statutory Authority: RCW 77.04.012, 77.04.020, and 77.12.047. WSR 15-02-029 (Order 14-353), § 220-660-070, filed 12/30/14, effective 7/1/15.]