

PRACTICAL GUIDE:

INTERAGENCY COORDINATION IN IMPLEMENTING SHORELINE REGULATIONS



PRACTICAL GUIDE: **INTERAGENCY COORDINATION** **IN IMPLEMENTING SHORELINE** **REGULATIONS**

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Futurewise

This practical guide is one of a series of guides addressing protection of shorelines in the Puget Sound region.

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EXECUTIVE SUMMARY

The shorelines of the Puget Sound basin are the fragile narrow ribbon that supports our marine ecosystem in vital ways--from serving as the nursery area for many aquatic species, to being the migration corridor for outgoing juvenile salmon and the source of land-based nourishment to the water. In 1972, the citizens of Washington State voted to adopt the Shoreline Management Act. The Act is designed to guide the management and use of the shorelines of the state while protecting its natural resources and allowing for responsible development and public access. Under the Act, cities and counties in Washington are required to adopt, update, and implement local Shoreline Master Programs (SMPs) which are land use policies and regulations designed to manage shoreline use.

The success of shoreline management depends on both the quality of the SMPs and the ability of local jurisdictions to implement those SMPs. Cities and counties have been increasingly under financial pressure, resulting in staff cutbacks, lack of funding for technology upgrades, and cuts in enforcement programs. Interagency coordination can enhance local implementation of shoreline regulations, including SMPs.

IMPORTANCE OF COORDINATION

Having protective shoreline regulations, developing an effective permit process, and having efficient enforcement of permits and violations are all important elements for protection of our shoreline resources. Permitting development near the water takes place within a complex environment of laws at different levels of government. Some of these laws overlap with each other in different ways which creates partial duplication of work and confusion in the minds of those who are unfamiliar with the nuances of the overlapping elements. This complexity causes challenges for both the applicant who is trying to undertake a development project and for the agencies that issue permits which have overlapping elements with those issued by other agencies.

Interagency coordination can improve the regulatory efficiency in the aquatic environment. This guide recommends methods of improved coordination that address the challenges ranging from practical and informal everyday actions to formal arrangements. At its core, coordination is about the informal everyday communication that helps agency staff understand what others are doing. Consequently, the informal actions will yield the greatest and easiest benefits. Sometimes formal arrangements can yield great benefits as well, especially in overcoming specific problems. Such efforts require much more concerted effort.

METHODOLOGY

The approach in developing this guide has been a combination of literature review and expert consultation through interviews. To better understand interagency coordination, we researched

the theory of Inter-Organizational Relations. Additionally, we carried out interviews with permit review practitioners from the staff of different agencies at the federal, state and local level. We then performed an analysis of the experiences of practitioners and the information from the literature. That analysis identified the barriers and success factors of effective coordination, which in turn helped develop additional recommended tools for efforts to improve coordination.

BENEFITS OF COORDINATION

While the arena of environmental regulation has inherent challenges, the purpose of coordination is to solve those problems. These problems derive from complexity, duplication, and their associated issues. Consequently, it is critical for jurisdictions to undertake coordination between departments within an organization and between different agencies at all levels of government. Specific benefits of coordination include:

- Helping ease challenges in a complex regulatory environment
- Improving both public and customer service
- Playing to the strengths of each agency

KEY FINDINGS AND CONCLUSIONS

Natural resources coordination efforts generally work toward two objectives: protecting the resource and making the review process run more smoothly. Successful interagency coordination helps improve four basic permit review tasks:

- Gaining relatively concurrent permit review by all relevant agencies
- Communicating required design elements so that project changes can be made early and only need to be made once
- Avoiding conflicting requirements from different agencies/departments
- Confirming that all impacts are being addressed and covered

While there are generally cordial relations among staff at different levels of government, there are many barriers to interagency coordination. Important barriers identified through interviews with practitioners include:

- Staff are significantly overloaded leading to delays in permit review
- Reliance on permit fees results in inadequate funding
- A systematic mechanism to send all permit notifications and final permits to jurisdictions and agencies is lacking
- Travel distance hinders staff access
- Interpersonal relationships take time (There is much staff turnover in some agencies)
- Agency and local requirements are not always consistent
- Sequencing of permit approvals can cause delays and “redos”

- Permit review delays lead to project changes which are not necessarily communicated back to staff
- Fee based local jurisdictions have different protocols than non-fee based agencies
- Permitting departments are subject to different restrictions and pressures
- A fully universal permit application system and/or gateway permit is lacking
- Landowners, and some staff, are not aware of all of the required permits
- Cross-referencing the need for other permits is inconsistent and sometimes lacking
- Smaller projects are being considered too small to coordinate
- Coordination role is sometimes falling to the applicant
- Authority roles can impede interagency relationships

- ***Advance Local/State/Federal Review for Exempt Activities***
- ***State Interagency Coordination Workgroup***

Solutions include making operational changes that decrease workload and delays and make interpersonal collaboration and communication easier. Benefits of coordination come from improved interagency communication, especially during the early assistance phase when permits can be discouraged and/or alternatives encouraged, designs can be influenced that will make permit review easier, and requirements can be communicated to other agencies and the applicants. Building relationships is at the heart of making coordination work, especially interpersonal collaboration.

INTERAGENCY COORDINATION RECOMMENDATIONS

Ten tools are recommended to increase interagency coordination (see table below). One of the most important recommended tools – Apply Interpersonal Collaboration at the Personal and Agency Levels - could be used by all agencies to reduce their permit workload, ensure that violations are not being missed, and to provide better customer service.

Other tools address barriers such as communication gaps, notification and feedback issues, and mandate and authority conflicts. Some tools will require some level of formal agreement or arrangement made at higher levels of the agencies. Because of the necessary formal arrangements and the need to build inter-organizational structure, these efforts will require staff effort and funding. Three tools which would most significantly improve interagency coordination are:

- ***Online Interagency Permit Review Tracking and Communication System***
- ***Federal/State Mitigation Manual***

Recommended Interagency Coordination Tools

Coordination Tool Name	Primary area of coordination	Typical methods of coordination
	Policy Technical Communication	Staff collaboration Internal prioritization Interagency agreement Mandated operations
Enhance Interpersonal Collaboration at the Personal and Agency Levels	Communication	Staff collaboration
Online Interagency Permit Review Tracking and Communication System	Technical	Staff collaboration Internal prioritization
Federal/State Mitigation Manual	Technical	Staff collaboration Internal prioritization
State Programmatic General Permits	Policy	Interagency agreement
Collaborative Violation Response	Policy	Interagency agreement
Advance Local/State/Federal Review for Exempt Activities	Policy	Staff collaboration Internal prioritization
Programmatic Permits and Assistance Programs for Green Projects	Policy	Internal prioritization Interagency agreement
Regional Coordination Processes	Communication	Mandated operations
Task forces focused on specific issues	Communication Policy	Interagency agreement
State Interagency Coordination Workgroup	Policy	Interagency agreement Mandated operations

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Practical Guide: Shoreline Permitting and Mitigation to Achieve No Net Loss

Practical Guide: Cost-Effective Compliance with Shoreline Regulations

Practical Guide: Interagency Coordination in Implementing Shoreline Regulations

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1. COORDINATION: MAKING PERMITTING MORE EFFICIENT AND EFFECTIVE

INTRODUCTION

The shorelines of the Puget Sound basin are the fragile narrow ribbon that supports our marine ecosystem in vital ways, from serving as the nursery area for many aquatic species, to being the migration corridor for outgoing juvenile salmon and the source of land-based nourishment to the water. In 1972, the citizens of Washington State voted to adopt the Shoreline Management Act (SMA). The Act is designed to guide the management and use of the shorelines of the state while protecting their natural resources and allowing for responsible development and public access. Under the Act, cities and counties in Washington are required to adopt, update, and implement local Shoreline Master Programs (SMPs) which are land use policies and regulations designed to manage shoreline uses and activities. The Washington Department of Ecology (Ecology) is charged with assisting local governments in carrying out the Act and with approving locally adopted SMPs. In recent years, local jurisdictions have been updating their SMPs to incorporate the guidelines developed by Ecology in 2003, new science, and local priorities and information.

The success of shoreline management depends on both the quality of the SMPs and the ability of local jurisdictions to implement those SMPs. Cities and counties have been increasingly under financial pressure, resulting in staff cutbacks, lack of funding for technology upgrades, and cuts in enforcement programs. Intergovernmental coordination can enhance local implementation of SMPs.

Having protective shoreline regulations, developing an effective permit process, and having effective enforcement of permits and violations are all important elements for protection of our shoreline resources. Permitting development near the water takes place within a complex environment of laws at different levels of government, including, in addition to the SMA, the federal Clean Water Act (CWA), the state Water Pollution Control Act, and the State Environmental Policy Act (SEPA - the state version of the National Environmental Policy Act) and many others. Some of these laws overlap with each other in different ways which creates partial duplication of work and confusion in the minds of those that are unfamiliar with the nuances of the overlapping elements. This complexity causes challenges for both the applicant who is trying to undertake a development project and for the agencies that issue permits which have overlapping elements with those issued by other agencies.

Interagency coordination can improve the regulatory efficiency in the aquatic environment. At its core, coordination is about the informal every-day communication that helps agency staff understand what others are doing. Consequently, the informal actions will yield the greatest and easiest benefits. Sometimes formal arrangements can yield great benefits as well, especially in overcoming specific problems. Such efforts require much more concerted effort.

While coordination among different agencies and levels of government isn't required, most permitting staff try to coordinate with other agencies to some extent. Interagency coordination takes time and effort in some areas of work, but at the same time it saves time and effort in other areas. Aside from costs and savings of resources, coordination helps to meet the expectations of those affected by the law:

- The state legislature and voters adopted the shoreline law (and other laws) and expect it to be effectively administered. The law requires that impacts to ecological functions be identified and addressed. Allowing impacts to fall through the cracks is contrary to the law that the agency is supposed to implement.
- The public who pays for the law expects efficient implementation of the law that minimizes taxpayer costs, avoids problems, and achieves the legislative intent.
- Permit applicants that are subject to the law expect good customer service, as do the jurisdictions' elected officials. Indeed this may be the most important issue for some jurisdictions. Good service requires that the departments within an organization are coordinating with each other so "the right hand knows what the left hand is doing." It also requires that applicants are accurately informed when other agencies have requirements and that the agencies try to avoid creating problems for applicants.

Interagency coordination has particular benefits for local jurisdictions since updated SMPs require additional attention to the scientific principles of ecological functions - an area in which state and federal agencies typically (though not always) have greater expertise. Intergovernmental coordination provides opportunities to tap into that expertise.

With this in mind, Futurewise, with funding support from Washington Department of Fish and Wildlife through the Environmental Protection Agency, developed this practical guide to help local governments and agencies improve their use of interagency coordination. The focus is on recommendations for practical and low-cost methods that get the most bang for the buck by working within existing systems and are available

for anyone to use. The use of these tools makes the permit system operate more efficiently and effectively and provides better protection of shoreline resources. Other possibilities that use increased formality (agreements, etc.) and increased organizational structure can also provide coordination benefits; several of these are included in the recommended tools in Chapter 6.

This guide addresses the following “big picture” questions:

- What are the important areas where coordination is needed?
- What is the nature of coordination, and how can it be used to improve interagency coordination?
- What are the barriers and success factors to effective coordination?
- Which activities are most likely to improve coordination?
- What efforts can be undertaken to build inter-organizational structures that will improve coordination?

METHODOLOGY

The approach in developing this guide has been a combination of literature review and expert consultation through interviews.

Step 1: Literature Review

To better understand interagency coordination, we researched the theory of inter-organizational relations. The general insights and conclusions from this review informed our interviews and our coordination recommendations.

Step 2: Consultation Interviews

We carried out interviews with permit review practitioners from the staff of different agencies at the federal, state and local level to learn about:

- Their general experience with coordination with other agencies;
- Their opinion and experience on barriers to coordination; and
- Their opinions on ways to improve coordination.

Step 3: Analysis

We then performed an analysis of the experiences of practitioners and the information from the literature. That analysis identified the barriers to and success factors for effective coordination, which in turn helped develop additional recommendations for efforts to improve coordination.

THE SCOPE OF COORDINATION

Local governments implement their SMPs in many different ways.

What are the important areas where coordination is needed?

The operational functions that relate to shorelines include:

- Policy and planning efforts for Shoreline Master Programs and other regulations
- Other planning efforts such as capital facility planning
- Development permit review
- Monitoring of ecological functions
- Public education
- Enhancement/restoration projects
- Mitigation banking

Of all of these functions, we primarily focus on shoreline development permit reviews in this guide. This is because development permit review has the largest scope and scale. Furthermore, this is where the greatest need for coordination lies. Thus, this guide is focused on coordinating land use regulation (mainly permits) at the local, state, and federal level.

2. THEORIES BEHIND INTERAGENCY COORDINATION

Communication lies at the core of interagency coordination. Informal everyday communication helps agency staff understand what other agencies are doing. Formal arrangements then build on this communication to help make the coordination more systematic. Improvement of interagency coordination can be informed by academic studies and other research.

How does the research theory apply to coordination?

INTERGOVERNMENTAL MANAGEMENT

The theory of interagency coordination is known as Intergovernmental Relations (IGR) and Intergovernmental Management (IGM). A prominent author in the field, Deil S. Wright, describes several characteristics that are useful for understanding communication, in informal and formal settings, between staff of different agencies in the arena of permit review (Wright, 1983):

- **Coordination is driven by the human factor.** The people involved and in charge have their own attitudes and motivations that color their interactions. Thus coordination is in large part about human relations. This requires that the permit reviewers of different agencies talk to each other and deal with each other as individuals - not just as agencies.
- **Regular interactions are helpful.** Coordination on permit reviews requires regular interaction, not just occasional interactions. This builds trust in the relationships.
- **All officials play a part.** Elected officials may have a role in adopting policies which support permit coordination. Administrative officers and managers are critical to interagency coordination for permit reviews. It is the multitude of lower level decision makers – the permit reviewers – that develop and maintain the working interagency relationships.
- **Coordination takes time and effort.** Organizations and the officials that run them or operate within them have goals and policies to pursue. These are not always written. They are also searching for solutions to their problems. Their coordination participation and actions are driven to address their goals, policies, and problems. They generally do not expend resources on activity if it does not contribute to these, so coordination partners need to help each other accomplish their goals and address problems – at least to some extent.

- **Complexity breeds uncertainty.** Intergovernmental relations are complex and the field of environmental regulations is complex. People may be unclear about their own role, goals, or policies and will be even more unclear about those for other players. Further, these may also be different for people at various levels of the same organization. When people's knowledge and understanding of these situations is incomplete, it means that actions are not always systematically predictable, mistakes will be made, and there is no guarantee of success. This complexity makes communication even more important in the field of environmental regulation.

In sum, regular interpersonal communication between permit reviewers helps solve problems and reduces uncertainty.

Collaborative Ecosystem Management

Coordination may also extend to groups other than agencies, especially in the planning process. The use of Collaborative Ecosystem Management is a common planning system in the natural resources field, often using stakeholders groups. This integrated approach develops solutions while combining social, cultural, and economic systems with ecological problems (Keough, 2006). While collaboration and cooperation have benefits, the agency staff still maintains the role of prioritizing the planning purpose and goals. Stakeholder participation alone does not create a better plan, though it does increase the likelihood of implementation (Brody, 2003).

Stakeholders can have the effect of sidetracking or undermining the purpose and goals of the effort, unless the staff keeps those front and center. This perspective is also beneficial for those involved in permit coordination. One must keep one's own goals, policies, and problems in mind while being mindful that partners have to accomplish theirs as well. The assistance of partners can help in the implementation of actions if priorities dovetail well.

Shared regulatory space

Better coordination has been identified as important in all levels of government. The federal government highlights better communication in its efforts to increase interagency coordination and improved efficiencies (EPA, 2009). For example, the Obama Administration's plan for faster permitting of federal infrastructure projects emphasizes coordination and improved communication at the core of coordination directives. The plan prioritizes concurrent review over sequential review and includes development of online permit applications and regional agreements and planning (US, 2012).

Many states have worked to improve coordination - including Washington, which coordinates state permits through the Office of Regulatory Assistance.¹ Several states have studied the benefits and possible options of better coordination.² Conservation districts have developed permit coordination programs using programmatic permits from state and federal agencies (see Programmatic Permits and Assistance Programs for Green Projects tool (see page 72)). Many of these broader coordination efforts result in formal arrangements of various sorts.

The need for coordination, which has been identified by these federal and state initiatives, arises when there are agencies with overlapping jurisdiction or authority. These agencies are in the situation of shared regulatory space or overlapping authority. Jody Freeman and Jim Rossi in 2012 described the concept of shared regulatory space and how it often applies to situations in which different federal and state agencies have been established over time by legislative action. They observe that shared regulatory space is created by legislators in a number of ways, not necessarily for purposes of efficiency:

- Authorities might be dispersed between agencies to create interagency “fire alarms” which reduces oversight by legislators or others.
- Legislative committee member may work to capture new authorities that are “up for grabs” for oversight by their own committee, so that they can direct benefits to their constituencies. In addition, different legislative committees oversee different aspects of the same agency, complicating the assignment of new authorities even more. Redundant committee structure can result in redundant agency authorities.
- Legislators may choose to splinter authority in order to make administrative oversight (by the president or governor) more difficult and subject to the administrator’s policy changes.
- Dispersed authority might be a simple compromise to get legislation passed.
- Legislators might purposefully and logically disperse authority to harness the expertise of different agencies on particular subjects.
- Delegation of authority might not be subject to some purposeful prescience of legislators, but rather are largely accidental due to inconsistencies, inefficiencies, unintended consequences, and changes by different legislators at different times. Indeed changes over time and different political eras can make some areas of agency authority seem outdated, yet the agency structure is difficult to change.
- Once legislators delegate authority, it is difficult to get that delegation changed due to the proprietary aspect of

legislator committee oversight, which they are reluctant to give up (Freeman & Rossi, 2012).

Agencies might be delegated authority in different ways, many of which are evident in the environmental regulation arena. Shared regulatory space results in overlapping authority which takes a variety of forms:

- **Overlapping agency functions**, where lawmakers assign essentially the same function to more than one agency (more common in law enforcement).
- **Related jurisdictional assignments**, where lawmakers assign closely related but distinct roles to numerous agencies in a larger regulatory or administrative regime (for example, protecting water quality dispersed into three areas of authority: dredge and fill permitting by the Corps of Engineers; point discharge permitting by the Environmental Protection Agency (EPA) and delegated states and Indian tribes; and clean-up of local water bodies through state or Indian tribe Total Maximum Daily Load (TMDL) planning).
- **Interacting jurisdictional assignments**, where lawmakers assign agencies different primary missions but require them to cooperate on certain tasks (such as the Coast Guard providing enforcement for National Oceanic and Atmospheric Administration (NOAA) Fisheries ocean harvest laws).
- **Delegations requiring concurrence**, where all agencies must agree in order for an activity to occur (such as Endangered Species Act (ESA) consultation on federal actions, or the issuance of development permits by the Corps, EPA, Ecology, Washington State Department of Fish and Wildlife (WDFW), and local governments).

Formal agency coordination methods

In addition to the common informal and discretionary coordination or consultation that takes place, there are several categories of formal arrangements that agencies use or are required to use:

- Interagency agreements (Memorandums of Understanding (MOUs) and similar interagency agreements for specific coordination purposes),
- Joint policymaking and prioritization,
- Centralized administrator oversight, and
- Legislatively mandated consultation.

The last two approaches are usually directives to improve interagency coordination. Administrator directives most influence agency or government coordination policies and processes. Legislative directives to improve coordination are more often embedded in laws, including requirements for

¹ The Washington Office of Regulatory Assistance offers coordination assistance for state and local permits. Follow the environmental links at this website: <http://www.ora.wa.gov/>.

² The State of Indiana prepared a report on coordination and streamlining. It discusses MOUs, streamlining, information centers, and obtaining “state primacy” under federal water law to eliminate federal participation: http://www.state.in.us/nrc_dnr/takemichigan/govcoorstr/govcoorstrc.html

formal consultation processes, requirements to consider other agency's issues, and requirements for public response to other agency's issues to ensure a logical basis for decision making.

In 2012, Washington State Department of Transportation (WSDOT) established a programmatic agreement with National Marine Fisheries Service to streamline Endangered Species Act consultation (see Case Study on page 16).

Perceived cost of coordination

Freeman and Rossi make an important point about the perceived cost of coordination. Many people or agencies view interagency coordination as an added cost. This perspective, however, usually does not consider the costs of the problems caused by the lack of coordination, nor the benefits of coordination:

- Staff do not hear about projects that are happening in other agencies, which can result in projects built without permits (i.e., violations).
- Staff do not communicate their issues or concerns in pre-application contacts or comment on other agency's permit reviews, so permits get submitted to them that are already approved in other permits in an unacceptable form.
- Later-issued permits may require changes to the project which then result in the need for other agencies to re-review and re-issue their permits or end up with violations.

When considering the cost savings in other work areas, improved customer service (including reduced costs and more transparent decisions), and the correction of failures in the permit system (better protection of the resource), coordination of aquatic area permitting can save money and increase effectiveness of protecting the resource (Freeman & Rossi, 2012).

WSDOT'S PROGRAMMATIC AGREEMENT

In 2012, Washington State Department of Transportation (WSDOT) established a programmatic agreement with the National Marine Fisheries Service and the Federal Highway Administration Washington Division Office (FHWA) to provide Endangered Species Act (ESA) coverage for 24 listed species for WSDOT projects. It streamlines ESA consultation for routine transportation projects.

Components of the agreement

The programmatic agreement formally and legally established a process for consultation, review, and compliance with the Endangered Species Act and includes specific actions that will be taken to meet compliance responsibilities including:

- Early Coordination
- Form documentation
- Monitoring
- Reporting
- Annual meetings

The agreement focuses on road preservation, improvement, and maintenance activities, carried out by WSDOT and funded by FHWA and/or permitted by the US Army Corps of Engineers (under section 10 of the Rivers and Harbors Act of 1899 and/or section 404 of the Clean Water Act). Projects can be excepted if they have net long-term benefits for listed species, such as fish passage culvert replacements.

Agreement saves WSDOT time and money

By having the agreement in place, WSDOT is assured that they can better plan and schedule their projects, saving money and time. Specific design guidance, for example, is included. The first two projects completed under the agreement resulted in a 90% reduction in consultation time.

Fish passage project representing a key project category for which the programmatic agreement will provide coverage.

Agreement incentivizes restoration and stormwater infiltration

NMFS estimates that approximately 50% of WSDOT projects covered by the agreement will be in the Puget Sound region. Most of the projects (>75%), will not affect listed species under NMFS jurisdiction. The agreement incentivizes WSDOT to provide additional on- or off-site habitat restoration by excepting certain projects where the long term benefits of the restoration to listed species outweigh the adverse effects of the project.

In addition, projects will be “fast-tracked” if they provide beneficial effects to listed species and critical habitats, including projects that:

- Construct new pollution generating impervious surface (PGIS) that treat or infiltrate 100% of stormwater within the construction limits or an equivalent area.
- Retrofit existing pollution generating impervious surface without adding area.
- Replace culverts to allow or enhance passage of listed fish species.
- Remove derelict fishing gear during the repair or replacement of floating bridge anchor cables.
- Remove in-water piles using direct pull or vibratory methods and do not replace them with new piles.



FHWA WASHINGTON DIVISION

Sources: U.S. Federal Highway Administration. (2013, May 17). *Letter to Lynn Peterson, Secretary of Transportation, Washington State Department of Transportation from Victor Mendez, Administrator regarding the Federal Highway Administration's 2013 environmental Excellence Award*. Reference: HEPE-30.

National Oceanic and Atmospheric Administration. National Marine Fisheries Service, Northwest Region. (2013, January 2). *Endangered Species Act Section 7 Formal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the Washington State Department of Transportation Preservation, Improvement, and Maintenance Activities*. NMFS Consultation Number: 2012/00293.

3. IDENTIFIED BARRIERS TO COORDINATION AND SOLUTION FACTORS

In developing this guide, a number of permitting and planning staff at local, state and federal agencies were interviewed. Their knowledge and experiences provide valuable insight into on-the-ground successes and barriers related to interagency coordination, many underscoring what was found in the literature review. On several topics there was a range of opinions, but generally there was a sense that staff would appreciate better interagency coordination.

BARRIERS AND CHALLENGES

Overall, interagency relationships are good

Overall, planners and permitting staff report that the interagency relationships are mostly cordial and helpfully responsive. As one local planner said:

“We call up WDFW or Corps all the time if we have a question or think that they would be helpful for the property owner.”

Another county planner also described the good working relationship as:

“We are usually trying to help each other. WDFW loses staff and sometimes the county has resources to look at things. We also work with Ecology. And they are responsive.”

Staff are significantly overloaded leading to delays in permit review

The most consistently identified and most important barrier to interagency coordination reported by practitioners is an excessive workload, which is usually the result of inadequate funding. One local staff person said that their biggest barrier is “time” which leads to elimination of “extra” work (i.e., coordination efforts). Staff feel that they are already struggling to do the work they have to do on deadline (SEPA notices, etc.) and don’t have the time it takes to make extra phone calls for coordination.

The work overload leads to delayed permit review by some agencies. These delays result in some permit reviews becoming out of sync with those of other agencies, thus hindering coordination. For example, staff who have not yet familiarized themselves with a project are reluctant to tie their hands with

early commitments to other agencies before their own review begins.

The Army Corps of Engineers (Corps) staff was mentioned by numerous respondents as being particularly overloaded. While some planners stated that the Corps staff are very responsive, many noted that the Corps is often the slowest to do reviews (“on a totally different timeline and they are backlogged”). Comments included:

“Don’t hear from Corps. Have been told that Corps won’t comment unless there is a red flag.”

“The Corps is difficult to get a hold of. Once in a blue moon get a notice directly from the corps. Only been to the pre-apps rarely. The small projects, single family, they handle with nation-wide project (those are small potatoes to them).”

Reliance on permit fees results in adequate funding

In addition to major budget cuts associated with the economic recession at federal and state levels in recent years, local governments have lost up to 60% of their staff since 2007 (Ecology and WDFW, 2014). Most local jurisdictions use permit-related fees to fund their staff and many use no general funds to supplement the fee funding. This funding restriction can lead to major challenges such as low pay and staff cuts. There is reluctance, however, to raise fees. One planner explained that they only charge \$250 for pre-inspection site visits because they:

“Don’t want to charge more because you want people to do it. But it takes much more than that in staff time to do the report (all the regs, squeezed between highway and shoreline).”

Corps staff, as noted above, are significantly overstretched. This is in part due to federal budget cuts and also because their permits fees are especially low – individual permit fees are \$100 and nationwide permits are free and comprise 80% of their permit load.

A systematic mechanism to send all permit notifications and final permits to jurisdictions and agencies is lacking

Many respondents described challenges related to lack of notification about projects or a systematic mechanism in which final permits/exemptions are automatically distributed back to other agencies.

For example, local jurisdictions are not required to send exemptions to Ecology. One planner noted that it would be helpful to receive the exemption letters as it would be a good opportunity to talk with local planners about items they may have missed.

Some local planners said that they never receive Corps permits and don't even know if they have been issued. Sometimes the information received is incomplete. SEPA documents often include all of the needed information and the agency staff can easily make comments, but as noted, "plenty of times not all of the information is included."

Travel distance hinders staff access

One barrier that inhibits staff participation in interagency coordination efforts is the physical distance between a permit reviewer and their geographic area of responsibility. Large distances prevent staff from attending meetings or site visits with other agencies. While there may be a funding issue which necessitates assigning vast areas to a single staff person, inefficient area assignments or inflexible office locations can also cause these situations.

One agency staff person reported that that they do attend site visits very often for exemptions and permits because it is a minimum two hour drive from the office. Visits are only made for controversial or big projects - for example, a big shoreline development project for which the permit reviewer needed clarity about a potential associated wetland. The preferred solution by that staff person was to cluster visits to do many site visits on one trip.

The WDFW Habitat Program (WDFW 2014) recently addressed this issue in their new Strategic Business Plan by including a specific strategy to "Diversify staff workload so each regional biologist has a smaller geographic area of responsibility with a more manageable workload."

Interpersonal relationships take time (There is much staff turnover in some agencies)

Several respondents mentioned that it takes time to build trust and thus good working relationships among staff at different agencies. In most cases, local staff view state staff more as a resource "as opposed to a hindrance." This does not always happen, though, as was pointed out by one staff person:

"Ultimately that is the goal of any relationship – that the local person sees the state staff as a resource and not a barrier to getting the project done. Sometimes, you never get to that point."

High staff turnover rates are also challenge for building interpersonal relationships, especially in some counties. Low pay is an issue.

Agency and local requirements are not always consistent

There are various ways in which local and state or federal requirements are in conflict. One specific example raised by a local planner relates to dock length. Their local SMP requires that docks be the minimum necessary, including detailing specific lengths. In this example, WDFW staff was telling applicants that they wanted the docks to be away from the shoreline and that they could be longer than the local jurisdiction limits.

Another dock example was explained by a local planner as being a navigation conflict. Federal staff wanted the dock to be longer in order to protect boats from bottoming out, but the length violated the local SMP. The applicant wanted as long a dock as possible and received hearing examiner approval for a longer dock. Then, it came to light that the situation was complicated by the need to protect an algae - the dock length planted the end in the middle of the algae – and so federal staff said they could go longer by 12 feet. This then meant a return to the hearing examiner because it would be more than a 10% change. There was no resolution and the county staff felt that they ended up taking the blame.

For a different project, there were conflicting requirements regarding stormwater facilities at the local and state level that caused inconsistencies. A final example related to creosote pilings with the local jurisdiction requiring that they needed to be removed but state staff then saying they could be capped or left in place.

Another perspective echoing the difficulty of conflicts is:

"Different requirements and different results from different agencies (with different mandates) leaves applicants asking why have to do it the hard way, when another agency says they can do it the easy way."

In order to address these conflicts, one staff person suggested frontloading coordination in the beginning of the process so that:

“Then landowners could stop hearing three different answers.”

A key issue that has had much discussion is that of the different lines of jurisdiction, especially in tidal waters. The Corps’ jurisdiction is mean high water line and the state/local jurisdiction is ordinary high water line (see graphic on page 31). Because many consultants are aware of this, they design projects outside of the Corps’ jurisdiction. This was expressed as “a sore spot with a lot of agencies” who think the Corps should change their line of jurisdiction and thus regulate more. It will require leadership decisions at high levels to address this jurisdictional issue.

Sequencing of permit approvals can cause delays and “redos”

Local staff reported that applicants express frustration because some agencies won’t accept a JARPA (Joint Aquatic Resource Permit Application) until the applicants has gone through a local jurisdiction and received their shoreline decision. It is a challenge because each of the agencies ends up giving applicants one answer at the time regarding that agency’s review - for mitigation – rather than a full package of the mitigation that is required by all agencies (all in one package). This prolongs the process. To address this, at least one county proactively routes the complete application to the agencies (the notice and the attachments) early in the process. They find that the state and federal agencies usually do not comment unless they flag something for attention. They ask for copies of state and federal permits and have pre-construction meeting (and invite the agencies). They feel that they do the reaching out rather than being pro-actively contacted by the state and federal agencies.

The local staff believes that the sequencing (i.e., waiting for the local decision) is a policy decision. That is, the state staff want to get a local decision before they do their work (so that they won’t be in conflict) or so that they will not waste time (if it gets denied at the local level).

There is a large amount of regulatory overlap but there are small differences that lead to differing requirements. For example, as was noted by a local staff person,

“Even something as simple as the site plan, all agencies get something a little different.”

Because WDFW requires the SEPA review to be completed before they approve HPAs, another county staff person feels that they need to take a “leap of faith” that WDFW will be

consistent with their local permit requirements. WDFW is required to issue HPA 45 days after SEPA and so the county’s solution has been to hold their county permit so that both permits come out together. The county will tend to revise their permit if the HPA (which is usually more specific to the construction elements) has different requirements, such as a different mitigation ratio, in-water work window, etc.

In spite of the challenges of sequencing, there are efforts to communicate informally. As one local permit reviewer noted about WDFW staff:

“They are pretty upfront about what they will put in (if you ask them).”

Permit review delays lead to project changes which are not necessarily communicated back to staff

Long delays in permit reviews by other agencies lead to projects being changed after the local agency issues their permit. Local staff reported that they do always not hear about these changes (i.e., lack of a feedback loop after each agency completes their permit).

One example of this time and communication lag is a geoduck project in which a county had initially approved a habitat report. Later, the applicant then had to submit a different habitat plan to the Corps. This was followed by a meeting to discuss the differences. The key issue was how far the project would need to be located back from an eelgrass bed. Since years had passed, the consultant/applicant had forgotten what had been originally submitted to the county. The county later was provided with an updated report but the applicant had already changed their plans from what was in the updated report.

Ecology reported cases in which there was substantial back and forth discussion with local planners about permits, which later got influenced by local pressures (such as politics) and contained less restrictive requirements. Ecology didn’t learn of the final local decisions until they saw the issued permits.

Finally, another local planner noted that there was no mechanism to let them know that an HPA has been issued for projects within their county.

Fee based local jurisdictions have different protocols than non-fee based agencies

There is a perception by some local jurisdiction staff that because agencies are not as reliant on fees (i.e., not “fee-based”) for their permit reviews, they operate under different protocols which end up making the local jurisdictions “look like the bad guy.” In one example, the county told that applicant that they would have to mitigate for impacts. Since they were

fee-based, they were doing a formal review. WDFW staff (not-fee based) then went out to the site and informally told the applicant that they needed to do specific things. The county, however, needed it to be a formal application. The landowner then said:

“Why can’t I use what WDFW said?”

According to local staff, WDFW is maxed out and short staff. Thus they do “their work quickly and don’t go out and monitor sites.” Generally the counties are “under the gun to process fast.” It should be noted that the state and federal agencies do have low level fees (\$100-150) for permits, but do not rely as heavily on fees as do local agencies.

Permitting departments are subject to different restrictions and pressures

On top of the staff shortage and time pressure challenges, there are additional restrictions and pressures that are beyond the staff’s control. For some, it comes down to authority. Local staff hear from WDFW staff, “It is not in the statute. We can only require this” and they have only seen 1 or 2 HPA permits denied.

Ecology staff have to stay within the regulations and so see projects which won’t protect the resources but are consistent with the local SMP. They find that tighter restrictions are not feasible and therefore do not propose them “because they would lose in an appeal.” When Ecology objects to conditions that are inconsistent with local SMPs, other pressures such as those related to local politics come into play:

“Could just be an influential landowner in the jurisdiction who calls up the city and says, ‘What is up with this project?’”

A local planner reaffirmed that it is sometimes difficult for local staff, who may be under pressure to avoid costly appeals:

“Negative consequences are greater when you don’t follow the rules exactly and open it up for appeal. And [local staff] are even more afraid of being sued for damages than appeals.”

Ecology staff indicate that they may be more willing to be the “bad guys,” because as was noted, “it is easier than facing your neighbors.” Ecology only puts the local jurisdiction on formal notice infrequently, however, and does not do many appeals because it takes substantial resources and requires involvement of the attorney general’s office. Instead, Ecology staff work to have many conversations with local planners to work out the issues.

The primary challenge is the basic underlying interagency variability, as was described by a planner:

“Every permit is on a different timeline and has different importance on different issues.”

Each agency has their own set of processes and protocols. For example, at the Corps level, the applicant is required to go through an alternatives assessment. There is room for flexibility. Local permits, however, are meant to have mitigation plans with clear measurables which are statistically valid.

A fully universal permit application system and/or gateway permit is lacking

It is reported that the perennial complaint from landowners is about the need for so many applications and permits, such as:

“Why different forms or applications for each agency that I am working with. It is all the same information and in different orders.”

Staff are also frustrated by the challenges in effectiveness of the coordination, especially for smaller projects. For example, putting in a culvert for a driveway involves three permits and the staff are all “reviewing to the same standards.”

One planner suggested that it would be desirable if there were a gateway permit below which all the others were nested and suggested that the Corps permit could be this gateway. The applicant would get the three permits together and local knowledge would inform the national permit.

In addition, a universal application, more inclusive than the existing JARPA, was another suggested solution – one form on a web site.

Landowners, and some staff, are not aware of all of the required permits

There are gaps in communication to applicants about the need for other permits. From the federal perspective, they hear from applicants complaints such as:

“I got the county permit and so why are you saying I have to reduce the impacts?” or “Oh, I didn’t know I needed a Corps permit. County didn’t tell me about the Corps permit.”

This often leads to violations because often people think all they need is the local permit and they, for example, proceed to grade and fill wetlands.

Reasons given for why information is not imparted to landowners about other permits include:

- Local jurisdiction sent information to the Corps and since they didn't respond, it was assumed that there was no need to send the applicant to them.
- Lack of complete awareness by permitting staff about what are the "red flags for the Corps."
- Differences in regulations which cause confusion. For example, with wetlands, many local governments exempt wetlands that are less than 1000 square feet. They think that if wetlands are exempt locally, then other agencies exempt them too (and corps does not exempt them).
- Staff turnover at the local level.
- Lack of knowledge in other city or county departments. Even if the regulatory staff are aware of the state and federal requirements, the parks departments may not know about the other needed permits.

Cross-referencing the need for other permits is inconsistent and sometimes lacking

To help address the problem of lack of awareness about all of the permits, staff at all levels - local, state and federal - all mentioned the need for permits themselves to include language that directs project proponents to requirements to get other permits. This might be especially valuable if a federal permit will be needed. As was pointed out:

"99% of the time if you are getting an HPA, you need a Corps permit."

For example, it was suggested that it would be desirable to have language in permits such as 'you need to go to xx for a permit,' so that, although it would not be a legal requirement, it would bolster the case for enforcement if they do not obtain that other permit. A planner noted, "It is more difficult to ignore those other permits if they are listed in the issued permits."

Some permit writers do include a provision that all other agency permits are required (even though it is a given). Other local jurisdictions report that they include a catchall condition in shoreline permits - that the landowner has to "comply with HPA and Corps permits."

Across the board, the inclusion of this kind of notice in permits does not appear to be consistent.

Smaller projects are being considered too small to coordinate

In the Puget Sound region, the largest numbers of shoreline

permit requests are for single family homes, including remodels and replacements. According to planners, the cost benefit of coordination goes down as projects get smaller and smaller. The burden has been made even more challenging because the overall permitting process is not efficient and the staff say that:

"...[they] end up giving applicants one answer at one time - for mitigation – rather than a full package of the mitigation that is required by all agencies (in one package)."

There is a barrier to getting changes made so that for some projects, especially smaller projects, agencies could consolidate the reviews. Respondents mentioned the need for more resources at the state level to look at the bigger picture and to release some authority to local jurisdictions, rather than requiring three reviews. It was suggested that a pilot project in some of the larger counties could address the variable agencies and see if consolidation indeed would work. There was a previous effort to try to harmonize with WDFW by providing office space and regular meetings to break down barriers but these efforts petered out. There have been legislative efforts as well.

Coordination role is sometimes falling to the applicant. A number of respondents described the proactive role that project applicants sometimes need to take. For example, the coordination job of getting all of the permit reviewers together can fall to the landowner or their consultant as described by a local jurisdiction planner:

"Most falls on the property owner to contact the others, and for the consultant to coordinate."

According to an agency respondent, "most of the time, the consultant is tasked with finding out about all permitting requirements. The notification for meetings comes from the consultant."

Authority roles can impede interagency relationships

Another less common but consistent barrier to coordination comes into play when agencies do not coordinate due to philosophical reasons. While the problem is not common, many practitioners seem to have encountered it with specific agencies on an ongoing basis. While a lack of coordination might be solely philosophical, power status (or perceived power status) of other agencies may play a key role. Specifically, if a party has little authority or power over the decision to be made, then there is no need to coordinate with

them, other than through good will. Agencies may choose to avoid incorporating the issues or comments of the other parties. Weaker parties may try to use power play tactics. To avoid or overcome power play tactics requires communication in both an informal and formal capacity. Coordination activities are the primary arenas in which agency staff build relationships with other agency staff.

Sometimes the key issue is political will, which changes over the years in different agencies and local jurisdictions.

SOLUTION FACTORS TO OVERCOME COORDINATION BARRIERS

Barriers to coordination identified by practitioners or in the literature fall into five main categories: staff overload, communication gaps and differing protocols, physical or logistical challenges, conflicting mandates or pressures, and authority challenges. Recommended tools in Chapter 6 address many of these barriers. Many tools address multiple barriers. Coordination barrier categories and general solution factors to overcome these barriers are listed below:

Staff overload

Staff overload (due to inadequate funding) can lead to delayed permit review, disengagement from coordination activities, staff turnover hindering trust building with other agency's staff, and loss of institutional memory.

Solution factors

- Commit to adequate funding.
- Increase pay for staff.
- Increase training for staff.
- Improve permitting efficiency through operational changes.
- Increase or systemize communication on projects during their design stage to avoid the need for a permit or reduce unacceptable permit submittals.

Communication gaps and differing protocols

Communication gaps lead to lack of awareness of projects, agency staff lack of knowledge about other agency's authority or process, and violations and mid-construction permits consuming time or going unenforced. Differing protocols lead to challenges in syncing of permit reviews and landowner confusion when hearing different information from each agency.

Solution factors

- Create systematic or automated mechanism to learn about projects (applications, reviews, final permits) from other agencies.
- Communicate permit requirements to other agencies.
- Find ways to increase other agency staff's knowledge of laws, including trainings.

- Increase opportunities for informal communication and sharing of information.
- Systemize mechanism for timing of permit reviews and sending of permits to landowners so that conflicting permit requirements can be addressed prior to release of permits.
- Create joint protocols for imparting information to landowners so that they don't hear conflicting information about potential mitigation or other requirements.
- Increase number and quality of educational opportunities for landowners.
- Create systematic and consistent language to include in all permits which notify landowners about the need for permits from other agencies.

Physical or logistical challenges

Physical challenges result from staff covering large geographic areas or agencies and local jurisdictions are long distances apart. Physical distance makes it difficult for permit reviewers to attend site visits and other meetings. Logistical challenges include lack of notification about some projects/applications and no systematic mechanism to share issued permits. Staff are not able to influence project design (projects set in stone before requesting permit).

Solution factors

- Locate staff offices near or within geographic area of responsibility.
- Avoid assigning vast geographic areas to a single staff person – limit the areas.
- Avoid assigning disbursed geographic areas to a single staff person (i.e., keep them contiguous).
- Creation of tracking system which notifies agencies about all relevant permits
- Find ways to learn about projects during their design stage.
- Coordinate on projects during their design stage.

Conflicting mandates or pressures

Conflicting mandates or pressures lead to inconsistent requirements in permits from agency to agency, inconsistent requirements in permits from site to site, some agency staff being regarded as unfair, and weakening of some permits (least common denominator).

Solution factors

- Help build other agency staffs' knowledge of laws as they relate to your agency.
- Delegation of authority to other agencies.
- Legislative changes in laws.
- Training of staff for testifying in cases where permits are appealed.
- Provision of experts (state or federal) to testify at local level.

Authority challenges

Authority challenges lead to staff avoiding inclusion of an agency's issues in decisions, reluctance to centralize/streamline permit application or review processes and lack of gateway permit (i.e., permit that is umbrella under which other permits are nested, although with individual authorities intact). In addition, political will varies at different levels of government (and changes over time).

Solution factors

- Work at state level to create mechanism for coordination of permit review, including opportunity for gateway permit and/or universal application (which includes local permits).
- Build positive relationships between agency staff to increase willingness to communicate in spite of antipathy between agencies.
- Focus on customer service and other benefits to overcome antipathy or other objections.
- Communicate agency's authority to other agencies to be sure they understand it.
- Demonstrate agency's authority by standing firm on permits, by appealing other agency's decisions when needed, and by readily elevating issues to higher administrative levels.

An innovative approach to coordination involving breaking down silos between agencies is shown in the new Floodplains by Design project (see Case Study on page 24). Benefits of Coordination

BENEFITS OF COORDINATION

As described above, environmental regulation has inherent problems due to complexity and duplication. In addition, there are a number of identified barriers. Coordination, between departments within an organization and between different agencies at all levels of government, can help solve these problems. The benefits of this coordination are shown below and described in more detail below.

Coordination Benefits and Related Factors	
Interagency coordination can help ease challenges in a complex regulatory environment	<ul style="list-style-type: none"> ■ Reducing some challenges of duplication ■ Addressing conflicting requirements ■ Reducing confusion ■ Producing better resource protection

Interagency coordination can improve both public and customer service	<ul style="list-style-type: none"> ■ Improving public Image ■ Lowering permit review costs ■ Lowering compliance and enforcement costs ■ Improving customer service
Interagency coordination can play to the strengths of each agency	<ul style="list-style-type: none"> ■ Enhancing inherent abilities: <ul style="list-style-type: none"> ■ Local governments tend to have on-the-ground knowledge and relationships ■ State and federal agencies tend to have natural resources expertise that smaller local governments may not have on-staff

Interagency coordination can help ease challenges in a complex regulatory environment

The complexity of aquatic areas regulation mainly comes from the overlap of different laws at the local, state, and federal levels. Multiple laws related to aquatic issues were established over the years to address a range of problems and issues as they became known. Originally these laws were enacted to address utilitarian issues, then public health issues, then ecological issues. In addition, some laws that were established to address other issues end up regulating water resources indirectly (Freeman and Rossi 2012).

Complications in aquatic and upland areas come from a regulatory environment with:

- **Multiple uses.** Aquatic areas have many uses and many resources, which makes them complex to manage. Rivers, lakes, and marine waters are often used for navigation, fishing, shellfish gathering, and recreation. Because of the economic importance of many of these activities, some aspects of aquatic areas have been historically managed by federal, state, and local governments.
- **Overlapping subject area authorities.** Much of the overlap comes from laws giving agencies authority over highly defined subject areas. For example, authority over navigation addresses water obstructions, authority over public health addresses water quality, authority over fish and wildlife addresses fish habitat. It gets more complex when new laws relating to different water issues are added later or existing laws are adapted to address new concerns.
- **Authorities with defined geographic areas or related to specific land ownerships.** These same highly defined

INNOVATIVE COORDINATION EFFORT: FLOODPLAINS BY DESIGN



Floodplains by Design is a partnership of federal, tribal, state, and local agencies and non-governmental organizations addressing Puget Sound floodplain recovery through a collaborative funding and management approach. The project is led by a team including The Nature Conservancy, the Puget Sound Partnership, the Washington State Department of Ecology, and U.S. Geological Survey. The project developed in response to the need to address increasing human population pressures, degrading habitat (quicker than improving recovery), poor water quality, high flood risk, increased cost of maintenance and aging infrastructure, and concerns about predicted climate change impacts in floodplains.

Multi-pronged approach

Floodplains by Design's goals are to restore sustainable and harvestable salmon runs, reduce risk of flooding to protect life, infrastructure and \$18 billion in assessed value, meet clean water standards, and support local agriculture and business. This is being accomplished by:

- Integrating investments in flood risk reduction and ecosystem restoration and protection;
- Recognizing ways that people value and invest in floodplains and their services;
- Implementing projects that are large enough to be meaningful; and
- Looking for ways to break down program and funding "silos."

Regulations and funding coordinated

Important expected outcomes of Floodplains by Design are that federal, state and local policies, regulations, enforcement, funding and overall efforts will be coordinated so that they working more in concert towards common goals.

Approximately \$3 billion has been identified at the total funding for flood risk reduction capital needs (6-20 years) and salmon recovery floodplain capital needs (2-5 years). The 2013 Washington State Legislature allocated \$50 million in grant funds of which \$39 million has been awarded in two funding rounds in Puget Sound.



State of the Floodplains

- Nearly 400,000 acres of floodplains in Puget Sound
- Roughly 40% are disconnected from the river
- Over 6000 miles of Chinook Salmon streams
- 140,000 acres of agricultural lands
- 25,000 acres of intense development, areas with > 50% impervious surfaces
- 18.6 Billion dollars of Assessed Value in Puget Sound floodplains
- Significant flood damage every 3-5 years for all Puget Sound major river areas
- More than 1000 key facilities at risk of periodic flooding

subject areas automatically come with their related limits on geographic areas – adding yet more complexity. Further, some laws only apply to certain categories of land ownership, such as a law that controls federal lands, but not state lands or private lands.

- **Non-water-related laws applying indirectly to aquatic resources.** Some laws, such as Washington’s resource lands laws, do not directly regulate aquatic areas but can have significant impacts on their regulation indirectly. These include forestry and mining laws. Local land use laws can also affect aquatic areas indirectly (Freeman & Rossi, 2012).

Reducing some challenges of duplication

Often, agencies operate under laws which apply to the same resource. As noted above, this results from different laws which were established for different purposes and applied to different geographic areas and creates a situation of partial duplication. On one hand, this duplication has some positive effects – it allows the work to be double-checked by additional sets of eyes. The downside for landowners may be multiple permits.

Interagency coordination can reduce the challenge of duplicate effort by landowners through collaborative applications or processes. Small changes in laws can improve permit processes. Complete elimination of the duplication, sometimes tried with the idea in mind of eliminating additional review by another agency is not true “coordination” but rather is often an attempt to eliminate the need for coordination. Eliminating an agency or a law is extremely difficult and unlikely.

Addressing conflicting requirements

Whether or not there is regulatory duplication and overlap, permits issued by different agencies may have conflicting requirements that create administrative problems and have direct costs. Contradictory requirements may result in the need to make changes to permits that are already issued, which then require additional review. The changes might have to be made in the project design or in the permit conditions. If those changes are not re-approved by other agencies, the project that is built may be in violation. Coordination can greatly reduce the instances of conflicting requirements.

Reducing confusion

The partial duplication, limited jurisdiction, and nuances in legislative purpose create confusion in the minds of permit applicants. In addition, agency staff unfamiliar with the different laws may be confused about what is or is not being covered by other agencies. When communicating with their permit applicants, staff may give incorrect information about what other permits are needed or what the other agencies cover. This can result in direct costs to the applicant when they have to make changes late in the permitting process, direct costs to various agencies to re-review the changes, or direct compliance costs to the other agencies. Strong interagency coordination can greatly reduce instances of providing

incorrect information about other agency requirements and eliminate those unnecessary costs.

Producing better resource protection

Because of large workloads, there is an inherent tendency for permit reviewers (especially local jurisdictions) to rely on other agencies and their permits to cover particular issues. Yet reviewers may have an incomplete understanding of the jurisdiction of other agencies – permits they do or do not require, the geographic areas they do or do not cover, and the issues they do or do not cover – as well as their staff resource constraints. In addition, as described in practitioner interviews, there are communication delays and gaps in the feedback loop between agencies. Consequently, project impacts and the mitigation for them may fall through the cracks resulting in loss of ecological functions. Automating communication and other coordination tools thus can help protect the resource better and improve the ability of staff to accurately work with other agencies to cover specific issues. Indeed, the need for coordination is magnified due to the overlapping jurisdictions that differing agencies have over water resources.

Interagency coordination can improve both public and customer service

Improving public image

Most permitting agencies suffer from a public image problem due to the nature of the work (landowners are required to obtain permits that they would prefer to avoid). Another reason is the perception by the public of the duplicative or confusing regulatory environment. This leads to frustrated and angry permit applicants who may feel that agencies are incompetent. In addition, it can reduce compliance with the laws and, at its worst, people may just disregard the need for permits. This in turn increases the costs of the compliance program. Interagency coordination that addresses these problems can improve the public image of the agencies that coordinate.

Lowering permit review costs

Agencies that coordinate can communicate requirements to applicants in a more unified way before plans are finalized and submitted. Thus there is less need to re-review projects for changes. In addition, they can also better avoid conflicts in permit requirements upfront rather than having to resolve them later. Since many jurisdictions charge a flat fee for permit review, the extra work late in the process often comes without extra fees. Interagency coordination can reduce that extra work. Further, by being able to tap into expertise of other departments and other agencies, permit reviewers can educate themselves on specialty subjects quickly and receive assistance in understanding issues and developing permit requirements.

Lowering compliance and enforcement costs

Interagency coordination can reduce the incidents and costs of non-compliance and enforcement actions. This is especially

important since jurisdictions rarely get fees for compliance/enforcement work, leaving this work to be largely funded by general funds. Agencies that coordinate are better able to avoid un-reviewed changes needing to be made after a permit is issued. Also, they are more able to identify when plans change from what other agencies approved. When agencies coordinate, there are more collaborating eyes on the ground, so that observed issues arising from non-compliant permits and violations can be relayed to other agencies before the problem becomes larger. Agencies that coordinate can provide expertise to others for addressing violations.

Improving customer service

Coordination provides better customer service to citizens by improving efficiency. Permits are reviewed faster, especially if coordination allows them to be reviewed concurrently rather than sequentially. Decisions by coordinating agencies conflict with each other less and support the requirements of each other better. There are fewer changes and corrections needed after plans are prepared and after permits are issued.

Interagency coordination can play to the strengths of each agency

Natural resources agencies at the various levels of government have different strengths and weaknesses when it comes to project review. Coordination between them can allow the strengths of each agency to be brought to bear on a permit review.

Local governments (and their natural resource staff) have the following strengths that contribute toward better coordination:

- Local staff can have more extensive knowledge of local geography and natural resources locations than state and federal agency staff who must cover a much broader geographic area.
- Local governments are able to serve as an accessible point of contact for the community. They usually already serve as the initial points of contact and the information clearing houses for a large number of development permits. State and federal offices are typically harder to access for individuals, due to distance and unfamiliarity.
- Local governments have a wide variety of internal permit reviews they perform for development projects. Consequently, they often have an internal coordination system in operation, as well as staff experience in coordinating with other departments. Local jurisdictions can extend this system to coordinate with other agencies and may already do so.

State and federal agencies often issue specialty permits such as those for water quality, wetlands, and mine reclamation. This gives them the following strengths that local governments may not have:

- State and federal agencies tend to have staff with a more well-rounded general understanding of natural resources science than many local governments can provide.
- State and federal agencies often have staff with specialized expertise in scientific aspects of specific natural resources or development subjects.
- State and federal agencies often have detailed knowledge of specific development practices that affect the resource subject of their expertise (for example, marine or lake docks, river bridges, etc.), the impacts of such development, and ways to mitigate the impacts.

Based on the above strengths, local governments are well suited to play a central coordination role between the players. While state and federal agencies can most consistently be relied on to identify all the consequences of a development, these are not necessarily addressed in their specific permits. As described in the interviews, local jurisdiction staff often already rely on agency assistance but the coordination is not fully systemized or consistent.

OBJECTIVES OF COORDINATION

The challenges of coordinating reviews are not limited to just the aquatic regulation arena, though the overlapping nature of natural resource laws makes the problem greater than for other types of development laws. All permits required by different laws can benefit from interagency coordination. With uncoordinated review, permit applicants must find out about all of the needed permits, make separate contacts with each agency, fill out individual applications, and make changes based on requirements and permit conditions. Thus, successful interagency coordination helps improve four basic permit review tasks:

- Gaining relatively concurrent permit review by all relevant agencies.
- Communicating required design elements so that project changes can be made early and only need to be made once.
- Avoiding conflicting requirements from different agencies/departments.
- Confirming that all impacts are being addressed and covered.

Coordination must protect the resource

It is important to keep in mind that the goal of improving interagency coordination is to protect the resources. Activities that affect aquatic resources will never be simple or speedy to review and permit, as they will always require complex and time consuming review by multiple agencies to ensure publicly established values are protected. The first consideration should always be to site activities outside areas with multiple aquatic regulations. Coordination can improve protections and can reduce confusion and re-reviews by the same agency, but permitting in shoreline and critical areas will never be easy.

Caution about relying on others for expertise

Many smaller local jurisdictions do not have specialized staff who are experts in the various related natural resource fields. Thus, a benefit of interagency coordination is the ability to leverage the resources of other agencies in terms of technical review of permits. Relying entirely on others (agencies or project consultants) for natural resources expertise, however, should not be a permit review strategy for any jurisdiction. Relying on resource experts from other agencies is unlikely to provide adequate mitigation and achieve no-net-loss. The advice is likely to be limited to the authority of the agency, not that of the local jurisdiction. Also an agency's ability to provide assistance may be inconsistent and subject to their staffing/funding limits, workload, and willingness to do the jurisdiction's work. Further, relying solely on the project applicant's reports is also unlikely to provide adequate mitigation and achieve no-net-loss, since the consultant is an advocate for the project and it is likely that issues will be missed or that minimal attempts at mitigation will be proposed. It is a reality, though, that high levels of expertise are not always possible, and even jurisdictions with a large natural resources staff may lack expertise in a specific subject. Interagency coordination does provide a major benefit of supplementing this gap by facilitating sharing of expertise and advice.

4. COORDINATION IN A COMPLEX ARENA

The regulatory landscape is complex in the shoreline area. In the face of this, improved interagency coordination can take many forms ranging from changes that can occur at the staff level to those that require legislative changes.

INFORMAL VERSUS FORMAL COORDINATION

Coordination is essentially about communicating needs and helping others meet their goals - an extended version of the concept that “the left hand knows what the right hand is doing.” This most readily and easily comes with staff collaboration between agencies, and consequently informal coordination is critical. Sometimes more formal arrangements can yield benefits as well, especially to overcome specific problems.

Basic informal coordination requires an active effort to maintain communications between the staff of different agencies. More formal relationships require concerted agency action in addition to staff effort and result in increased administrative structure to promote coordination.

Freeman and Rossi (2012) describe four categories of techniques of coordination based on their level of formality, cost, and effort to implement. These categories, organized slightly differently, are used to describe the “method of coordination” characteristic of recommended tools in this guide (Chapter 6) and are:

- Staff Collaboration
- Internal Prioritization
- Interagency agreement
- Mandated Operations

Staff Collaboration requires no interagency coordination structure, though the other techniques can be used to build coordination structure, if needed. There can be different combinations, and theoretically, any of these techniques can be used to undertake any particular coordination effort.

Staff Collaboration

Collaboration between staff of different departments or agencies occurs to a greater or lesser extent through day-to-day communication, though unfortunately it is nearly absent at some agencies - to the detriment of the permit review system. Collaboration could be improved to increase the effectiveness and efficiency of individual permit reviews. Potential specific activities are described in detail in the Interpersonal Collaboration tool (see page 51) and include phone calls, meetings, joint site visits, and information sharing.

Internal Prioritization

Establishment of priorities (such as policies and resource allocation) within the agency or department for increased coordination may be all that is needed to improve a collaboration effort. Prioritization essentially establishes greater commitment to staff collaboration. This is a more formal arrangement than staff collaboration, but less so than establishing an interagency agreement. Changing internal priorities is relatively easy and can be done unilaterally, though it must be done at the higher levels of the organization. It might also coincide with a similar change in a partner agency. WDFW recently did institute policy changes to improve enforcement coordination (Procedure 5212). Some examples of internal prioritization include:

- Changing administrative policy
- Changing a policy document (a bigger effort)
- Assigning staff to coordination efforts
- Using existing processes as a coordination effort (for example, use of programmatic permits)

Interagency agreement

Contracted agreements to increase interagency coordination include a variety of legal instruments which create formal arrangements between partner organizations. The legal details can vary widely and include systematic mechanisms to enable multiagency coordination using voluntary and mutually agreeable means. They are actions within the existing purview of agencies. These agreements can be used to commit to and formalize joint agency priorities, assure incorporation of one agency’s interests in a partner agency’s decisions, provide authorization and training to perform common activities for the partner agency (such as some enforcement or follow-up permitting tasks), and split up and coordinate workloads based on different authorities. Some examples of interagency agreements include:

- Memorandums of understanding
- Mutual aid agreements (often used between law enforcement agencies to allow partners to issue tickets regardless of jurisdiction)
- Development agreements (often used on specific projects)
- Other standard contracts
- Joint planning efforts (which may also include another agreement) to spell out interagency arrangements, joint policies, and implementation actions

Mandated Operations

Mandated operations result from directives from the highest levels of an organization to change the responsibilities and duties of its departments or agencies. This includes agency administration directives to its departments and legislative authority directives to the government’s agencies. These

directives are usually internal within an organization, though they may be accompanied by an external contractual or legislative agreement between governments or agencies. The objective is to establish formal and systematized coordination between departments or agencies in specific ways. Mandated operations (both administrative and legislative) include:

- Directives to improve coordination, including minor changes to duties or laws
- Directives establishing new authority, or making other major changes to duties or laws to improve coordination
- Departmental reorganization plans designed to improve coordination
- Interstate compacts or similar legislation for joint activity between government units (e.g., the Columbia Gorge and Lake Tahoe compacts)

COORDINATION CAVEATS AND COMPLEXITIES

Interagency coordination is not about fewer laws

Some people promote the idea of interagency coordination because they are hoping to reduce the number of reviews of a project by different agencies. To do this would require major agency restructuring or law changes. Interagency coordination in the context of this guide, therefore, focuses on small changes to allow flexibility and improve communication between agencies in ways which can result in significant benefits.

Permitting in the aquatic regulation arena is complex. One planner put it plainly:

“In Puget Sound, there is no such thing as a quick and easy permit.”

This complexity can be illustrated in several ways to highlight different aspects of the overlapping geography, horizontal extent, and nuances of issues. The diagram on page 31 and Table 1 depict the multitude of natural resource laws that affect aquatic resources. While these illustrations and table do not include the full complexity and nuances of the laws, together they capture the most important elements. Chapter 5 describes the specific laws, agencies, and coordination implications.

Shoreline Jurisdictions

This illustration depicts the laws and agencies which have jurisdiction over different sections of a shoreline. Of note is that the local jurisdiction's CAO and SMP regulate areas that are broader than the WDFW, Ecology, and the Corps - especially upland vegetation and uses. Projects taking place on or over state-owned aquatic lands (which includes some tidelands) require a use authorization from DNR. This graphic does not illustrate the geographic jurisdictional nuances or special issues permits.

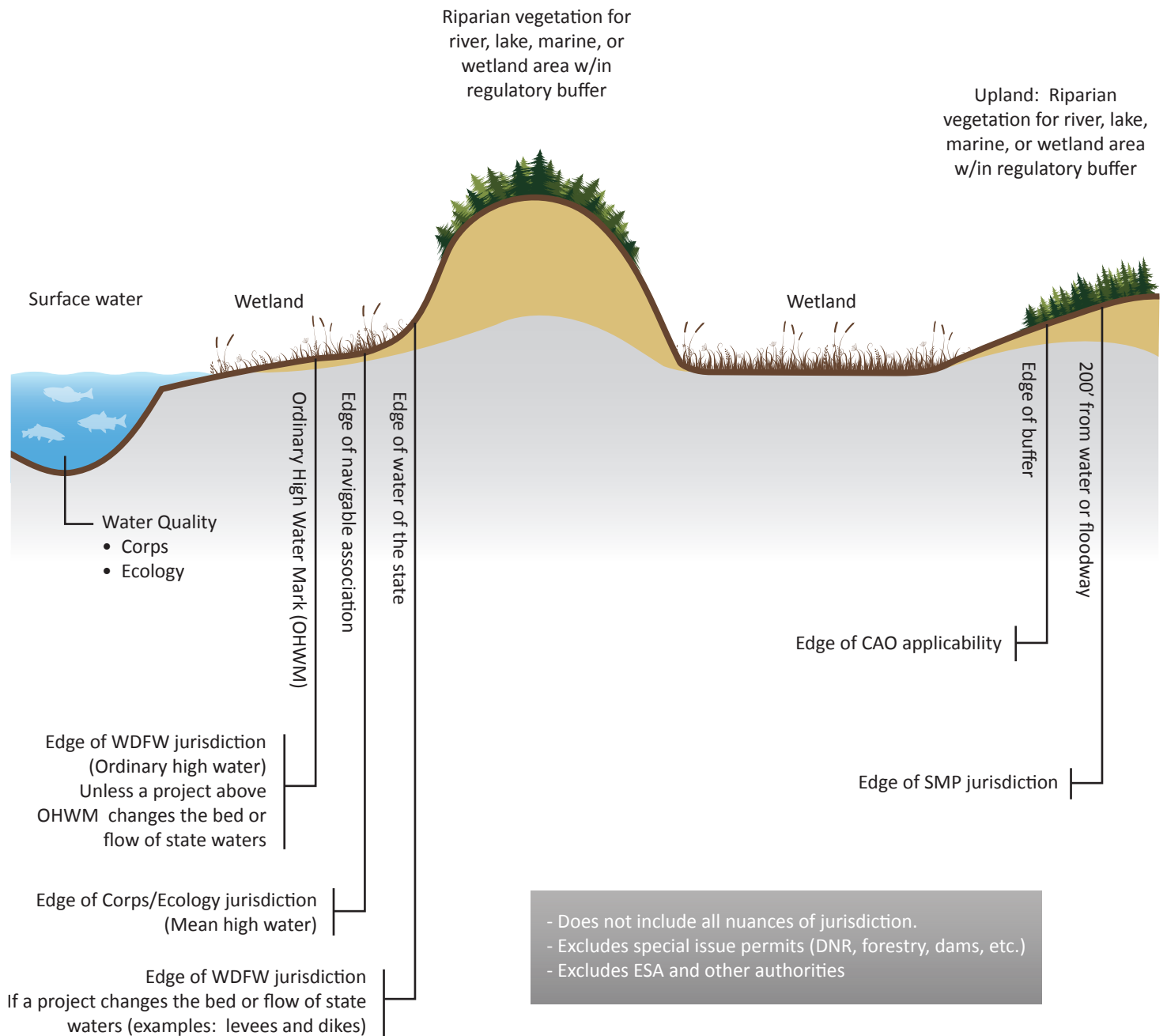


Table 1. Shoreline-related laws and implementing agencies.

The table shows implementing agencies and subject areas and issues, illustrating the gaps and overlaps of different laws. In some cases (namely the Clean Water Act), multiple agencies are referenced to the same law. The laws are cross-referenced to columns labeled according to the possible areas of shoreline that might be affected, which are related to the cross-section diagram on page 31). These areas are marked with a symbol if the law has direct regulations that affect the area. If the law only includes indirect regulations (general statements, etc.), then the area is not marked, though it may still have to be considered under the permit.

Key

- ▲ Permit-type approval
- Non-permit approval
- Advisory authority only

Agency	Law	Limits of review authority that are important for coordination	Subject area or Area of Shoreline				
			Water Quality	In-Water	Wetlands	Riparian Vegetation	Nearby Uplands
Corps of Engineers	Rivers and Harbors Act	Reviews obstructions but only in navigable waters. Not ecologically focused.		▲			
	Clean Water Act / WPCA Section 404 permits	Reviews fill/dredging, but only in navigable waters and related wetlands, not all streams and wetlands.	▲	▲	▲		
EPA	Clean Water Act / WPCA	Provides rulemaking for Corps and Ecology. Rarely involved with permitting. EPA can veto Section 404, wetland, permits although it is rare.	●	●	●		
US NMFS and US FWS	Endangered Species Act	Requires consultation and acceptance on federal permits, but not state or local permits where the project does not have a federal connection or nexus such as federal funding.	●	●	●	●	●
Ecology	Clean Water Act / WPCA	Requires water quality certification for Corps permits. Requires pollution permit for point discharges.	▲	▲	▲		
	Water rights laws – surface and ground	Does not really regulate ecological issues. Can protect in-stream flows.	●	▲			
	Coastal Zone Management Act	Requires certification of only federal actions. WA includes SMPs and pollution laws in its CZM plan. Non-federal actions require local approval.	▲	▲	▲	▲	▲
	Shoreline Management Act	Requires state review of some shoreline permits – generally few in number.		▲	▲	▲	▲
	Dam and Reservoir laws	Mainly related to construction & safety, not ecological issues.		▲			▲

Agency	Law	Limits of review authority that are important for coordination	Subject area or Area of Shoreline				
			Water Quality	In-Water	Wetlands	Riparian Vegetation	Nearby Uplands
WA DNR	Property laws	State ownership of aquatic bedlands and some tidelands requires state approval for alterations.		●			
	Surface Mining Act	Permit only for restoration after mining - doesn't prevent damage. Does not apply to small mines.	●	●	●	●	●
	Forest Practices Act	Applies to most harvest situations but not all. Many (smaller harvests etc.) do not require actual permit. Includes water/wetland protection standards.		▲	▲	▲	▲
WDFW	Hydraulic Code Rules from various laws	Requires permits within OHWM and projects above OHWM which use, divert, obstruct, or change the bed or flow of state waters. Not for uplands or many wetlands. Does not cover all ecological issues.	▲	▲	▲	○	
	Fish and wildlife management laws	Does not cover all ecological issues. Limited to advisory role – no permits or approvals issued.		○	○	○	○
Local Govt.	SMP project review	Covers broad geographic range, ecological issues, and development types. Even exemptions must be reviewed.		▲	▲	▲	▲
	Critical areas project review	Covers broad geographic range, ecological issues, and development types. Even exemptions must be reviewed.		▲	▲	▲	▲

5. UNDERSTANDING THE LIMITS OF LAWS AND THE AGENCIES THAT IMPLEMENT THEM

As effective interagency coordination relies on knowledge of laws and their limitation, this chapter provides summaries of the different laws related to aquatic areas along with their implementing agencies. These laws are listed in Table 1, with the exception of SEPA/NEPA laws. The administration and enforcement of each of these laws benefit from coordination as well.

SHORELINE MANAGEMENT ACT (STATE)

Of the environmental laws related to shorelines, the Shoreline Management Act (SMA) and the local Shoreline Master Program (SMPs) are the broadest laws protecting ecological functions. For smaller water bodies, the local critical areas ordinances (CAOs) – which are usually built into the SMPs – have similarly broad application (See page 36). Shoreline jurisdictions include in-water, riparian, and upland areas. SMPs also cover almost all development types (compared to other laws covering just mining, forestry, dams, water rights, etc.), though their application may be limited in specific instances by more specific laws. Water quality is the one area where SMPs only include general references, so most jurisdictions rely on the detailed water quality requirements provided by other laws. In general, the broad application of the SMA makes it a good umbrella process within which to coordinate the variety of other laws administered by other agencies.

Permit review

SMPs are administered and enforced through partnerships between local jurisdictions and Ecology. Most development (in the form of shoreline exemptions and substantial development permits) is approved by the local jurisdiction, with little or no review by Ecology. The other permits (variances and conditional uses) are reviewed by Ecology, with a separate approval process. Consequently, those permits take extra time that needs to be factored in by the landowner and local jurisdiction. Even though “shoreline exemptions” do not go through the permit process, they must still meet the SMP requirements and development standards. Thus the project proposal must still be reviewed in a less formal manner for compliance with the SMP.

SMPs differ from other shoreline-related laws regarding mitigation

In recent years, local jurisdictions have been updating their SMPs to incorporate the guidelines developed by Ecology in 2003, new science, and local priorities and other information. The underlying standard of protection for these updated SMPs is “no net loss of ecological function” (WAC 173-26-186(8) (b)), which is stricter than the standard used by some other laws. This standard is highly dependent on the three main steps of mitigation sequencing: first avoid the impacts when

possible, then minimize the impacts as much as possible, then compensate for remaining impacts (usually through some kind of enhancement). This differs from the other shoreline-related laws and their administration which often focus heavily on minimization, and sometimes avoidance. These other laws do not require a standard of fully compensating for impacts. This dichotomy may put the shoreline planner in the possibly awkward position of negotiating with resource agencies to consider additional mitigation or of requiring mitigation that resource agencies did not consider.

Enforcement

Enforcement of SMPs is largely performed by the local jurisdiction, but Ecology can also take an active role in enforcement. Ecology steps in when the local jurisdiction cannot or will not address the violation on its own. Since a violation of the SMP may also be a violation of another agency’s laws, the other agency may sometimes take the lead in resolving the violation.

Given the partnership nature of shoreline review, both permit review and enforcement of the law can be greatly improved by interagency coordination.

Considerations for interagency coordination

Ecology

- Ecology has detailed review responsibilities for variances and conditional uses, but only oversight responsibilities for exemptions and standard development permits.
- Ecology also typically assigns its SMP permit staff to review requests for Clean Water Act certifications for Corps and other federal permits (see page 36).
- Heavy workload issues have prevented or limited staff time for reviews of exemptions and permits as a general program function. The workload overload also has generally prevented active solicitation of coordination opportunities with local jurisdictions and other agencies.

Local Jurisdiction

- Shoreline projects are likely to involve many other agencies. Workload constraints in other agencies usually prevent them from actively soliciting coordination opportunities on their own.
- Many local jurisdictions have limited natural resources expertise and can benefit by coordination with other agencies. This coordination may need to be proactively sought.
- No net loss standards may require greater mitigation than that required by other agencies.

GROWTH MANAGEMENT ACT CRITICAL AREAS

PROTECTION (STATE)

The Growth Management Act (GMA) requires cities and counties to protect critical areas which include:

- fish and wildlife habitat (streams, lakes, ponds, marine areas, riparian buffers, and other habitats)
- wetlands
- floodplains
- geologically hazardous areas
- critical aquifer recharge areas

Local jurisdictions accomplish this protection through Critical Areas Ordinances (CAOs) or similarly named sets of regulations. Since many critical areas lie within shoreline jurisdiction, most jurisdictions have incorporated the CAO standards within their updated SMPs. They administer and enforce the CAO themselves through permit review, with the different resource agencies often having comment opportunities on permits, or actual consultation. The details are determined by the individual jurisdiction and the work load of the agency.

SMPs have a slightly broader application than critical areas for shoreline areas – generally broader jurisdiction as measured from the water and limitations on land uses that most CAOs do not have. CAOs, in turn, apply to critical areas throughout a city or county rather than just to those within shoreline jurisdiction. Like the SMP, this broad application makes CAO regulation a good umbrella process within which to coordinate the variety of other laws administered by other agencies.

The underlying standard of protection for CAOs is “the protection of functions and values” (WEAN v. Island County, 2004). While worded differently from the SMP Guidelines’ “no net loss of ecological functions,” the practical difference in applying this standard is negligible, and most CAOs also include mitigation sequencing to implement the standard. CAOs must also include “best available science” when designating and protecting critical areas (RCW 36.70A.172(1)).³ Similar to implementation of the SMP, CAO planners may find themselves in the possibly awkward positions of negotiating with resource agencies to consider additional mitigation or of requiring mitigation that resource agencies did not consider.

CAO enforcement is performed exclusively by the local jurisdiction, sometimes with assistance of other agencies. Since a violation of the CAO for some critical areas is also likely to be a violation of another agency’s laws, the other agency may sometimes take the lead in resolving the violation.

Both permit review and enforcement of the law can be greatly improved by interagency coordination.

Considerations for interagency coordination

Local Jurisdictions

- Critical areas permits are likely to involve permits from other agencies. Workload challenges in other agencies usually prevent them from actively soliciting coordination opportunities on their own.
- Many jurisdictions have limited natural resources expertise and can benefit by coordination with other agencies. So local jurisdiction should actively solicit coordination opportunities with them.
- The protection of functions and values standard may put the local planner in the awkward position of requiring mitigation for impacts not addressed by other agencies.

CLEAN WATER ACT (FEDERAL)

The federal Clean Water Act (CWA) establishes the basic structure for establishing quality standards for surface waters and regulating discharges of pollutants into the waters of the United States.⁴ The CWA grants duties and authority to carry out the Act to two federal agencies and each state and tribe that chooses to undertake administration. When the federal Environmental Protection Agency (EPA) approves a state to administer the act, they are given “primacy.” In part to carry out its duties under the CWA, Washington has adopted the state Water Pollution Control Act in chapter 90.48 RCW. In addition to providing Ecology with authority related to water quality planning and permitting, it also includes a broad grant of authority to Ecology to regulate wetlands. Wetlands within shoreline jurisdiction provide Ecology with additional authority to address broader ecological issues.

How the Clean Water Act is administered

In Washington, Ecology administers the water quality permitting provisions of the CWA under EPA oversight. Assumption of regulatory authority largely eliminates the federal government from the permit coordination equation for most water quality permits. This is most important for the federal ESA Section 7 consultation requirement (see below) for federal actions.⁵ If a project requires a section 7 consultation under the ESA, it would bring in NOAA fisheries and respective federal action agency in order to attain biological thresholds for treating water pollutants.

For tribal reservations, state assumption of authority often does not apply. Tribes can apply for permitting authority within their reservation boundaries. If the Tribes do not have CWA

³ See *Swinomish Indian Tribal Community v. Western Washington Growth Management Hearings Bd.*, 161 Wn.2d 415, 430 – 31, 166 P.3d 1198, 1206 (2007) for an analysis of this requirement.

⁴ For history on EPA website, see: <http://www2.epa.gov/laws-regulations/history-clean-water-act>

⁵ The US Supreme Court case *National Association of Home Builders v. Defenders of Wildlife*, 551 U.S. 644 (2007), determined that the ESA only applies to some (discretionary) federal actions. If no “discretionary federal action” is involved, no ESA consultation is required. <http://www.albanylawreview.org/articles/17%20Quaresimo.pdf> or http://www.oyez.org/cases/2000-2009/2006/2006_06_340

authority, whether the state or EPA will administer the CWA is determined separately for each reservation depending on its official status and treaty language.

The U.S. Army Corps of Engineers (Corps) administers the CWA Section 404 permitting program for dredge and fill discharges to water and wetlands. States can be authorized by the EPA to assume the Section 404 permitting authority from the Corps, but only New Jersey and Michigan have gained approval (others are considering this). In addition, states assist the Corps through the Section 401 water quality certification process for each permit. For Washington, Ecology issues Section 401 water quality certifications. Important considerations for shorelines include:

- It is the Section 404 permit activity that most affects shoreline permits.
- Assumption of regulatory authority largely eliminates the federal government from the permit coordination equation. This is most important for the federal ESA Section 7 consultation (see below) requirement for federal actions. The exception would be their oversight role, but EPA would have to “object” to a permit for the ESA consultation requirement to come back into play.⁶

CWA water quality programs

As noted above, Ecology and some Indian Tribes (within their reservation boundaries) administer the CWA programs. EPA retains authority within tribal reservation boundaries that have not assumed program administration and for federal facilities. Required activities for states and tribes include:

- Adoption of water quality standards with federal government oversight.
- Administration of permit systems to limit industrial and municipal discharges of pollutants and protect water quality of waters of the state, including wetlands under the National Pollution Discharge Elimination System (NPDES). This includes permitting, monitoring, and enforcement of individual projects. Ecology issues individual permits for facilities that discharge into the waters of the state and also issues general permits, such as the Municipal Storm Water Permits, that apply to all dischargers in the class covered by the permit. These permits apply to point discharges. Cities and other utilities must build and operate waste treatment plants consistent with their individual NPDES permits.
- Identification of impaired, or polluted, waters and compiling this list on a “303d list” which is submitted to EPA.
- Establishment of Total Maximum Daily Loads (TMDLs) to plan for the clean-up of the 303d list of impaired waters. TMDLs are planning documents rather than regulatory requirements. They are implemented through other mechanisms such as the NPDES permits.

- Carrying out plans and programs to address non-point pollution. These plans and programs may implement a TMDL or may apply to other areas. Certain cities and counties must implement state-approved non-point pollution programs to control stormwater runoff, runoff pollution, and erosion sediment when required by the Municipal Storm Water Permits.

There are a number of other federal and state water pollution laws. Some may be associated with CWA requirements. With a few exceptions, these laws do not affect implementation of SMPs.

Section 404 permitting for dredge and fill discharges

The Corps administers and enforces the Section 404 permit program with oversight by EPA. The permit is combined with the Rivers and Harbors Act Section 10 permit (see below) into a more generally named *Department of the Army Permit*.

Jurisdiction is limited to the following areas (for nuances see the Corps guidance), which have been defined by decades of case law:

- Federally navigable waters.
- Most direct tributaries (at least seasonal, or otherwise important) to navigable waters and wetlands that directly abut those waters or are otherwise important.

Most man-made features as well as streams and wetlands that are isolated by geography are not under jurisdiction. Uplands and riparian vegetation above jurisdictional areas are not regulated.

Corps permits or reviews must be obtained for filling and most dredging within jurisdictional waters and wetlands. Review is not required for several exempt activities, including many agricultural practices.⁷

Ecology, or tribes that have assumed implementation of CWA water quality programs, must issue a Section 401 Certification that a project meets state water quality standards before a Corps’ permit is valid. States and tribes can impose additional permit conditions through these certifications. Limits within tribal reservation boundaries may apply.

A permit may be approved as a general/regional permit, a nationwide permit, or an individual permit. General/regional and nationwide permits are developed in advance for specific types of activity.

- Limitations of the activity are stated.
- General conditions of approval are established that apply to all requests.
- Specific conditions may be added based on site specific conditions; however, the strict limits usually avoid the need

⁶ See the 404 assumption fact sheet (dated 2010) from the State Association of Wetland Scientists for a readable summary of the issues. Available at http://aswm.org/pdf_lib/cwa_section_404_state_assumption_factsheets.pdf.

⁷ For more details on Section 404 permitting, see <http://water.epa.gov/lawsregs/guidance/cwa/dredgdms/>

for this.

- Full mitigation for all impacts may not be required.
- Review emphasizes an avoidance analysis, and minimization standards.
- Required mitigation might include vegetation enhancement outside of Corps jurisdiction or similar mitigation approaches.

Most of these projects require a Pre-Construction Notice (PCN), but some do not and can be undertaken without consultation or review by the Corps. When a PCN is required, applicants provide their required application materials, and the Corps confirms that it qualifies for the general permit and issues a decision. Those that don't qualify or gain approval can apply for an individual permit.

Some regional permits are designed to work as an incentive, requiring restoration in exchange for avoidance of an individual permit. This is because projects under individual permits go through detailed and lengthy review to determine site-specific impacts and mitigation.

Violations are enforced by the Corps, though this may be limited to more serious incidents due to workload limits. There is a widespread belief by practitioners that many projects are undertaken without Corps permits, including those approved by local jurisdictions.

Considerations for interagency coordination

EPA

- EPA mainly establishes rules and standards to be applied by other agencies. The agency is rarely involved with land use and aquatic project development permits.
- Although EPA has the authority to veto Section 404 permits, that authority is rarely used.
- Corps of Engineers
- Corps permits do not address development outside jurisdiction. There is little or no ability to limit development, nor require mitigation for impacts in those areas, which include:
 - Many smaller water features outside jurisdiction
 - Water features that have been “cut off” from the regulated water body, or
 - Areas outside the water line or wetland boundary of jurisdictional features, including upland habitat and riparian vegetation.
- Permits are focused on avoidance and minimization.
- Compensatory mitigation is required under the Corps’ “no net loss of wetlands” policy. Impacts to wetlands typically require creation or enhancement of wetlands. However,

small (and not-so-small) wetland encroachments are allowed under nationwide permits without compensatory mitigation.

- Losses of riverine and open water areas may not be compensated with creation of new areas.

Ecology

- Ecology does not issue permits that protect broad ecological functions, except for shoreline variances and conditional uses. Pollution permits can address ecological functions indirectly.
- Ecology’s 401 water quality certification works well to address ecological impacts to wetlands. The program does not address all ecological issues and is limited to the same areas as Corps permit jurisdiction. In particular it does not address upland and riparian vegetation issues.
- Point source discharge permits, such as sewer plant permits, and the limited other pollution permits do not prevent all impacts, nor provide mitigation for allowed water quality impacts.
- Ecology oversight of other pollution laws does not substitute for mitigation of impacts from land and aquatic developments because they may not apply to these activities.
- Ecology has independent wetland permitting authority under the state Water Pollution Control Act in chapter 90.48 RCW. This law applies to all waters of the state and has broader application than the federal CWA. Ecology has authority to mitigate adverse impacts to wetlands under this program and may require those who seek to fill wetlands to obtain an Ecology Administrative Order.

Local Jurisdictions

- Because the Corps may be difficult to get involved in individual project coordination due to their staff workload, it is helpful for local jurisdictions to become aware of their standard requirements and pass them on to applicants, and refer people to Corps materials. Providing information can serve as a backstop in the absence of coordination.
- Jurisdictions should, however, refer all in-water projects to the Corps for additional review. This could be done in permit conditions, as well as verbally.
- Local jurisdictions cannot rely on the CWA under the Corps and Ecology to identify all impacts nor mitigate those impacts. That is not their mission, nor will it meet the Shoreline requirements of no-net-loss. Jurisdictions will need to fill the gaps by:
 - Covering water features and wetlands outside CWA jurisdiction,
 - Addressing other ecological functions not addressed by CWA review, and/or

- Including contingency for incidents of future pollution for projects (1) with point discharges, and (2) with an innate likelihood of a future pollution incident.
- Communication through interagency coordination can facilitate the ability to:
 - Clearly discuss the features and functions with experts,
 - Identify impacts that fall through the cracks of the CWA, and
 - Find ways to address them in other ways.
- Permits are focused on avoidance and minimization. Except for national permits, compensatory mitigation is generally required. Losses of riverine and open water areas may not be compensated with creation of new areas.

RIVERS AND HARBORS ACT (FEDERAL)

The commonly named federal Rivers and Harbors Act is actually the construction of dozens of different laws passed since the mid-1800s. It is administered and enforced by the Corps. Section 10 contains the main body of limitations, giving the permit its name – a Section 10 permit. Jurisdiction is generally the same as for the CWA, with minor differences. The basic purpose of a Section 10 permit is to protect navigation for commercial purposes. It has the additional environmental benefit of prohibiting alterations to rivers and harbors without approval from the Corps of Engineers, including (for nuances see Corps guidance):⁸

- Construction of any structure in any water of the United States (including canals and other artificial navigation areas).
- Any obstruction to the navigable capacity of any water of the United States.
- Excavation, fill, alteration, or modification of the course, location, condition, or capacity of a navigable water.
- Development outside the limits of navigable waters may require a permit if the structure or work affects the course, location, condition, or capacity of the water body.

The Section 10 permit, when required, is combined with the CWA Section 404 permit into a more generally named Department of the Army Permit. The primary permit criterion is the protection of navigation, but public interest factors are included as well, which indirectly touch on ecological functions. Consequently, broad ecological issues are more fully addressed through the CWA Section 404 permit program.

Considerations for interagency coordination

Corps

- Similar to the CWA, Section 10 review does not address development outside jurisdiction.
- For development within jurisdiction, permits do not directly address all ecological issues, but rather primarily protect navigation. ESA and Fish and Wildlife Coordinating Act consultation requirements allow the Corps to address ecological issues as they relate to fish and wildlife.

Local Jurisdictions

- Because it may be difficult to get the Corps involved in individual project coordination due to their staff workload, it is helpful for local jurisdictions to become aware of their standard requirements and pass them on to applicants, and refer people to Corps materials. Corps navigation requirements can substantially alter the initial plans for in-water structures.
- Local jurisdictions cannot rely on Section 10 to protect all ecological functions, though the companion CWA component of the permit can do more.

ENDANGERED SPECIES ACT (FEDERAL)

The federal Endangered Species Act (ESA) as configured today was established in 1973, but had its origins in the 1966 Endangered Species Preservation Act (amended in 1969). It is administered by two different agencies, depending on the species' relation to marine environments:

- The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (also referred to as NOAA Fisheries) administers the act for marine and anadromous (ocean going) species such as marine mammals, marine turtles, salmon, steelhead, canary and yelloweye rockfish, and some marine plants.
- The United States Fish and Wildlife Service (USFWS) administers the act for terrestrial and freshwater species such as bull trout, gray wolf, lynx, marbled murrelet, northern spotted owl, and some plants.

Thus, most in-water work that requires Corps review will also require NOAA Fisheries consultation, especially in marine areas, and in salmon-bearing fresh waters throughout the state. Similarly, Corps permits that affect uplands (fewer in number) may or may not require USFWS consultation. In addition, any federal project with the same characteristics will also require appropriate consultation.

The ESA requires federal agencies to avoid or prevent the killing, harming, or harassing of threatened or endangered species through federal actions. This includes federal projects and federal permits issued by federal agencies. When there is no discretion in the agency action or where there is no federal action involved, then ESA consultation is not required.⁹ The primary influence of the ESA on shoreline permits is through the Corps' Department of the Army Permit, which combines the CWA 404 permit for filling and dredging discharges, and the Rivers and Harbors Act Section 10 navigation permits. In Washington, issuing these permits usually requires that the

⁸ US Senate subcommittee webpage for Sections 9-20: <http://www.epw.senate.gov/rivers.pdf>

⁹ For more details about ESA, please see <http://www.nmfs.noaa.gov/pr/laws/esa/>

Corps consult with the fish and wildlife agencies. For some permits, the Corps has undertaken a programmatic consultation (residential docks for example) and so not all individual permits require an individual consultation.

When a project permit is reviewed, the federal agency prepares a biological assessment, sometimes in conjunction with the project consultants. The assessment determines if the project is “likely to affect,” “may affect,” or “is unlikely to affect” the species. If considered “unlikely to affect,” the agency informally consults with the USFWS which is usually adequate for the service to concur with the assessment. If the biological assessment “may affect” or “is likely” to affect the species, then formal consultation is initiated with the service. After consultation, the service issues a Biological Opinion which includes requirements for the project.

The process of developing a biological assessment and informal consultation adds time and expense to the project review. The formal process can greatly slow the review of Corps permits and may prevent the project from proceeding.

Since the consultation is with the federal agency, any perceived violations of the ESA would be addressed to the federal agency. An example would be if an agency is undertaking actions without consultation. Any necessary follow-up enforcement activity would typically be done by the permitting agency.

Considerations for interagency coordination

NOAA Fisheries and USFWS

- The agencies’ focus on federal actions results in the consequence that those actions (Corps permits, etc.) may be greatly slowed down. This is most pronounced for individual permits.
- For individual permits, major projects are more likely to get early interaction with the agencies. Consequently, the consultation process is also more likely to happen within a larger coordination framework, with a smaller additional slowing effect. Minor projects are much less likely to get individual attention outside the normal consultation process (due to workload limitations), and thus the process may be slow.
- For nationwide and general permits, consultation may take place in advance with less official consultation for individual projects. This depends on the arrangement between agencies.
- Consultations are focused on the needs of specific species, not necessarily broad ecological functions. Issues related to each species will result in greater or lesser consideration of such functions.
- Consultation for aquatic species will focus on better protection of aquatic functions, and the same would apply for upland species and functions.
- Mitigation will focus on avoidance and minimization. For impacts that are allowed, compensatory mitigation may not be required in all cases, particularly for ecological impacts not directly related to the species.

Local Jurisdictions

- Coordination with NOAA Fisheries and USFWS will be rare and more oriented toward major projects, such as transportation improvements.
- Jurisdictions cannot rely on the ESA to cover broad ecological issues, especially those that cross the water-line between aquatic and upland species.
- The highly salmon-centric focus of water resource protection in the Pacific Northwest encourages people to focus on salmon impacts. Similar focus applies to other protected species in different locations (spotted owl, pygmy rabbit, etc.). Sometimes the non-focus species and other ecological functions fall through the cracks. This especially happens in controversial projects and projects with large impacts to salmon (or other focus species). While ESA species are important, jurisdictions can look more broadly than just through “salmon-colored glasses.” It is desirable that all ecological functions be protected.

COASTAL ZONE MANAGEMENT ACT (FEDERAL)

The Coastal Zone Management Act (CZMA) does not directly affect shoreline permits, but indirectly it has important jurisdiction and coordination consequences. The CZMA allows states to undertake coastal development and protection planning. Being a voluntary effort, it is not enforced by a federal agency but all federal agencies are subject to the Act. Federal agency actions must be consistent with the state CZMA plan - thus it serves as a limit on federal authority. Planning and coordination elements at the state level are handled by Ecology, which reviews federal actions and provides a “certification” that the action is consistent with the CZMA plan. Ecology does not impose additional requirements on local governments in the course of their development permit review.

The Washington CZMA plan is administered by Ecology. It incorporates the local SMPs for coastal cities and counties, and jurisdictions with rivers that flow to the coast. Consequently, federal agency actions must be consistent with local SMPs for projects on their land or undertaken by federal agencies in the coastal zone. Areas that are legislatively exempt from local governance – specifically Olympic and Mt. Rainier National Parks – are exceptions.

Ecology reviews and certifies *federal* agency actions. Local governments hold review and permitting authority for *non-federal* actions on federal land or those that require federal agency approval (for nuances see the state guidance on this subject). For non-federal actions, Ecology relies on SMP permits and exemptions to determine if a project is consistent with the

CZMA plan. This relationship between federal agencies and the local SMPs makes it important that the local jurisdictions coordinate with the local federal land manager and prepare for the review of development on federal lands. It is additionally important because the federal agencies issue leases and contracts to private parties for:

- Private *use-of-land* leases and contracts – such as for range land, mining, etc.
- Private *development* leases and contracts – such as for lodges, private cabins, marinas on reservoirs, concessionaires, etc.

The above rules apply to federal land. Private land receives normal SMP review. Thus federal actions on non-federal land are subject to the local SMP - the same as all development (with some nuances applying to federal lease of lands). Developments of private inholdings within federal lands are subject to the local SMP - the same as all development.

Commonly, the federal agencies that need local SMP coordination are the land agencies. The largest holder of shoreline land is likely the Forest Service (especially rivers and streams). The Bureau of Land Management, Park Service and USFWS also hold large amounts of land that may be subject to local SMPs.

Ecology enforcement of the CZMA plan for federal actions takes place between those agencies with little involvement from local jurisdictions. Enforcement for private action violations follows the normal SMP enforcement process. Local jurisdictions take action directed towards the project proponent rather than the federal agency, though it would be beneficial to coordinate with them.

The CZMA also provides the states with special funding to assist in making improvements to their state CZM Program. Washington State participates in this voluntary CZM Improvement Grants Program (also known as the Section 309 Program). Washington State uses these federal funds primarily to update and amend SMPs, including helping fund local government updates.

Considerations for interagency coordination

Ecology

- In general, little or no coordination is needed between local jurisdictions and Ecology regarding their review of federal actions, other than the desire to be informed of local activities. Coordination regarding private actions is the same as for normal SMP development.

Local Jurisdictions

- Many federal agency staff responsible for leases and other development approvals are not aware that those actions are subject to local SMP compliance. Local jurisdictions

could make personal contacts with land agencies in their area and develop relationships with those staff to both inform them of the requirements of the CZMA and local SMP and to coordinate on individual leases, use activities, and development projects.

- A common federal requirement is that private developments must comply with local building codes (and sometimes other local laws). This serves as an opportunity for local staff to hear about projects and make contact with federal staff.
- Coordination on specific projects may be uncommon or rare and there may be staff turnover, resulting in a loss of institutional memory. Jurisdictions could encourage federal staff to develop a guide book regarding SMP compliance for their future replacements, and could also provide local staff training.

WATER CODE

Often referred to as Water Rights Laws – Surface and Ground Water (state)

The state surface water and groundwater codes are administered and enforced by Ecology. All surface and ground water in Washington State is publicly owned. Water rights holders have the right to use that water. Washington is a prior appropriation state, like most of the other western states. So during low water years when there is not enough water to satisfy all water right holders, the most senior water rights holders can use their water and the most junior, based on the time they put their water to use, may have to reduce or stop their water use.

The water codes require that many water users obtain water rights permits which must be reviewed for approval before they can use surface or ground water. There are some exemptions to the requirement to obtain a water right permit before using groundwater. These permit-exempt wells (especially those for residential use) exist in large numbers throughout the state. Permit exempt wells are only exempt from the obligation to obtain a water right permit; they still have to comply with the other requirements including the requirement that their use of the water is limited by prior appropriations. Throughout the state, most surface and ground waters are already allocated and many basins are over-allocated. New rights, therefore, are infrequently issued without mitigation, which typically involves the right to use water covered by a senior water right. This varies by stream and basin. Ecology has summaries of available water supplies by Water Resource Inventory Areas and river basins.¹⁰

For some streams and basins, Ecology has withdrawn water from further appropriation. In others areas there is no formal withdrawal but the available water may be limited or unavailable. Both surface and ground water rights can be transferred and modified through a formal process. This is the only option in many areas, where surface or ground water is

¹⁰ Ecology's Water Availability in your Watershed/WRIA webpage can be found at: http://www.ecy.wa.gov/programs/wr/rights/wrpenapp_avail.html

fully or over-allocated. The review of both new and moved water rights mostly considers impacts to users with previously issued water rights, the public interest, and, where set by rule that predates the water right, instream flows.

Surface water rights reviews

Since most streams are over-allocated, and new surface water rights are not common, requests for *transferring* a surface water right are the most frequent review activities. The review of surface water rights doesn't usually address ecological issues with two exceptions:

- When minimum in-stream flows are defined on a stream to protect fisheries. In-stream flow levels can be set for a variety of reasons, but they are not defined for all streams.¹¹
- When water rights are issued/allocated for fisheries use with an earlier date. Water-rights are not allocated for fisheries use on all streams, though that regularly changes with new water rights acquisition for fisheries purposes.

In addition to the water volume changes resulting from surface water rights, new or changed rights often also need in-stream *construction* to facilitate the water withdrawal. Water right reviews generally do not include review of the ecological impacts of the structural changes. That review is left to other processes such as the shoreline permit review.

Groundwater water rights reviews

Groundwater rights typically do not get reviewed for their impacts to shoreline resources. In recent years, however, during the process of obtaining or transferring a water right, greater attention has been paid to the impacts of groundwater withdrawals on the groundwater systems that feed surface water features. Ecological impacts of well construction are left to other reviews.

Enforcement

Enforcement for both surface and ground water rights violations is typically done through reports of violations to Ecology. Staff to handle reported violations may be limited. Alternatively, some impacted parties use the court system to pursue action against the violator. Water masters whose responsibilities include enforcement on the usage for local surface water right are in place in some areas of the state. In addition, in some areas there is required reporting of metered usage for groundwater wells.

Considerations for interagency coordination

Ecology

- Proponents of new development projects may be able to find water rights, but often these will be for different

locations or uses, thus requiring a request for water rights transfers.

- Confirming water rights with Ecology as a gate-keeping step is a wise action, especially for:
 - Shoreline projects with a known problem of acquiring rights (making sure they are legitimate),
 - Controversial projects (such details might be questioned), and
 - High water use projects (large volumes are difficult to find).

Local Jurisdictions

- Water rights reviews have not generally addressed most ecological impacts, including construction impacts from both in-stream diversions and wells near water bodies.
- Increasingly, water rights reviews are considering ecological impacts related to in-stream flows where Ecology has adopted instream flow rules. Some instream flow rules do not cover permit-exempt wells.
- Construction impacts (in-water and near-water) review and mitigation is desirable. A water right does not stipulate specific construction practices other than for the construction of wells, thus the jurisdiction is allowed to require minimization standards that still allow access to the allocated volume.
- There is a strong tendency for applicants (and even agencies) to propose the largest hardscape structure possible. However, local jurisdictions have discretion to require a minimized project, including using sediment manipulation rather than concrete dams or weirs.

PROPERTY LAWS: STATE-OWNED AQUATIC LANDS (DNR)

The Washington State Department of Natural Resources (DNR) stewards 2.6 million acres of state-owned aquatic lands, including their associated resources such as micro and macro algae, shellfish, sand and gravel, minerals and oil. As mandated by the state constitution and legislature, DNR must ensure a balance of benefits for the citizens of Washington from the use of aquatic lands. These benefits include:

- Commerce and navigation
- Public use and access
- Use of renewable resources
- Protection of the environment (the health of these aquatic lands)
- Generate an economic return to citizens (when appropriate)

There are three categories of aquatic lands:

¹¹ Ecology has a helpful "Instream Flows" webpage with information on existing and proposed instream flow rules Ecology's Instream Flows webpage is available at: <http://www.ecy.wa.gov/programs/wr/instream-flows/isfhtm.html>

- **Bedlands** – those aquatic lands that are submerged at all times, and include navigable salt and fresh waters of the state.
- **Tidelands** – submerged lands and beaches that are exposed and submerged with the ebb and flow of the tides.
- **Shorelands** – submerged lands lying along the edge of a river or lake.

DNR acts essentially as a landlord for state-owned aquatic lands. Projects taking place on or over state-owned aquatic lands require an authorization from DNR. This takes the form of a contract, such as licenses, leases, rights-of-entry, or easements. Most contracts include rent. DNR will make an approval based on availability of the land and appropriateness of the use.

In recent years, DNR staff have conducted research about impacts to aquatic habitat. As new contracts are authorized or renewed, they are focusing on avoiding impacts of new uses and minimizing impacts of existing uses. They are especially looking at impacts of shade, compaction of sediments, contamination and waste, noise and disruption of littoral movement (DNR 2011).

Considerations for interagency coordination

Agencies

- DNR staff responsible for the review and approval of leases need to know the specific requirements of local CAOs and SMPs.
- State and federal agencies need to know about DNR's requirements for use of aquatic lands for each project.

Local Jurisdictions

- It is beneficial for local jurisdiction staff to be aware of which lands are state-owned so that they can notify landowners that they must seek approval from DNR.

DAM AND RESERVOIR LAWS (STATE)

Washington's multiple dam and reservoir laws are administered by Ecology. In addition, the laws require inspection and monitoring by Ecology. These laws do not apply to small facilities – reservoirs less than 10 acres and dams less than 10 feet high. Because the laws primarily regulate safe construction and maintenance, the requirements for configuration and layout will directly affect the plans for a shoreline permit. Upfront interagency coordination is therefore important so that the project design does not change at a later date and require additional review.

Dam and reservoir laws do not directly regulate ecological issues; that function is covered by other permits. Furthermore,

these laws do not require the use of mitigation sequencing and so these projects are not required to use avoidance and minimization.

Dams and reservoirs are some of the most damaging facilities placed on streams and rivers and are subject to the local CAOs or SMPs. Larger facilities are difficult to build and visibly obvious when they are undertaken. However smaller facilities can be constructed with little more than earthmoving equipment and minimal pipe installation. This makes it easy for them to be installed without Ecology or local government knowledge, especially on smaller streams.

Considerations for interagency coordination

Ecology

- Ecology staff responsible for the review and approval of dams may not know that those actions are subject to local CAO and SMP laws.

Local Jurisdictions

- Local jurisdictions could proactively work with Ecology dam safety staff in their area and develop relationships with those staff to both inform them of the requirements of their local laws and to encourage them to communicate about requests they receive. This could help prevent dam and reservoir projects from falling through the cracks.

FOREST PRACTICES ACT (STATE)

The Forest Practices Act is administered by the DNR through the Forest Practices Rules. The rules include extensive standards to protect water bodies, wetlands, and riparian vegetation during activities such as road building, and timber harvesting. Local counties and cities also have resource protection laws, sometimes creating potential conflicts. These areas of overlap are complicated by a number of laws that partially preempt local authority, but not wholly.

Preemption

The Forest Practices Act partially preempts the application of local laws related to forestry. It does not, however, preempt certain forest practices such as Class IV General permits (see classification below) related to urban growth areas and conversions to non-forestry use, taxing powers, regulatory authority with respect to public health, and the Shoreline Management Act (RCW 76.09.240).¹²

Confusion can arise regarding the distinction between water features under shoreline jurisdiction versus water features under CAO jurisdiction. Most jurisdictions with updated SMPs have incorporated their CAO regulations for detailed protection of water features into their SMP. Consequently local protection

¹² To read this law in its entirety, see: <http://apps.leg.wa.gov/RCW/default.aspx?cite=76.09.240>

standards are not preempted inside shoreline jurisdiction – they apply all the time. In addition, most forestry activities also get bumped up to a Class III review from DNR when inside shoreline jurisdiction (see classification below).

Forest practice classes and review

Forest practices are classified into four classes based on the potential for the proposed operation(s) to adversely affect public resources. The classes have different levels of environmental review. Prior to initiating work, notifications must be submitted for lower risk activities (Class II) and applications must be submitted for higher risk activities (Class III and IV). A notification or approved application represents a forest practices “permit” that authorizes forest practices on covered lands. The classes are:

- Class I activities do not require a Forest Practices Application/Notification or approval, but must comply with all forest practices rule requirements.
 - Class I activities are forestry activities considered to have no direct potential for damaging a public resource. Examples include pre-commercial thinning outside riparian zones and road maintenance activities where there is no potential for sediment delivery to typed waters or wetlands.
- Class II activities require a Forest Practices Application/Notification to DNR. DNR makes a determination on classing and issues a decision. If it is a Class II operation, a “Notice of Decision” is issued as notification following the 5 day review period. Activities may begin five calendar days following DNR’s receipt of written notification (which means a complete application/notification).¹³
 - Class II activities are forestry activities that are considered to have a less than ordinary potential for damaging public resources. Examples include timber harvest and/or road construction where no surface waters, wetlands, unstable slopes, threatened or endangered wildlife species and/or cultural resources are present on the site.
- Class III activities require a Forest Practices Application/Notification, 14-day review/comment period and approval.
 - Class III covers all activities not included in classes I, II or IV and includes forestry, construction, and harvest. Class III activities are those forest practices where streams, lakes, wetlands, threatened or endangered wildlife species and/or cultural resources are present on-site. The majority of Forest Practices Applications/Notifications received by DNR are Class III.
- Class IV activities require a Forest Practices Application/Notification, 14-day review/comment period and approval, and also require environmental (SEPA) review. Some also

require local government licenses or permits. There are two sub-classes:

- Class IV-Special forest practices require compliance with the SEPA rules and forest practices SEPA guidelines. DNR may require additional information or a detailed EIS before determining whether these forest practices may be carried out. Example activities include:
 - Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment,
 - Specific forest practices on lands designated as critical habitat (state) of threatened or endangered species,
 - Timber harvest or construction of roads, landings, gravel pits, rock quarries or spoil disposal areas on potentially unstable slopes or landforms that have the potential to deliver sediment or debris to a public resource or that have the potential to threaten public safety and which has been field verified by DNR, and
 - Activities which involve filling or draining of more than 0.5 acre of a wetland.
- Class IV – General: This group of activities include (a) forest practices (other than Class I) on lands platted after January 1, 1960, or on lands being converted to another use, and b) forest practices that would otherwise be Class III, but that are taking place on lands that will not be reforested because of likelihood of future conversion to urban development. These applications may require a license or permit from local governments. The local government assumes lead agency status for purposes of ensuring compliance with SEPA (DNR 2005).^{14, 15}

DNR is under stringent review deadlines for Class III and Class IV forest practice applications which must be approved, approved with conditions or disapproved by DNR within 30 calendar days after receipt of a complete application. DNR must act on Class III applications that do not require field review within 14 calendar days. Class IV applications that require an EIS receive 30 days additional review when ordered by the Commissioner of Public Lands. The degree to which field reviews are conducted is based on the level of risk to public resources, especially fish habitat or water quality and public safety. DNR staff request technical assistance, as needed, from WDFW, Ecology or affected tribes. In some cases, the classification is changed based on field review in which unstable slopes, typed streams, or other features are observed (DNR 2005). The Forest Practices Act requires local jurisdictions to provide review for instances of converting forestry land to other uses. This includes a transfer of forest practices review (and a requirement for forestry regulations) to certain local governments planning under the GMA,¹⁶ and the review of conversions of forest

¹³ See WAC 222-20-040(1) conditions on approved applications: <http://apps.leg.wa.gov/WAC/default.aspx?cite=222-20-040>

¹⁴ See more about the classification system at: <http://apps.leg.wa.gov/WAC/default.aspx?cite=222-16-050>

¹⁵ See WAC 222-20-010(1) application requirements: <http://apps.leg.wa.gov/WAC/default.aspx?cite=222-20-010>

¹⁶ See FPA requirement for jurisdiction permitting in UGAs: <http://apps.leg.wa.gov/RCW/default.aspx?cite=76.09.240>

¹⁷ See forestry rules application process (see 50-52): <http://apps.leg.wa.gov/WAC/default.aspx?cite=222-20>

¹⁸ See forestry rules enforcement: <http://apps.leg.wa.gov/WAC/default.aspx?cite=222-46>

land and conversion option harvest plans (which can be done less formally).¹⁷ The Forest Practices Application/Notification includes questions about shoreline management and reminds landowners to check with local government on their requirements.

DNR staff monitor forest areas for violations during their other regular duties. They also rely on reporting of observed violations from the public. The agency has a defined process for violations, including legal action.¹⁸

Considerations for interagency coordination

DNR

- DNR staff responsible for the review and approval of forestry applications may not always be aware of application of shoreline jurisdiction in a given area.

Local Jurisdictions

- Forest practices are not preempted from the SMA so normal SMP buffer and resource protection standards apply.
- Maintaining membership in the Forest Practices Application Review System (FPARS)¹⁹ allows local staff to review the locations of harvests within their jurisdiction.
- Local jurisdiction staff are expected to undertake any required reviews and coordination on proposals that convert forestry land to non-forestry uses. It is helpful, therefore, for local staff to maintain contacts with DNR staff to utilize their expertise in forestry.

SURFACE MINING ACT (STATE)

The Surface Mining Act is administered by the DNR.²⁰ Contrary to what the name implies, this act does not regulate surface mining, but rather the reclamation or restoration of the mine site after mining is complete.

A reclamation permit is required once a mine breaches one of two thresholds, three acres in disturbed area as defined by RCW 78.44.031, or thirty vertical feet of mine depth at a 1:1 slope or greater. Once either of these thresholds is crossed, a permit is required. Before they are crossed the State does not require a permit of the mine. The size exemption can be increased to a 7 acre threshold for counties with a 1993 population of less than 20,000 but only for public county or city run sites (privately owned sites do not get this exemption).

The reclamation permit must be obtained before a mine can begin operations, which includes addressing other laws (such as

local permits) as well as posting a bond to ensure reclamation at the end of mining operations.

The Act includes a separation of powers such that local jurisdictions cannot dictate reclamation standards.²¹ Local jurisdictions, however, can regulate mining activity and related damage to natural resources. Jurisdictions can also regulate the post-mining use of the site. DNR requires local jurisdictional confirmation of that use in order for them to impose the appropriate reclamation standards.

The Act and its rules do not directly protect shoreline waters or riparian vegetation, nor are they intended to compensate or otherwise mitigate for impacts. They do, however, sometimes include review of the impacts of post-mining conditions on the resources. For example, a pond created by a mine pit next to a river may result in warm pond water filtering into the river and impacting water quality and habitat. DNR may impose mitigation requirements for those impacts through an additional SEPA review (assuming the local government did not address those impacts).

DNR staff monitors mine sites for violations during their other regular duties. They also rely on reports of observed violations from the public. The agency has a defined process for violations, including legal action.²²

Considerations for interagency coordination

DNR

- DNR staff typically seek to have local jurisdictional review and approval for mining operations completed before they will approve a mine reclamation application. The local jurisdiction may approve or deny the mining operations but may not regulate reclamation standards.

Local Jurisdictions

- Mining operations are not preempted by the Surface Mining Act, only reclamation standards. Local jurisdictions can apply the full range of mitigation sequencing to avoid, reduce, and compensate for damage to ecological functions.
- When small mines are being established, the mine reclamation rules will not be applied by the State. The local jurisdiction, therefore, is the entity that can address reclamation standards for small mines that are exempt from state permits—for example, applying the state standards itself, or similar standards.
- Jurisdictions cannot rely solely on a mining reclamation

19 DNR FPARS website can be viewed at: http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesApplications/Pages/fp_fpars.aspx

20 See more on DNR surface mining reclamation program: <http://www.dnr.wa.gov/BusinessPermits/Topics/MiningEnergyResourceRegulation/Pages/smr.aspx>

21 See RCW 78.44.050 limits on local authority: <http://apps.leg.wa.gov/RCW/default.aspx?cite=78.44.050>

22 See more on mine reclamation rules enforcement at: <http://apps.leg.wa.gov/WAC/default.aspx?cite=332-18>

23 See more on WA Hydraulic Code at: <http://apps.leg.wa.gov/WAC/default.aspx?cite=220-110>

24 See more on WDFW HPA website at: <http://wdfw.wa.gov/licensing/hpa/>

permit to protect the resources, so the jurisdiction may want to consider protection of the resources through other laws.

- It is beneficial for local government staff to coordinate with DNR staff to understand how each jurisdiction's requirements will affect the design of the mine. These are not exclusive of each other, but will affect each other.

HYDRAULIC CODE RULES (STATE)

Commonly known as Hydraulic Project Approvals (HPA)

The state Hydraulic Code (WAC 220-110) administered primarily by WDFW, implements state laws relating to development that impacts fish habitat.²³ Development in state waters requires a WDFW-approved Hydraulic Project Application (HPA).²⁴ There are several limitations on the local jurisdiction area, authority, and agency discretion that affect coordination with WDFW:

- The jurisdiction of the Hydraulic Code is the waters of the state; consequently, development on uplands is outside HPA jurisdiction, except under limited instances such as development resulting in discharges to the water. Thus an HPA cannot normally regulate riparian vegetation alterations or other upland development.
- Denial of an HPA must be based solely on fish protection, not other purposes such as wildlife protection, or ecological issues that do not affect fish.²⁵
- During a declared emergency (often flooding), WDFW is obligated to verbally approve most activity in response to the emergency (such as protecting property), though it can stipulate conditions that must be followed.²⁶ A written HPA must be issued after the emergency, detailing the conditions of approval.
- If the local jurisdiction or WDFW determines an imminent danger or chronic danger exists, WDFW must issue an expedited permit within a short period of time, again with appropriate conditions.²⁷

Over 4000 projects are reviewed and permitted each year in Washington State (WDFW, 2013). While it is possible to deny an HPA, a common observation in the water regulation arena is that HPAs are rarely denied. This may be because of the limits described above. In addition, HPAs for most residential bulkheads cannot be denied.

Projects needing an HPA often need other permits as well, including local government permits. Of particular importance to interagency coordination is that most in-water work also requires State Environmental Policy Act (SEPA) review. Under SEPA, projects requiring a local government permit must have the local government as the lead agency for SEPA review. In addition, all state agencies and local jurisdictions must use the

same SEPA review with limited exceptions. This means that WDFW cannot issue an HPA until the local government has completed the SEPA review. Often this coincides with the local CAO or SMP review as well. This linkage provides an excellent opportunity for coordination between WDFW and local governments.

Considerations for interagency coordination

WDFW

- The limited ability to deny HPAs means that they are rarely denied. For example, bulkhead processed under 77.55.141 or an emergency, expedited or chronic danger permit can't be denied. Standard permits that don't meet the fish protection standards in WAC 220-110 can be denied.
- WDFW has little or no ability to restrict or address upland vegetation clearing or other development impacts that are outside the "jurisdiction" of the Hydraulic Code.
- The Hydraulic Code only applies to protection of fish life and thus that is the limit of WDFW regulatory authority. WDFW has no regulatory authority to condition development projects for wildlife. Habitat biologists must rely on SEPA.

Local Jurisdictions

- The overlapping nature of local permits and HPA in-water permits means both can dramatically benefit from interagency coordination.
- WDFW habitat biologists often work with local governments because they needed DFW expertise. Many cities and counties don't have biologists.
- HPAs cannot be relied upon to identify non-fish related impacts, nor mitigate those impacts – especially when compensatory mitigation is needed. HPA mitigations will not likely meet the SMP requirements of no-net-loss.
- WDFW staff can provide expert advice to local governments regarding impacts to fish and wildlife and mitigating measures, even though they may not be able to address them in the HPA.

FISH AND WILDLIFE MANAGEMENT LAWS (STATE)

States have direct authority to manage fish and wildlife within the state (outside federal land) and have enacted different laws for their management, including the state equivalent of endangered species protection. In Washington and other states, various laws and court cases provide that this responsibility is shared between WDFW and various tribes to different degrees, depending on the species and location.

It is important to understand that management is different than permit review. Management of resources does not allow approval or denial of projects but rather generally results

²⁵ See RCW 77.55.021(7) and other subsections: <http://apps.leg.wa.gov/RCW/default.aspx?cite=77.55.021>

²⁶ See RCW 77.55.021(12) and other subsections: <http://apps.leg.wa.gov/RCW/default.aspx?cite=77.55.021>

²⁷ See RCW 77.55.021(14 & 15): <http://apps.leg.wa.gov/RCW/default.aspx?cite=77.55.021>

in WDFW or tribal representatives filling an advisory role. Other laws or court cases may strengthen the influence of these advisory comments. For example, the GMA and SMA stipulate more specific protection of fish and wildlife habitat and input from WDFW and local tribes. This takes the form of coordination during local planning efforts, but still short of a permit approval/denial role.

The authority over fish and wildlife management has allowed WDFW (usually in consultation with the tribes) to develop management recommendations and guidelines for the protection of different species and habitats. These are not land use laws, however. When the guidelines relate to fish habitat, WDFW is able to implement them more specifically in their own Hydraulic Project Approval (HPA) review. Otherwise, WDFW has made these documents available to local jurisdictions for use in their permit review. Different jurisdictions make use of them in their regulations or permit review to a greater or lesser extent.

WDFW has officers to enforce game laws and activity on its lands and they perform enforcement of HPAs. There are, however, no general wildlife laws to enforce that are related to land use permits.

Considerations for interagency coordination

WDFW

- WDFW staff have high levels of expertise regarding fish and wildlife needs. They are used to the advisory role and can readily provide guidance for identification of impacts, and assistance in developing mitigation for a project.
- Specific guidance on different species is readily available.

Local Jurisdictions

- Local jurisdictions often have limited fish biology expertise and almost never have wildlife biology expertise. This gap can easily result in impacts not being identified and mitigated.
- Local staff can look to WDFW as a source of knowledge for general development impacts to fish and wildlife.
- Local staff can use WDFW species and habitat guidance documents which provide details about how to mitigate impacts for specific species and habitats.

SEPA AND NEPA

State and National Environmental Policy Acts

Environmental reviews required by the National Environmental Policy Act (NEPA) and State Environmental Policy Act (SEPA) are important in the process of permit review for large projects and projects that have development in the water. The laws, however, are not directly oriented toward shoreline and critical area resources but rather are more broad and general. NEPA is primarily a disclosure process for decision making, while

SEPA has substantive conditioning authority as well. NEPA is not discussed in this guide, as it mainly applies to federal government decisions and has limited applicability for local governments.

SEPA is intended to fill the gaps of local regulations. When local regulations (SMPs and CAOs) adequately protect the resources, the SEPA review can be minimal, effectively defaulting protection to the local laws. When there are issues and impacts not covered by the regulations, SEPA is designed to address them. Some local jurisdictions, however, forego specific regulations entirely or in large part in favor of using SEPA for applying conditions of approval to a project. This approach leaves it up to the case-by-case review to identify and mitigate impacts. Thus, small projects that are not subject to SEPA (along with their impacts) fall through the cracks. The most common use of SEPA is when local jurisdictions use it to condition projects for infrastructure improvements.

Some general rules of SEPA are important for coordination on shoreline and in-water development projects.

- All development that alters the environment must go through SEPA review, unless it is exempt (or meets some of the other nuanced exceptions). There are nuances about what is included as development – particularly in the definitions
- SEPA review is a two part process: the threshold determination and, if needed, the environmental impact statement.
- There are many exemptions. If the project is categorically exempt, the SEPA review stops there. Most exemptions do not apply if in-water work is included. Thus in-water work typically requires a SEPA review.
- If any part of the development is not exempt, then the project cannot be exempt. Similarly, the project cannot be broken into parts to avoid SEPA review for all or part of the project.
- In the threshold determination, the responsible official reviews the proposed action to determine if there will likely be probable adverse impacts not mitigated by local, state, or federal laws or features built into the program.
 - If there are no probable adverse impacts, a determination of non-significance (DNS) is issued and SEPA review is complete unless a public comment period is required.
 - It should be noted that exemptions and DNSs are commonly issued for many projects.
- If the probably adverse impacts can be eliminated through changes to the project or conditions, and the changes are incorporated into the project or the conditions are required by the lead agency, a mitigated determination of nonsignificance (MDNS) is issued. SEPA review is complete unless a public comment period is required.
- If the probably adverse impacts cannot be eliminated,

then a determination of significance (DS) and scoping notice is issued and an environmental impact statement (EIS) is prepared. A scoping notice is a public notice that invites comments on the elements of the environment and impacts that should be analyzed in the EIS.

- The review is meant to address significant, likely, and adverse impacts.
- The review of impacts is not meant to discount adverse impacts using the benefits of the project. For example, the impacts to habitat are not discounted because a park will provide great recreation benefits. The impacts must be analyzed and, if necessary, mitigated on their own.
- All local governments and state agencies involved with the projects must use the SEPA review from the lead agency. There are some nuances to this rule, particularly when the initial review did not consider an issue.
- When NEPA review is also needed, the SEPA threshold review is typically performed separately but may be performed concurrently, and may use the same information. There are many nuances to this interrelationship. If an Environmental Impact Statement (EIS) is required, it can (and should) be a combined NEPA and SEPA EIS.
- For many reviews, SEPA requires a formal comment period that accompanies the permit notice and requires the notice to be sent to all affected agencies. This formal comment process serves as a rudimentary default form of coordination that can serve as a starting point for more productive coordination.

Considerations for interagency coordination

Local Jurisdictions

- The position of local government as SEPA lead agency is conducive to it also serving as the central point of coordination. This is enhanced due to the large number of other permits that local government already coordinates for other subject areas (both in-house and with other agencies).
- SEPA serves as an opportunity to do stronger interagency coordination beyond just solicitation of comments. If used for enhanced coordination, it can also serve to get the multiple reviews that are required from different agencies to complement rather than contradict each other. It also allows agencies to perform their review concurrently rather than consecutively. This results in more effective permits by all parties, and provides better customer service.

Other Agencies

- SEPA serves as an opportunity for different agencies and local governments to identify impacts of a project and propose the mitigation to apply under SEPA. When used for broader coordination, agency staff generally have conversations to learn what the lead agency will include or not. This creates the opportunity to be able to explain reasons in more detail for including something in the SEPA decision.

6. INTERAGENCY COORDINATION TOOLS

The following pages describe ten tools which are recommended to increase interagency coordination (see Table 2). One of the most important recommended tools – Apply Interpersonal Collaboration at the Personal and Agency Levels – could be used by all agencies to reduce their permit workload, ensure that violations are not being missed, and provide better customer service. It is an informal and highly effective method that can be used by all staff for basic permit review work that happens on a daily basis.

Other tools address barriers such as communication gaps, notification and feedback issues, and mandate and authority conflicts. Some tools will require some level of formal agreement or arrangement made at higher levels of agencies. Because of the necessary formal arrangements and the need to build inter-organizational structure, these efforts will require staff effort and funding. Three tools which would most significantly improve interagency coordination are:

- Online Interagency Permit Review Tracking and Communication System
- Federal/State Mitigation Manual
- State Interagency Coordination Workgroup

GUIDE TO INTERAGENCY COORDINATION TOOL CHARACTERISTICS

The recommended tools for interagency coordination are summarized in Table 2 and detailed on the following pages. Each tool includes the following characteristics in a table at the top:

Primary area of coordination

Interagency coordination efforts take place in three different arenas: policy, technical, and communication.

- Policy activities include decision making, operations, etc.
- The technical arena applies to methods to help improve staff efficiency.
- Communication in this context refers to tools that facilitate staff communication.

Typical methods of coordination

Typical methods of coordination, while not exclusive, describe the normal way of undertaking coordination efforts. Multiple methods can be used, and in theory all methods could be used. The methods range from less to more formal interactions. More formal methods generally involve increased difficulty and cost and so are rarely used – only when necessary to overcome specific problems. The typical methods are:

- **Internal prioritization.** Establishing priorities within the agency or department may be all that is needed to accomplish an effort. This is a more formal arrangement than staff collaboration, but less so than establishment of a formal agreement. Changing internal priorities is relatively easy, though it must be done at higher levels of the organization.
- **Interagency agreements.** Interagency agreements include memorandums of understanding, development agreements, mutual aid agreements, and other contracts. The agreement establishes a commitment from the agencies to undertake action. The legal details can vary widely with different types of agreements. Agreements can also include joint planning efforts, and perhaps a contract of some sort. The planning effort also spells out interagency arrangements and joint policies.
- **Mandated operations.** Mandated operations come from directives. These can come from the highest levels of an agency administration issued to its departments or from legislative authority issued to the government's agencies. These directives tend to be internally directed within the agency or government, though it may be accompanied by a contractual or legislative agreement between governments or agencies, making it also external.

- **Staff collaboration.** Collaboration between staff of different departments or different agencies can accomplish much in implementing an effort. These activities are described in detail in the Interpersonal Collaboration tool.

Table 2. Recommended Interagency Coordination Tools

Coordination Name	Primary area of coordination	Typical methods of coordination
	Policy Technical Communication	Staff collaboration Internal prioritization Interagency agreement Mandated operations
Enhance Interpersonal Collaboration at the Personal and Agency Levels	Communication	Staff collaboration
Online Interagency Permit Review Tracking and Communication System	Technical	Staff collaboration Internal prioritization
Federal/State Mitigation Manual	Technical	Staff collaboration Internal prioritization
State Programmatic General Permits	Policy	Interagency agreement
Collaborative Violation Response	Policy	Interagency agreement
Advance Local/State/Federal Review for Exempt Activities	Policy	Staff collaboration Internal prioritization
Programmatic Permits and Assistance Programs for Green Projects	Policy	Internal prioritization Interagency agreement
Regional Coordination Processes	Communication	Mandated operations
Task Forces Focused on Specific Issues	Communication Policy	Interagency agreement
State Interagency Coordination Workgroup	Policy	Interagency agreement Mandated operations

ENHANCE INTERPERSONAL COLLABORATION AT THE PERSONAL AND AGENCY LEVELS

Primary area of coordination	Typical method(s) of coordination
Communication	Staff Collaboration

WHAT IS IT?

Interpersonal collaboration - day-to-day passive and proactive staff interactions - supported by strong permit review systems, results in exchange of information and ideas about specific projects so that agencies can adjust permit decisions and better protect natural resources.

Background and description

Interpersonal collaboration is a low cost and easy type of coordination in which agency staff talk in an informal and non-binding manner, so each knows what the others are doing--ranging from passive to proactive approaches. Naturally, this happens easily within departments but requires more effort between agencies.

While interpersonal collaboration can provide benefits in resource protection on its own, its effectiveness and efficiency can be greatly enhanced or impeded by the participants' *knowledge of laws*. Consequently, gaining this knowledge is critical for interagency coordination efforts. Staff from different agencies benefit from increased knowledge of the laws of other agencies so that their work can be adjusted to mesh with other agencies better.

Organizational permit review systems that support interpersonal collaboration can maximize its benefits. Effective and efficient coordination can be greatly enhanced by developing a permit review system specifically designed to provide opportunities for collaboration. Conversely, a badly designed permit system can impede coordination.

Why passive information sharing is needed

A basic agency activity is the development of information about itself to make its requirements and areas of authority known. This information serves as a default minimum level of communication in the absence of active collaboration. This basic activity, therefore, is most important for agencies that are unable to participate in coordination efforts so they can still reduce violations and resource damage.

Stakeholder interviews found that staff workload is the overwhelming barrier to active communication and coordination. This is most prevalent in federal agencies, but also a factor for state agencies. This workload challenge makes it difficult for some agencies to actively solicit coordination with local jurisdictions or to respond when others solicit their participation. The feedback loop caused by workload-related delays and the pressure to eliminate work activities can make the coordination problem worse and also result in poor customer service. For example, applications are received that have already been approved by multiple other agencies, which makes working with applicants difficult and requires changes that have to be re-reviewed by the earlier permit reviewers. At its worst, applicants don't even know that the agency requires a permit and they perform their project in violation of the law.

While workload problems can most obviously be relieved by adequate funding, coordination can also help. *Passive information sharing* can act as a backstop to prevent violations and encourage earlier contact on projects. This takes the form of informational materials²⁸ that can be disseminated, such as general information, permit process and permit requirement brochures, web pages and management guideline documents.

²⁸ Effective permit review processes are discussed in detail in Futurewise's companion guide: *Practical Guide: Shoreline Permitting and Mitigation to Achieve No Net Loss*

These early assistance materials can be used with minimal effort to contribute to the knowledge of laws by staff of other agencies and provide basic information for landowners. Specifically, agencies can:

- Make educational outreach efforts to other agencies.
 - The materials could be disseminated to other agencies to educate those staff members of permit needs and general requirements. Training meetings are also beneficial.
 - Other agencies could be encouraged to pass on the materials to their permit applicants.
 - Other agencies could be encouraged to add informational permit conditions about the need for additional permits.
- Share technical resources with other agencies or departments. For example, the Seattle Biological Evaluation (see Case Study on page 55) can be used by anyone doing a project within the city to expedite federal permitting, and save money by not paying for a new evaluation.
- Make automatic boilerplate responses to notices about project permits, including form letters, e-mails, and inclusion or attachment of the early assistance materials.

Proactive communication

When staff actively undertake the development of good working relationships with other agency staff, they also increase the knowledge of the law by other agency's staff, improve coordination and facilitate better protection of the natural resources. Most jurisdictions and their staff do this to greater or lesser extent. This can be accomplished through interpersonal communications, project meetings, joint site visits, and violation reporting. One local planner explained the need in this way:

"We need the agencies to share their information. Need to sit in a room and agree on what the overlap is. To understand why they have the regs and what is the reason they are interested in the topic. Need to have trust."

Another explained how much they benefited from the local-state relationship:

"We work closely with WDFW habitat biologists. Without them the quality would suffer."

Interpersonal communications. Building relationships and lines of communication happens through phone calls, e-mails, and face-to-face conversations. These conversations also happen during site visits and meetings (see below). Communicating about permit coordination includes:

- Reporting issues to each other (violations reports, raising issues on permits, etc.).
- Requesting informal comments and opinions.
- Providing assistance to others when requested.
- Engaging in follow-up discussions in early stages of permits, and check-in discussions before issuing permits.
- Coordinating written comments during the permit process.

Project Meetings. In addition to providing an opportunity for interpersonal communications, project meetings focus attention on one case and encourage the flow of ideas. Staff participate in or invite partners to the meetings within the normal permit review systems. These meetings often need a special coordination effort in addition to a normal review process.

Joint site visits. Staff of all agencies participate in or invite partners to joint site visits both on a systematic schedule and on special site visits for major projects. In addition to serving as an opportunity for interpersonal communication and also serving as project meetings, joint site visits provide an opportunity to solve problems about site constraints while viewing them. Permit practitioners repeatedly noted that joint site visits *were the most effective form of coordination* for many reasons. As was said by two different planners:

"Site visits are great for applicant too. And it helps clear up miscommunications between planners as well."

"Big benefit is 'no surprises' for the applicant. They get to hear what both agencies think before the approval."

Joint site visits with other permit reviewers provide an early look at the site and an opportunity to develop a common understanding of the site conditions. Joint site visits also allow all the parties to give informal advice to the applicant on their major issues, which can head off future problems and conflicts. One of the benefits of any coordination effort, but especially joint site visits, is that the effort tends to get all participants out of their “box,” thinking about other issues, and considering their requirements in terms of those other issues.

If agencies establish a systematic site visit program, it will make it easier to coordinate joint site visits with staff from other departments or other agencies on their permits, and to gain assistance from outside experts. Site visit participation is often easier to obtain from state and tribal representatives, and less so for federal representatives, due to workload challenges.

Violation reporting. Resource agencies with an interest in protecting natural resources and on-the-ground enforcement staff often have regulations to administer that partially overlap. Indeed, a violation for one agency is likely to be a violation for another agency. Having established relationships with other agencies allows those staff members to identify and report violations that might otherwise be missed. Violation reporting is an easy arrangement to make on an informal level. This activity can be made more formal, as described in the Collaborative Violation Response tool (see page 66). The resource agencies that can be of most assistance include WDFW, DNR, and Ecology.

Non-resource departments and agencies also have staff that go out into the field, and may observe violations. Having established relationships with them allows those staff members to identify and report violations that might otherwise be missed. This is easiest for other departments within the same jurisdiction or agency, since close relationships may already exist. Their ability to identify and report violations can be improved with minor training efforts.

Developing a centralized permit review system

Strong centralized permit review systems provide for coordinated permits between departments within the agency and also facilitate interagency coordination. Many local governments have already developed such systems. Individual state agencies can also benefit from centralized permit systems.

An effective permit review system includes both a technology element and a procedural element, linked together. The components of the permit review system can be designed to encourage coordination internally and with other agencies including:

- Emphasizing early assistance before design of the project is finalized and before permits are approved. Collaboration opportunities during early assistance have the most benefit, especially joint site visits.
- Allowing coordination meetings between internal departments for current projects.
- Providing technology to support coordination opportunities. This includes the ability for staff to track and act on notices rapidly, and the ability to notify the right people of projects needing their attention quickly rather than being delayed.
- Using technology to prevent permits from being issued before all reviews are completed.
- Allowing coordination meetings to be open to external agencies as needed.
- Considering arrangements to co-locate external agency staff or share space for improved communication.
- A permit review system can greatly enhance the benefits of coordination. Technology and procedural systems can reduce resource damage from internally uncoordinated review within a jurisdiction which has created a problem of “the right hand not knowing what the left hand is doing.” The result is that departments or sections issue permits that may need review by other areas without their review. For example, building permits issued without a zoning review, a zoning review performed without fire marshal review, or building permit or floodplain review performed without natural resources review.

Technological systems can make coordination more systematic and easier by tracking needed reviews for all projects and flagging issues. Procedures can also help ensure resource issues are addressed. A round-table review process is useful for all permits because it allows all the different permit reviewers to hear the issues of other reviewers. Since natural resource issues are so often an afterthought of developers and the permit review system, the round-table is especially important for putting natural resource reviews on equal footing with other reviews. It allows natural resource staff to raise issues and suggest solutions early in the review process, before other jurisdiction permits are issued. In addition to internal coordination, a good system also allows external agency coordination.

This concept was tried by the Governor’s Office of Innovation and Regulatory Assistance a few years ago and was called Ipermit (Inter-agency permitting and resource management tool). The project failed because of different permit timelines, inter-dependencies and processes which added overwhelming complexity. Hopefully lessons learned from that project can be applied to a new endeavor. A modified version is not online as EZview (see Case Study on page 58).

Examples of use and case studies

- **Seattle's Seattle Biological Evaluation (case study):**

<http://www.seattle.gov/util/EnvironmentConservation/Projects/SeattleBiologicalEvaluation/index.htm>

WHAT ARE THE BARRIERS AND SUCCESS FACTORS?

Heavy workloads can impede coordination

An important barrier to coordination and interpersonal collaboration is workload and delayed review. While agencies can resolve delayed review problems, coordination can still happen if communication with others is enhanced. Some tips for communication include:

- At a minimum, use passive information sharing to build other peoples knowledge of laws, and communicate both general and specific requirements on projects as much as possible.
- “Just do it.” Don’t let inertia prevent coordination. Don’t accept inferior resource protection by letting projects fall through the cracks without permits and thus increasing enforcement work. Don’t accept poor customer service provided by uncoordinated reviews.
- Modify internal processes to incorporate coordination opportunities, and capture streamlining benefits.
- Tailor coordination efforts to use activities that provide the most benefits.
- Participate in early assistance coordination, including encouraging projects to avoid the need for permits. In addition, focus efforts on getting projects to meet standards with the first submittal to prevent delays and additional review work
- Keep staff in close proximity to their geographic area of assignment, so they can participate in local coordination efforts. Use technology for distance coordination.
- For agencies suffering from delayed review, commit to the real-time coordination efforts. Separate delayed reviews from new submittals, and transfer staff assignments. Clear the assignments of regular staff so they can plug into the current coordination system and review new submittals. Provide additional staff to review backlogged projects.

Funding is needed for permit review systems and adequate staffing

Funding of any permit process is essential to its operation. No review system and no amount of coordination can fix a severely underfunded permit system. There are agencies that are severely underfunded to the point that they cannot even expend resources to learn about the projects being performed without permits. A strong system with good coordination can reduce the work and costs needed to perform reviews within the existing workload but cannot fix underfunding problems.

Perhaps the biggest challenge in committing to coordination will be in bringing departments with delayed review up to the speed so that they can begin effective coordination with other departments. Another challenge will be changing ingrained operations in departments with an insulated review process so they fit within the broader coordination environment. In some cases there are staff that wish to coordinate but lack support from their respective administrative bodies.

Establishing a strong, centralized permit review system may create friction

The barriers to establishing a centralized permit review system that encourages coordination include cultural barriers, turf protection, and technological barriers. While establishing such a system can come about peacefully, amicably, and without other upheavals, it is common for them to be disruptive due to conflict or scale of change:

- A new review system itself will require extensive reallocation of staff responsibilities and duties, which will require extensive training.
- These efforts often come about due to high levels of conflict and dissatisfaction both internally, and among the permit client community.
- They often include agency reorganization, which is highly disruptive to existing organization operations and staff relationships.
- They are also often accompanied by major changes to technological systems, especially permit tracking, which require extensive, organization-wide staff training efforts.

The scale of change to establish a **new** centralized permit review system probably requires the change to be a mandated operation issued by the administrator or legislative decision-makers. Consultants in facilitating organization change are often needed to help work through the difficult parts of the change. Because of the scale of change, extensive time needs to be allocated to complete the work and test the outcomes.

SEATTLE'S BIOLOGICAL EVALUATION

Seattle created a Seattle Biological Evaluation (SBE) for the city and has posted it on the internet, freely usable by any project proponent for sites and activities within the city boundaries. The purpose of a biological evaluation is to describe a project's proposed actions and effects on Endangered Species Act (ESA)-listed species or their critical habitat. The city created

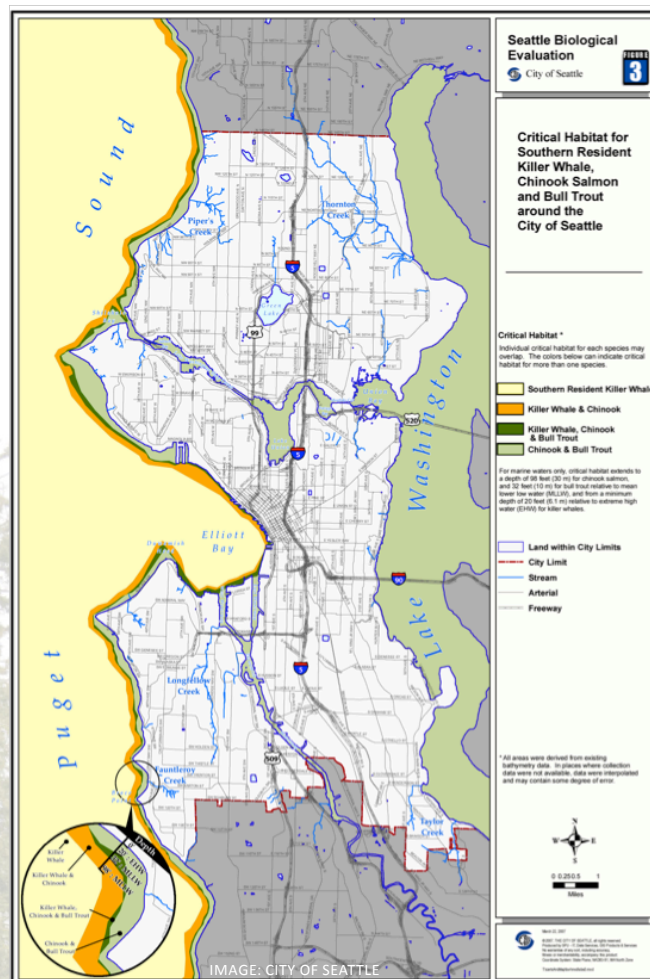
Thirteen construction methods or activities

The SBE to help expedite the federal permitting process for in-city capital projects and operations and maintenance activities. The SBE can be used for projects that need a Corps permit, a biological evaluation and use any of the 13 construction methods or activities described in the SBE:

- Delineation of work areas and project startup
- Clearing, grubbing, grading and placement of temporary fill
- Work area isolation and fish removal in streams, large waterbodies and for pipe bypass
- Pipe, culvert, and outfall installation, removal, and replacement
- Vactoring, jetting, and excavating accumulated sediments and debris, sediment test boring, and pipe, culvert and bridge maintenance
- Bank stabilization
- Habitat addition and maintenance
- Beach nourishment and substrate addition
- Boat launch improvement, repair and maintenance
- In-water/overwater structure repair and replacement
- Seawall repair and maintenance
- Site restoration
- Landscaping and planting

Bi-monthly meetings

The city and the Corps also conduct to bi-monthly informal pre-application meetings, which are open to others (to get on the agenda, one needs to give advance notice).



ONLINE INTERAGENCY PERMIT REVIEW TRACKING AND COMMUNICATION SYSTEM

Primary area of coordination	Typical method(s) of coordination
Technical	Internal prioritization Interagency agreement

WHAT IS IT?

An online permit tracking and communication system provides a single location to learn about and comment on natural resource projects that are being undertaken.

Background and description

Since coordination and collaboration rely on communication, developing a universal project communication tool can greatly assist with interagency coordination, including supplementing other tools in this guide. An online coordination system can improve situations where agency workload essentially prevents interagency coordination. Stakeholder interviews demonstrated that workload is a major factor in preventing effective coordination for most federal and state agencies, resulting in the inability to learn about projects other agencies are working on, the subsequent problems that projects are being constructed without required permits, and submitted applications by project proponents after other agencies have already approved them in an unacceptable configuration. In addition, a universal communication system could significantly help reduce violations and help make projects proponents aware of permit needs.

Features of an online system

An effective interagency tracking and communication system would provide a single location for learning about natural resource projects that are being undertaken and could include all or some of the following features:

- Provide a description for each project.
- Allow for uploading and downloading of project documents, technical reports, and notices.
- Identify changes to those documents.
- Include up-to-date project status or posting of review schedule.
- Allow other agencies to indicate that other permits are required.
- Allow comments or other information to be posted and seen by others.
- Display requirements for all permits.
- Allow users to filter projects by a variety of criteria, such as geography, resources affected, etc.

If successful, the system could be expanded to allow public comments, though one should be careful not to subject the system to legal standards for permit notices. It could also be expanded to interface with a joint application tool, if deemed useful.

Geographic Scope

Some local jurisdictions have similar tools on their websites that provide project information and status, and some provide the ability to submit public comments during a comment period. These existing systems, however, are limited in geographic scope to cover one jurisdiction. The existing EZview tool (see Case Study on page 58) works at a broad geographic scope and can accommodate many types of projects but is limited to information sharing and status update functions. It was developed as a joint effort between the Washington Office of Regulatory Assistance, the Washington State Association of Counties, and the Association of Washington Cities.

To provide the most benefit to state and federal agencies, the tracking system needs a large geographic scope. Since federal agencies usually have sub-organizational units that correspond with state boundaries, a system developed at the state level could work well. The Washington Office of Regulatory Assistance (with help from others) could be a logical project lead, possibly expanding and building on the existing EZview tool.

A tracking system, not a joint permit at this time

An online tracking system would not be intended to create one permit for all agencies. The system could serve as the structure upon which to “hang” requirements. The “permit tree” would allow agencies to attach their permits to a project and see the requirements of other agencies resulting in a basic level of interagency coordination.

Examples of use and case studies

- **EZview webtool (case study):** www.ezview.wa.gov
- **King County Permit Review System:** www.kingcounty.gov/property/permits/info.aspx
- **Yakima County Planning:** www.yakimacounty.us/Planning/default.htm

Both King County and Yakima County provide examples of a larger-scale and smaller-scale permit review system designed to ensure internal coordination and allow external coordination. King County’s website includes project tracking information. Both systems ensure that environmental and natural resource issues are reviewed for each permit application and county project. They include notification elements to allow staff for those areas to be aware of projects in the system and centralized opportunities to discuss issues (or otherwise communicate) with staff working on other types of permits. They include procedures to encourage or require early assistance. Importantly, they provide opportunities for other agencies to participate – including in early assistance events.

WHAT ARE THE BARRIERS AND SUCCESS FACTORS?

Need widespread use and acceptance

For an online tracking and communication system to be effective, it would have to be widely used by the agencies. This requires agencies to provide ongoing input of project information on the website and to use the system. This level of commitment by agencies may need more formal coordination methods to make the effort successful. Encouraging widespread usage will require staff training.

Technical capacity and staff support

A technically capable website will be needed, including mapping, document uploading and downloading, and ability to leave comments. In addition, a state-wide system will likely require technical staff resources, though most agencies already have such capacity.

Keeping the system distinct from JARPA or joint form at this time

While a tracking tool could be combined with a joint application tool, it may be premature. A joint application tool would have to address the wide variety of issues that different agencies cover, especially local governments. Alternatively, it could be simplified to basic information similar to the JARPA form, which would only serve a narrower purpose.

EZVIEW WEBTOOL

EZ View is a web-based tool for state and local government agencies to distribute or share project information and provide tracking updates. It provides project-dedicated websites for local governments and state agencies. EZview was developed and is maintained in partnership by the Washington State Governor's Office for Regulatory Innovation and Assistance, Association of Washington Cities, and Washington State Association of Counties. Examples of documents that are intended to be posted are local shoreline plans, local Growth Management Act plans, infrastructure plans, and major regulatory processes and permits. EZview is a modified version of an earlier project called Ipermit

Features of EZview

EZview's project-dedicated websites provide a forum to share project information. Its main use is for infrastructure and public works projects, and planning efforts. EZview allows users to publish content, documents, photos and video to the web. While individual agency websites perform similar functions, this tool allows a large quantity of projects to be found at one location. Thus, any user who wants to know about a large number of projects in various locations and agencies could do so on one website.

Goals for transparency

The organizations that created EZview designed it to be transparent with the following goals:

- Increase public and stakeholder access to important project information.
- Increase public and stakeholder perceptions about the transparency and rigor of the decision-making process.
- Decrease public disclosure requests.
- Decrease time and expense servicing public disclosure requests.

Project proponents describe the webpage as:

"It's a free web-based tool to easily and transparently manage complex projects and complex planning processes."

Technical features

The web page is cloud-based and allows users to publish documents, photos and videos at two levels of service, basic (free, for state agencies and local governments, with 2 GB of storage) and custom (for a fee, unlimited file storage capacity).



The EZview web site is managed by the Governor's Office for Regulatory Innovation and Assistance (ORIA). EZview provides project dedicated web sites for local governments and state agencies to plan, share, document and collaborate. Project dedicated web sites provide open, accessible and up-to-date project information. EZview is safe, secure and cloud-based. You can track projects in your community by following links in the table below or [click here to learn more about the service and how to setup a project web site](#).

Track Projects in Your Community

Project: Coordination and Transparency Portals	Managing Entity	Start Date
Aberdeen, Cosmopolis, and Hoquiam Shoreline Master Program Update	Hoquiam	02/04/2014
Building Cities in the Rain	Department of Commerce	09/09/2013
Chenails River Basin Flood Authority	Chenails River Basin Flood Authority	08/25/2011
Aberdeen - Burger King Trail/Dike Project	City of Aberdeen	04/04/2013
Aberdeen - Dike Bank of Wixman North of Highway Project	City of Aberdeen	04/04/2013
Aberdeen - Market Street Dike Project	City of Aberdeen	07/26/2013
Aberdeen - Southside Dike/Levee Certification Project	City of Aberdeen	04/04/2013
Bucooda - Bucooda Levee Project	Town of Bucooda	04/04/2013
Cosmopolis - Mill Creek Dam Improvement Project	City of Cosmopolis	04/30/2013

FEDERAL/STATE MITIGATION MANUAL

Primary area of coordination	Typical method(s) of coordination
Technical	Staff Collaboration Internal prioritization

WHAT IS IT?

A federal/state mitigation manual is a guide or guidance document which allows federal, tribal, state, and local agencies to comprehensively and consistently identify impacts to near-water environments and determine mitigation for those impacts.

Background and description

The Shoreline Management Act (SMA) and Shoreline Master Program (SMP) Guidelines require local jurisdictions to develop SMPs that accomplish no net loss of ecological functions. Doing so for projects requires mitigation for project impacts. The preference is to design projects to avoid and minimize impacts. Remaining impacts must be compensated for by enhancement or other improvements called compensatory mitigation. Other federal, state and local regulations require mitigation as well.

A joint mitigation manual would need to address issues such as conflicting mitigation required by different permits, the need to identify impacts that do require mitigation, and situations in which one agency might require mitigation when another agency might mitigate an impact by requiring project changes.

A statewide mitigation guidance manual should be developed as a joint effort by state and federal agencies, with input from local jurisdiction permit offices. This manual could establish a common understanding of the impacts of different kinds of development and recommended ways to mitigate those impacts. Efforts to develop jointly-used resources have been undertaken before, and this recommendation would follow similar models. The JARPA (Joint Aquatic Resources Permit Application) form is a good model to use (see below).

Scientists and permit practitioners would both play a role

Both scientists and permit practitioners would have important roles in crafting a mitigation manual. Scientists would use their scientific expertise to help identify the impacts. Permit Practitioners would use their experience in writing mitigation conditions, and knowledge of both common and rare mitigation techniques, to help mold the mitigation for identified impacts. Both could work together to describe the impacts of different alterations and good recommendations for mitigating the impacts.

Examples of use and case studies

Futurewise's companion guide in this series, *Practical Guide: Shoreline Permitting and Mitigation to Achieve No Net Loss*,²⁹ is designed to provide a start to the ultimate development by state (and local office of federal agencies) of an official mitigation manual. In addition, there are a number of models and examples of mitigation manuals and related efforts that are available:

- **Washington effort to streamline ESA consultation using the federal FOTG manual:**

<http://www.digitalarchives.wa.gov/governorlocke/gsro/strategy/strategy/mou.pdf>

The administration of Governor Gary Locke (1997-2005) developed a memorandum of understanding between Washington State and several federal agencies to streamline federal Endangered Species Act (ESA) consultation. The main effort was to revise U.S. Department of Agriculture's Natural Resource Conservation Service (NRCS) manuals called the *Field Office Technical Guides* (FOTGs) to provide programmatic consultations for ESA purposes for farming practices established through the NRCS and local conservation district offices.

²⁹ Futurewise companion guide in this series: *Practical Guide: Shoreline Permitting and Mitigation to Achieve No Net Loss*

- **WA JARPA (Joint Aquatic Resources Permit Application) form development:**

www.epermitting.wa.gov/default.aspx and www.ora.wa.gov/regulatory

Washington State agencies and several federal agencies have undertaken the effort to develop (and improve over time) a joint project permit application for aquatic area permits. This effort required collaboration between many agencies to develop the form and required official commitment from each agency to accept and use the form. It is available in digital form on the above websites for applicants to fill in and save as a Word or PDF document. This can then be submitted digitally. The form is specifically designed to serve federal and state agencies. As the form has been improved over time, some local governments started accepting it as well. Other local governments have declined to use it or require additional forms in addition, since their regulations and requirements are not reflected in the JARPA. Using the form is within the purview of almost all agencies as an administrative choice, though it may be formalized in laws, official rules, or policies. JARPA efforts are regional efforts. Nationwide, efforts to develop a JARPA appears to be rare. A JARPA has also been developed for use in the San Francisco Bay area: <http://www.sfestuary.org/about-the-estuary/documents-reports>

- **Kitsap County SMP Mitigation Manual:** www.kitsapshoreline.org

As part of its SMP update, Kitsap County developed a mitigation manual to help speed the mitigation process. It is called *Mitigation Options to Achieve No Net Loss for New or Re-Development Activities* and is placed in the appendices of the SMP. The manual is limited to specific alterations covered and mitigation described.

- **Wetland Mitigation in Washington State (case study):**

<http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/guidance/index.html>

- **WDFW Aquatic Habitat Guidelines (AHG):**

http://wdfw.wa.gov/conservation/habitat/planning/ahg/white_paper_overview.html

The Washington Department of Fish and Wildlife has been working to develop mitigation guidelines. As part of this effort they created the Aquatic Habitat Guidelines program which takes an integrated approach to marine, freshwater, and riparian habitat protection and restoration. They intend for the guidelines to facilitate the consistent application of good science and practices for project designs, construction, and operations affecting aquatic systems. The first step was the commission of a series of scientific white papers on a variety of key topics including over-water structures (marine and freshwater), water crossings, channel design, marine and estuarine shoreline modification issues, ecological issues in floodplain and riparian corridors, and dredging. The white papers provide current science in order to ensure that the guidelines and any future policies and regulations are based upon the best available science. They were written by scientific authorities with expertise in each white paper topic. Each white paper addressed current understanding of impacts of development and land management activities on aquatic and riparian habitat and potential mitigation for these impacts.

WHAT ARE THE BARRIERS AND SUCCESS FACTORS?

Staff resources needed to develop manual

State and federal agency staff have existing heavy workloads. While most agencies would find the effort of completing a mitigation manual worthwhile, they will need to commit resources to undertake the work. A joint manual will also require significant coordination efforts. An MOU or other interagency agreement may be needed to get the process started. This effort will also likely require an agency to take the lead as catalyst for getting agreement to undertake the effort (not necessarily taking the lead in doing the work).

Getting buy-in will be critical

Getting buy-in from agencies so that staff will use the manual will be important to the effort. State and federal agencies may more readily use the manual than all local governments. In some areas, permits have historically been issued without identification and mitigation of all impacts. There may be a need to convince some local governments to use the manual.

A strong manual would focus on impacts rather than types of development

Basing the manual on specific types of development such as single family residence, or water diversion, or boat moorage would be limiting in the long run. The range of uses is nearly innumerable and a list is incapable of forecasting innovations and ingenuity in development proposals. On one hand, many specific developments and uses would have the same alterations and impacts. On the other hand, each can be built with or without a wide variety of construction designs and methods.

Consequently, an effective manual would be based on the variety of alterations used in developing sites so that it can be applied to any development. By way of illustration:

- A house might include clearing of upland vegetation, riparian vegetation, or aquatic vegetation, each with different impacts. A business might do the same. It is the clearing of vegetation that should be addressed.
- A water treatment plant might include excavation into groundwater patterns that support water features, or not. A highway might do the same. It is the alterations to groundwater that should be addressed.
- Boat moorage might use opaque overwater buildings, grated overwater platforms, or no structure. A fishing pier or utility maintenance pier might do the same. It is the overwater coverage that should be addressed.

In addition, a single development will use multiple alterations. For example, a house might include vegetation clearing, excavation into the groundwater (for utility lines), and overwater structures (for a dock), as well as impervious surfaces, rip-rap armoring, wildlife migration obstructions (fences and structures), and night illumination.

WETLAND MITIGATION IN WASHINGTON STATE MANUAL

The U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the Washington State Department of Ecology developed a two-part interagency mitigation manual to guide wetland mitigation: *Wetland Mitigation in Washington State, Version 1 (2006)*.

Why the document was created

The agencies created the guidance document “to help the regulated community comply with environmental laws and policies and to improve the quality and effectiveness of mitigation in Washington State.” The 2006 manual consolidated, updated and added to previous documents published in 1994 and 1997. Because new science had been developed and much mitigation experience had provided “lessons learned,” the older documents were deemed to be inadequate.

Importantly, a two-part study by Patricia Johnson and others titled *Washington State Wetland Mitigation Evaluation Study* published in 2000 and 2002, showed that Washington was still losing functional wetland acreage due to inadequate mitigation which was not compensating permitted impacts to wetlands. The agencies felt that they needed to provide better mitigation guidance, including site selection and design, more consistent compliance monitoring and adaptive management.

Process of developing the manual

In addition to revisiting previous wetland mitigation documents, the agencies held two public meetings to gain comment from the broader community. They met with the Washington State Department of Transportation’s compensatory mitigation technical group. Staff from natural resource agencies contributed suggestions and information from the Johnson et. al. studies, other state documents and National Academy of Sciences were incorporated.

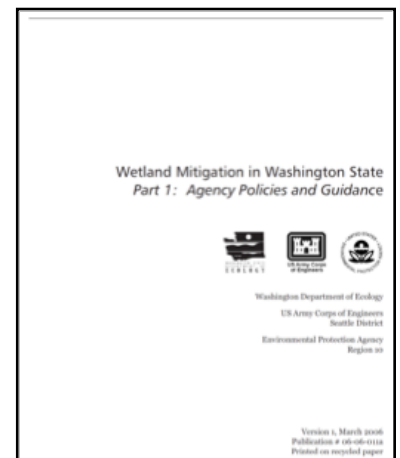
Document did not change the regulations

The stated objectives of the agencies are that the guidance will not change regulations but instead will:

- Improve the quality and effectiveness of compensatory mitigation in Washington State.
- Provide more predictability by clearly outlining the requirements of state and federal agencies for compensatory mitigation.
- Provide guidance on compensatory mitigation that is consistent among several federal and state agencies in Washington (Corps, EPA, and Ecology) that regulate wetlands.
- Provide guidance on compensatory mitigation that is based on “Best Available Science” (BAS).
- Provide guidance that local governments can use to develop consistent mitigation requirements as they update their wetland regulations to include BAS under the Growth Management Act.
- Provide guidance in a format that is user-friendly, easy to update, and web-accessible.

Intended to be updated

The agencies intended for the manual to be revised stating “Due to the dynamic nature of wetland science and regulatory frameworks, the guidance found in the document is subject to revision.... The most current version will always be available on this web page.”



STATE PROGRAMMATIC GENERAL PERMITS

Authorized from Corps of Engineers to the State

Primary area of coordination	Typical method(s) of coordination
Policy	Internal prioritization Interagency agreement

WHAT IS IT?

A State Programmatic General Permit (SPGP) is an authorization from the Corps of Engineers which allows the state to review a defined group of activities that normally require Corps permits.

Background and description

The US Army Corps of Engineers (Corps) requires permits for most aquatic activities. It also issues “nationwide permits” and “regional general permits” for specific, smaller projects. These are activities that have been *pre-reviewed* to set limits on size, scope, location, etc. for projects, so that minimal ecological impacts are allowed and specific requirements or mitigation are established to go with the activity.

The Corps has allowed some states to undertake certain permit reviews in its place by setting up a system of review within which the state will perform the work. Often, these are reviews of development that normally obtain nationwide or regional general permits, though they can be other activities. To accomplish this delegation to states, the Corps issues a State Programmatic General Permit (SPGP). Examples include Florida, Maryland, Georgia, and Pennsylvania. The Corps’ Northwest Region, however, does not appear to offer this option yet. When an SPGP is issued to a state, the Corps usually suspends the nationwide permits for the covered activity.

Washington could collaborate with the Corps to obtain approval for an SPGP to do the review of docks and shore stabilization on behalf of the Corps, and possibly other activities. Maryland (see Case Study on page 65) included a wide range of activities in its SPGP. The main benefit of this effort is the replacement of federal review with review instead by a state agency that already reviews the project. This eliminates a major federal review process that is most often subject to delayed review. It also is a means to strengthen coordination, including with local governments.

Who would do the review?

The review would be placed with a state agency that already does a review for the covered projects. Ecology already performs the 401 Certification for Corps permits. WDFW already performs reviews for most of the same activities, and has similar jurisdiction (within the ordinary high water mark (OHWM)). Either agency could be assigned the duties, but the Corps might prefer Ecology because a formal relationship already exists.

Placing the review with a different agency that does not already perform a review for a given project would simply replace the Corps with new agency in the permit line-up. This shift would provide minor improvements to coordination in that it is a state agency rather than a federal agency, which might make access to staff and greater attention to the project possible.

As with the nationwide permits, the federal agencies that conduct Endangered Species Act (ESA) consultation would normally perform ESA consultation on the SPGP. So ESA consultation on individual projects may not be required for an SPGP.

Once the program is established within the state’s purview, it can take advantage of other state coordination efforts, such as the Governor’s Office for Regulatory Innovation and Assistance’s EZview webtool (see Case Study on page 58) or other communication systems.

Examples of use and case studies

- Maryland SPGP (case study): <http://www.nab.usace.army.mil/Portals/63/docs/Regulatory/Permits/MDSPGP-4.pdf>
- Georgia SPGP (Georgia DNR website for SPGP): www.coastalgadnr.org/pe/privatepgp
- Corps SPGP permit (with notice at front) issued to Georgia:
www.coastalgadnr.org/sites/uploads/crd/pdf/permitapps2011/PGPapp.pdf

The Georgia Department of Natural Resources worked with the Corps to allow the department to issue permits for residential docks meeting certain criteria. An SPGP permit issued to Georgia includes forms and other administrative system materials, creating a systematic process.

For more info:

- Association of State Wetland Managers website summarizing different Corps permits:
<http://aswm.org/wetland-programs/programmatic-general-permits>
- Corps of Engineers website illustrating and explaining SPGP process:
<http://140.194.174.18/cenap-op/regulatory/spgp.html>

WHAT ARE THE BARRIERS AND SUCCESS FACTORS?

Agreement at highest levels needed

In order to establish a SPGP, the governor and agencies will need to agree that authority be delegated to Washington from the Corps. This delegation would be an expansion of the normal state agency duties granted by the federal government. An expansion of agency duties would require funding for the review program although there would be opportunities to reduce costs since the duties would be assumed by agencies that already perform permit review.

Development of the program will take time

The program and SPGP permit would have to be developed. This will require concerted effort between state and federal staff to work out the system and requirements, which will take some time. The process involves demonstrating that the state has the technical capability to do the work, the willingness to protect the resource, and an adequate administrative system to ensure the resource will be protected.

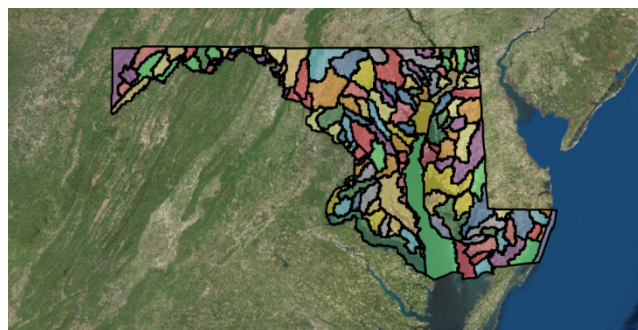
MARYLAND'S STATE PROGRAMMATIC GENERAL PERMIT

The Maryland Department of the Environment (MDE) and the U.S. Army Corps of Engineers developed the Maryland State Programmatic General Permit (MDSPGP) in order to reduce duplicative review of applications by federal and state governments and increase permitting efficiency by MDE and the Corps. The first permit was effective July 1, 1996, and is part of Maryland's Wetlands and Waterways Program. The MDE thus directly issues permits for a wide range of alterations, including residential docks, that formerly would have required multiple permits. The program allows for 3-tiers of approval with varying levels of Corps oversight.

Features of the Permit

The five-year (renewable) programmatic general permit authorizes work in Maryland waters for activities that would "cause no more than minimal adverse environmental effects, individually and cumulatively, subject to the terms, conditions, and limitations" of the permit. In 2006, the permit was changed to allow landowners to apply with a joint state/federal application. Permits are processed in a three-tier system with different levels of review:

- **Category I:** Proposed activities subject to both federal and state jurisdiction and part of a single, complete project resulting in minimal individual and/or cumulative adverse environmental effects are reviewed only by MDE. This includes: piers; boat ramp construction, repair and expansion; maintenance dredging; new minor dredging; repair and maintenance; road and minor nontidal wetland fill.
- **Category II:** Any proposed Category I activities that meet the Category II screening criteria requires the application be screened by the Army Corps. For example: activities in or near federally-authorized civil work projects; activities exempt from MDE's permit requirements or not state regulated and, denials and violations.
- **Category III:** Projects that propose total impacts exceeding Category I activity impact limits, do not meet



the activity's specific terms and conditions, and do not exceed one acre, will be reviewed by both MDE and the Army Corps.

The MDSPGP provides the opportunity for all relevant state and federal resource agencies - MD Department of Natural Resources, MD Historical Trust, U.S. Environmental Protection Agency, National Marine Fisheries Service, U.S. Fish and Wildlife Service and U.S. Coast Guard - to review and comment on any application. Projects potentially impacting sensitive resources will be identified by MDE's or another resource agency's application screening procedure.

Fees

The following fees apply for the general permit:

- For an application for a minor project, general permit.....\$750
- For an application for a minor modification.....\$500
- For an application for a major project or major modification with a proposed impact of:
 - Less than ¼ acre..\$1,500
 - At least ¼ acre, but less than ½ acre.....\$3,000
 - At least ½ acre, but less than ¾\$4,500
 - At least ¾ acre, but less than 1 acre.....\$6,000 and,
 - 1 acre or more with the impact area in acres multiplied by.....\$7,500

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Sources: Maryland Department of the Environment. (2006, October 18). *Enviromatters Newsletter: Improving and Streamlining the Regulatory Permitting Process*. Retrieved from www.mde.state.md.us/aboutmde/Enviromatters/Documents/www.mde.state.md.us/assets/document/Enviromatters_101806.pdf

Army Corps of Engineers. *Corps SPGP permit issued to Maryland*. Retrieved from www.nab.usace.army.mil/Portals/63/docs/Regulatory/Permits/MDSPGP-4.pdf

COLLABORATIVE VIOLATION RESPONSE

Primary area of coordination	Typical method(s) of coordination
Policy	Interagency agreement

WHAT IS IT?

Collaborative violation response or delegated enforcement allows agencies to report violations to partner agencies or conduct minor mutual enforcement activities while performing their own enforcement duties.

Background and description

Because there are multiple laws and agencies with authority over aquatic areas and agencies with overlapping jurisdiction, it is often the case that a violation for one agency is also a violation for other agencies. Interagency coordination provides opportunities for the staff of different agencies to informally report violations to other agencies or to take minor enforcement actions based on prior formal agreements.

By identifying violations early, agencies can stop in-progress violations to reduce the amount of damage and the number of future applications seeking “after-the-fact” permits. While the agency may prefer its own staff to take enforcement action, coordination with other departments or agencies can help with violation responses using simple initial actions, such as issuing stop work or cease-and-desist orders.

Partnership relationships

In making partnerships to assist with compliance efforts, the partners’ natural resources expertise should determine the extent of their participation. Partnerships with non-experts could be left at an informal reporting level, leaving the enforcement agency with expertise to follow up on reports. More formal relationships described below may need to be limited to partnerships with other natural resources agencies.

The strongest enforcement partnerships will be based on working with agencies with similar permitting authority, those with expertise in the relevant field (thus helping with accurate identification of violations and communication with landowners) and presence in the geographic area.

Developing a formal violation response partnership

Going from an informal violation reporting relationship to a formal agreement in which partner agencies can take minor enforcement actions is a way to effectively stop further damage from a violation. This includes the ability to issue stop work orders and similar directives and notices as well as issue tickets, though that is uncommon in the land use arena. The enforcement matters would then be followed up for detailed action by the agency with authority.

Collaborative violation response would be easiest to implement with other departments in the same agency, such as developing a partnership between a local jurisdiction’s land use/natural resources department and the law enforcement or building inspection staff. This approach can be extended to other agencies with similar missions or areas of responsibility.

Permit Compliance Checks

In addition to violation enforcement, a collaborative partnership could include checks for permit compliance. Land use permits often have conditions of approval that require in-the-field follow-up by staff to make sure that they have been implemented, such as plantings or removal of structures. Agencies that work in similar geographic areas often have staff that travel past sites that for which other agencies have issued permits. This provides opportunities for one agency staff person to perform a compliance check-up on a permit for another agency when they are near a site. Such coordination can reduce compliance costs.

Depending on the complexity of the conditions of approval and the trust between agencies, a jurisdiction can delegate some parts of the compliance check to staff in other departments, or even in other agencies. This function requires no legal authorization to perform activities in an official capacity, only a report that the agency with authority can trust. Any follow-up compliance actions would be undertaken by the permitting agency.

Examples of use and case studies

- **Thurston County Law enforcement mutual aid agreement (case study):**

http://www.pierce.ctc.edu/dist/coe/pdfDocs/mutual_aid_interlocal_for_thurston_cnty_le_agencies_1008.pdf

For more information:

- State mutual aid law describing authorization outside jurisdiction: <http://apps.leg.wa.gov/RCW/default.aspx?cite=10.93.070>

WHAT ARE THE BARRIERS AND SUCCESS FACTORS?

Formal agreement may be needed

Within an agency, a collaborative violation response arrangement could be done using internal prioritization methods of coordination, though it may also need an interagency agreement. Externally, an interagency agreement would most likely be needed to authorize the partner agency to perform the work in an official capacity. Local jurisdictions should be able to enter these kinds of interagency agreements without the need for regulatory changes.

The specific language of certain laws may require some official standing for the staff performing the compliance activity. This may range from the need to change the text of the law, to requiring deputation for enforcement staff, or simply delegating responsibilities in an interagency agreement. In some cases, regulatory changes may be needed to allow such coordination. Between agencies that have similar natural resource responsibilities, both agencies may be interested in reciprocity or mutual aid agreements to perform activities for each other.

Training and forms

Arrangement for collaborative violation partnerships, and partnerships that extend to compliance checks, would require interagency training to undertake the duties. Some of the environmental laws affecting aquatic areas are complex and some of the skills to effectively enforce them, such as the ability to identify wetland boundaries, can be technically complex. This barrier can be addressed if money is available for training or by limiting the work to activities that are less complex.

Other logistics may include developing common forms for notices and orders, procedures for ticketing, rules of behavior and process, and a means of rapid communication for newly issued orders.

Gaining approval from leadership

It may be a challenge to convince the leadership of the partner agencies to allow enforcement activities to be performed by other agencies on their behalf as it may be perceived as a political issue. Limiting the activities to minor duties such as issuing a stop work order or simple compliance check-ups may not raise concerns. Phrasing the agreement in terms of mutual aid (between resource agencies) may also reduce concerns.

The challenge of increased work and cost may be a barrier for some agencies. Limiting the duties to activities that do not add significantly to work load can address this concern—for example, stopping to tell someone to cease work and posting a notice, or checking the conditions of a permit and informing the partner agency for their follow-up.

THURSTON COUNTY LAW ENFORCEMENT MUTUAL AID AGREEMENT

Washington State (RCW 10.93.070) allows general authority Washington law enforcement officers to enforce the traffic or criminal laws throughout the state, under specific circumstances. This law creates the legal framework for mutual aid. For example, when a fleeing criminal or traffic violator crosses a jurisdiction boundary, agencies do not want to let the person get away. In addition, in large emergency response events, agencies need help from others. For more routine law enforcement, the law allows for mutual law enforcement assistance agreements between agencies. These agreements are able to work well because of the consistency in the fundamental elements of criminal justice across jurisdictions. An element of these agreements is the practice of allowing officers from partner jurisdictions to issue traffic tickets.



Thurston County law enforcement agencies have such a mutual aid agreement called the *Interlocal Cooperation Agreement for Law Enforcement Mutual Aid Between Thurston County Law Enforcement Agencies*. Agencies that are party to this agreement are Thurston County Sheriff's Office, Rainier and Tenino, cities of Lacey, Tumwater, and Olympia and The Evergreen State College.

What the mutual assistance agreement covers

Thurston's mutual assistance agreement applies to major disorders or other law enforcement operations.

The agreement spells out:

- How and when requests for assistance are made,
- Field hierarchy and protocols,
- How press releases and media communications will be handled,

- Supplies and equipment (including replacement afterwards),
- Salaries and overtime pay,
- General liability, property damage and false arrest insurance, and
- Injuries.

Full-time, paid, commissioned officers who are responding to any call for mutual aid are automatically empowered to exercise the same police authority during the time of mutual aid as though they were full-time commissioned officers of the primarily responsible agency.

How the mutual aid requests are made

Thurston County's mutual aid requests occur in the following ways:

- A formal nature between department heads;
- A less formal nature through agreement of Watch Commanders or
- Shift Supervisors; or
- When the officers of one jurisdiction cross jurisdiction boundaries to aid or assist the officers of another jurisdiction signatory to this Agreement.



IMAGE: THURSTON COUNTY

ADVANCE LOCAL/STATE/FEDERAL REVIEW FOR EXEMPT ACTIVITIES

Primary area of coordination	Typical method(s) of coordination
Policy	Staff Collaboration Internal prioritization

WHAT IS IT?

Advance local/state/federal review for exempt activities involves setting up a system to identify and provide guidance for incidental and exempt activities that are common between multiple agencies so that landowners can avoid the need to contact the agencies and/or will stay within the limits of an exemption.

Background and description

Almost all laws have exemptions from the requirement to get permits or from the law in its entirety. A small scale project may be exempt from one law but not others, or it may be exempt from multiple laws.

Many landowners are unaware of most laws regulating aquatic areas. This results in confusion about different laws as well as incidents of accidental violations. Many minor activities do not need consultation with agencies and other minor activities may be exempt. Some violations could have been avoided if the project had been limited in scope or scale. Education and outreach about individual laws can improve the situation. A program to educate landowners and to address exemptions through advanced review could be effective if done in a coordinated manner for multiple laws and agencies.

Tiered Categories of Review

The objective of coordinated effort would be to identify different categories of common and minor activities, then describe the range of alterations that are commonly undertaken within those categories. For each category, the agencies could array the alterations within three tiers reflecting increasing levels of review, and then perform advance review on those needing the lowest levels of review. As part of the coordination effort, agencies need to try to coalesce their individual thresholds between the tiers into commonly agreed to thresholds as much as possible. Example tiers are:

Tier 1. Incidental activities that are exempt from all (or most) permits. Activities for which people do not need to check with agencies.

Tier 2. Activities that are exempt from most permits, but perhaps need a notification or check-in to agencies (for confirmation or documentation). Note: Using this category of activities within a permit system may require alterations to agency operations.

Tier 3. Activities that are either exempt from most permits but need to get actual authorization, or activities that need permits from most agencies. Many typical shoreline and critical areas exemptions fall into this tier but some may be further developed to fall under Tier 2. This tier would not be pre-reviewed.

Tier 2 describes a system similar to the WDFW Gold and Fish Pamphlet permit (see Case Study on page 71). A pamphlet “permit” approach is not recommended for this tool, however, since permits should receive specific attention from staff with expertise. The recommended approach would be a pamphlet “exemption.”

One solution to come out of this effort may be the development of a brochure or pamphlet on which people can get an agency signature to document the notification or check-in.

Who would do the review?

The review would be placed with a state agency that already does a review for the covered projects. Ecology already performs the 401 Certification for Corps permits. WDFW already performs reviews for most of the same activities, and has similar jurisdiction (within the ordinary high water mark (OHWM)). Either agency could be assigned the duties, but the Corps might prefer Ecology because a formal relationship already exists.

Placing the review with a different agency that does not already perform a review for a given project would simply replace the Corps with new agency in the permit line-up. This shift would provide minor improvements to coordination in that it is a state agency rather than a federal agency, which might make access to staff and greater attention to the project possible.

As with the nationwide permits, the federal agencies that conduct ESA consultation would normally perform ESA consultation on the SPGP. So ESA consultation on individual projects may not be required for an SPGP.

Once the program is established within the state's purview, it can take advantage of other state coordination efforts, such as the Governor's Office for Regulatory Innovation and Assistance coordination system, the EZview webtool (see Case Study on page 58) or other communication systems.

Potential categories for collaborative efforts

Personal recreational fishing and aquaculture

- Simple personal and commercial fisheries harvest (does not require development permits or review).
- Small scale aquaculture (planting, tending, and harvesting organisms) using a few clam bags, or planting a small patch of geoducks or oysters.
- Sale to others regardless of scale (may require compliance with food laws, or have inspection requirement).

Recreational alterations

- Incidental vegetation changes (mostly for residential, but all others too) such as pruning, views, rudimentary trails, etc.

Repair and maintenance activities

- Boat repair, cleaning, and refinishing.
- Minor bridge repair and maintenance.
- Minor structure maintenance, upkeep and repair; such as for docks, ramps, diversions, buildings, etc.
- Maintenance and yard care within existing yard areas.
- Road maintenance activities, such as ditch cleaning, culvert clearing, pavement patching, rail/fence/picket repair, etc.

Restoration and Enhancement

- Replanting with native vegetation.
- Weed control.
- Structure and piling removal.
- Shore stabilization/armoring removal

Examples of use and case studies

- **WDFW's Gold and Fish Pamphlet permit (case study):** <http://wdfw.wa.gov/publications/00290/wdfw00290.pdf> and <http://wdfw.wa.gov/help/categories/Mineral%20Prospecting%20&%20Placer%20Mining/> and <http://wdfw.wa.gov/licensing/mining>

WHAT ARE THE BARRIERS AND SUCCESS FACTORS?

Policy changes are needed

The effectiveness of a coordinated advance review for exemptions will depend on the willingness of different agencies to modify their policies and processes in order to coalesce the thresholds between different tiers of review.

Education will be key

Education would enhance this effort, as the goal would be to bring many more landowners into a compliance mode. Materials that could be produced include guidance brochures, park info signage, natural area stewardship displays, and presentations for groups.

WDFW'S GOLD AND FISH PAMPHLET PERMIT

Washington Department of Fish and Wildlife (WDFW) has historically had difficulty addressing minor gold mining operations in streams – namely mobile and often temporary operations. After years of conflict, in 1980, the legislature directed WDFW to develop a streamlined review system for these operations, which is now called the Gold and Fish Pamphlet permit.

How pamphlet permit works

Small scale mineral prospectors and placer miners are required to obtain the pamphlet permit. No application or fees are required. The pamphlet serves as the Hydraulic Project Approval for the mining activity. Miners need to check and adhere to the specific requirements listed in the pamphlet which apply to the location, time of year and equipment they plan to use.

Permit reduces some (but not all) need to work with other agencies

The advance review process included collaboration with the Corps of Engineers and other agencies. Additional review is not needed, as long as activities stay within the limits described in the pamphlet. The pamphlet permit does not apply to federal, state, tribal and local government jurisdictions which may have their own requirements.

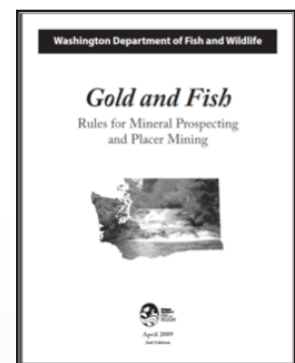


IMAGE: WDFW

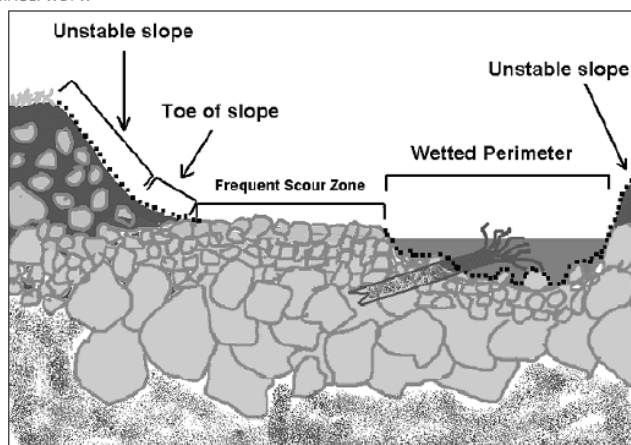


Figure 12. Cross section of a typical body of water, showing areas where excavation is not permitted under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.

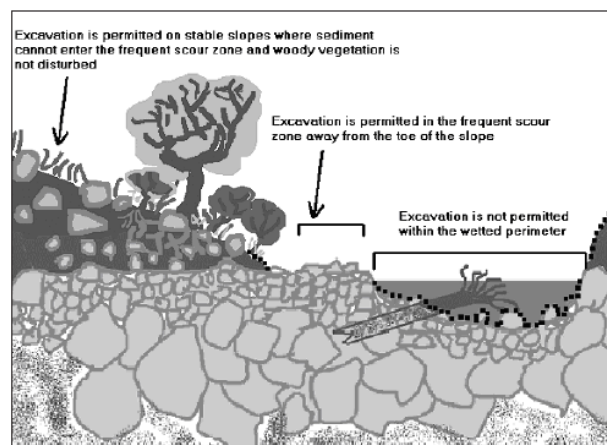


Figure 13. Permitted and prohibited excavation sites in a typical body of water under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.

PROGRAMMATIC PERMITS AND ASSISTANCE PROGRAMS FOR GREEN PROJECTS

Primary area of coordination	Typical method(s) of coordination
Policy	Internal prioritization Interagency agreement

WHAT IS IT?

Programmatic permits and assistance for green projects or permit streamlining improve natural conditions by using coordinated efforts from multiple agencies combined with assistance programs for specific categories of “green” projects.

Background and description

Even “green” development projects, those that improve ecological functions, require permits or exemption reviews. Projects that result in true restoration already qualify for special treatment, including funding, assistance from resource agencies, and permit streamlining. Those projects such as replacements of in-water bulkheads with bulkheads setback from the water, however, go through the normal permitting process.

Even if a green development project is exempt from the permit process, it must still receive a review. The review process can be as lengthy as obtaining a permit for a new structure, even though the project may be improving site conditions. Performing advance review through a programmatic permit process and providing coordinated permit assistance can encourage the improvement of natural conditions by providing these projects with special treatment.

Partners develop programmatic permits

This green projects tool would bring partner agencies together to develop their own programmatic permits for specific activities within defined limits. The permits would be issued to an agency/organization to provide technical assistance, and to be responsible for implementation of individual projects. This approach essentially makes the implementing organization the project proponent for all projects issued under the programmatic permits.

The Washington Department of Natural Resource’s Habitat Conservation Plan will also include programmatic aspects that could help systemize permitting of projects, especially projects that are designed to be fish-friendly such as removal of bulkheads.

Gateway permits to incentivize green projects

An extension of this tool could be the creation of a “gateway” permit for green projects. Federal, state and local permits could be incorporated into one permit package that is jointly reviewed and issued. An online universal application form (customized to include local requirements) could be included to maximize the ease for landowners and further incentivize green projects.

Programmatic permits already exist

The Corps of Engineers Nationwide Permits are a form of programmatic review and there are other versions possible. For example, a permit can be written for a specific site and a specific first action (usually maintenance) and can also consider repetitions of the action over a period of time. Others (like nationwide permits) consider the general impacts of a specific kind of development in a programmatic way, then give streamlined review to specific projects at specific sites later. Another version is similar to the State Programmatic Permits tool (see page 63) which adds the element of setting up a system for another agency to take over review.

Implementing organization (or agency)

In an existing Conservation Districts model providing permit assistance for farms (see Case Study on page 74), the authority to review and perform projects for a specific type of project is issued to one implementing organization (or agency). This green projects tool extends that model. The implementing organization that takes responsibility will need expertise in the subject. It would also be useful for the implementing organization to have permit authority over the area to which the permits apply. If the program was state-wide or region-wide (Puget Sound region), WDFW would likely be the best organization. Applying it to a county area, the county permit office or the conservation district might be the best organizations. Other options exist as well.

The implementing organization would be responsible for recruiting participants into the program. They would help develop and design projects meeting the programmatic permit criteria. They would arrange for implementation of the project on behalf of the landowner to ensure it follows the programmatic permit requirements.

Types of projects covered

This tool could address a variety of projects, but it should be used for projects that are amenable to relatively easy advance review so that a programmatic permit can be developed. In addition, because of the effort of developing a special treatment for some projects, the program should result in a strong public benefit. Thus it is recommended the program be focused on projects that result in improvements to ecological functions that would also be subject to normally lengthy reviews.

Potential projects should be relatively uncomplicated “green” projects with high enhancement value. Projects that might be considered “self-mitigating” which remove a problem structure and replace it with one that meets current standards or otherwise improves the conditions would be particularly good candidates. Examples include:

- Bulkhead removal and replacement with soft shore protection.
- Dock replacement with a smaller dock.
- Switching over farm related practices and facilities to better practices and facilities (larger culverts, restricted animal access and ford crossings, etc.).
- Beaver control on road culverts.
- Replacement of inadequate bridges with longer spans.

Further, if the Advance Local/State/Federal Review for Exempt Activities tool (see page 69) is not implemented, some of those activities and alterations could also be included.

Examples of use and case studies

California Conservation Districts Permit Assistance Programs:

- **Corps of Engineers programmatic permit for the Alameda County Conservation District:** <http://www.spn.usace.army.mil/Portals/68/docs/regulatory/RGP/RGP14.pdf>
- **Alameda Conservation district:** <http://www.acrcd.org/For-Farmers-Ranchers/Permit-Coordination-Program.aspx>
- **Monterey Conservation District:** <http://www.rcdmonterey.org/pdf/SalinasPermitBrochure.pdf> and http://www.rcdmonterey.org/Growers_Ranchers_Landowners/permit_services.html
- **Santa Cruz Conservation District (case study):** <http://www.suscon.org/pir/watersheds/pdfs/santacruzBrochure.pdf> and http://aginnovations.org/fsa_uploads/uploads/Santa_Cruz_PIR2.pdf

WHAT ARE THE BARRIERS AND SUCCESS FACTORS?

Commitment from agencies and from an implementing organization needed

The amount of coordination needed to develop multiple programmatic permits from multiple agencies for a large number of different activities makes for a formidable barrier. Thus, there should be a large perceived need for improvement and a commitment to undertake the effort by all agencies involved. Agencies will have to agree to move forward and an implementing organization identified

CONSERVATION DISTRICTS PERMIT ASSISTANCE PROGRAM

In California, several conservation districts south of San Francisco Bay undertook an effort to streamline permit processes. The goal was to address water quality issues such as soil erosion and fisheries habitat enhancement practices. Conservation districts and their partners collaborated to create a county-wide permit coordination program. In 2005, Santa Cruz County was one of the first to implement the program. This program focuses on small projects with a net environmental benefit in order to move forward watershed-based recommendations and assist private landowners in Santa Cruz County to implement voluntary restoration projects.

What the program included

The conservation districts established a “permit coordination” program to work with landowners. The project involved collaboration between agencies to develop programmatic permits (for over 12 activities) that were coordinated with each other around an agreed upon group of activities. The permits, for projects which were limited in scale, scope and location, were issued directly to the conservation districts.

In addition to covering 15 conservation practices and environmental protection measures, the program also allowed conservation districts to batch permit applications and submit them to the agencies, saving staff time and costs. The agencies perform a quick review and issue the permit. The districts served as project managers to ensure the projects were implemented correctly.



Successes

In the first five-year cycle, 53 projects were completed which averaged 10.6 per year compared to less than 1 per year previously. 5,000 acres of land were restored, encompassing 20 miles of streams. They estimated that 14,000 tons of sedimentation per year were prevented from entering water courses.

Lessons learned

The program was adaptively managed. The first five-year coordinated permit was renewed for 10 years with changes made to better align with county priorities. Lessons learned included:

- Grant or seed funding is needed to develop the program upfront.
- Federal agencies were slower to issue programmatic permits than local/state agencies causing a two-year separation between federal and local/state permit expiration.
- Certain requirements, such as requirement of individual streambed alteration agreements for each project, were still continued.
- While agency staff time was reduced, the conservation districts had to absorb additional staff time.
- Staff turnover at the permitting agencies led to a lack of continuity. Conservation district staff had to explain the process and program to the new staff and recreate working relationships.



PHOTOS: RESOURCE CONSERVATION DISTRICT



OF SANTA CRUZ COUNTY

REGIONAL COORDINATION PROCESSES

Primary area of coordination	Typical method(s) of coordination
Communication	Interagency agreement Mandated operations

WHAT IS IT?

A regional coordination process establishes a policy commitment for agencies to work together to coordinate review processes, potentially tapping into existing local coordination processes already in place.

Background and description

State and federal staff often cover counties, several counties, or in the case of some Corps of Engineers regulatory staff, up to a dozen counties. The workload and long distances create an impediment to interagency coordination efforts. While larger city and county governments are likely to have effective coordination systems, it is a challenge to get all of the agencies together for coordination for more than the largest development projects.

An effective central coordination effort, including a coordination location, could be created if counties and most of the cities entered into an interagency agreement (MOU or similar) with state and federal agencies for a geographic area of up to 6 counties. A centralized location at a county or city would then be considered the “host,” although any particular agency, including the host entity, may sit out of any particular permit. In this model, certain situations might be excluded, such as those with only one or two agencies involved. All parties involved may need to tweak or re-tool their permit processes to accommodate coordination.

Large cities or counties may have effective coordination and technical systems, such as permit tracking software, that are suitable to use for this tool. The local system should consist of both a procedural process and set of technological tools to assist with the coordination process. The hosting jurisdiction might use its technological tools, such as its permit tracking software.

Both local jurisdictions and state and federal agencies could benefit from a coordination process. Permit reviewers could eliminate multiple coordination trips to other agency offices and address several permits in different jurisdictions all in one trip. Permit reviewers with less expertise could gain regular access to agency experts pulled together at once. Smaller cities could run their small number of permits along with a county’s larger group of permits.

Agency coordination improvements

A strong interface between state/federal/tribal agencies and local governments could work to improve pre-application assistance and early permit coordination. Federal agencies have large workload conditions and large geographic staff assignments. It may be beneficial that federal staff assignments be focused in contiguous geographic areas, rather than dispersed, and to be in areas sized to allow ready travel to both permit site visits and to coordination meetings. For both federal and state agencies, travel to certain counties (or other host locations) might need occasional alternatives such as conference calling or video meetings.

Examples of use and case studies

- **WA-OR Interstate Compact for the Columbia Gorge (case study):** www.gorgecommission.org
- **Tahoe Regional Planning Agency:** <http://www.trpa.org>
- **Washington State Governor's Office for Regulatory Innovation and Assistance:** <http://www.oria.wa.gov/default.asp>
The Washington State Governor's Office for Regulatory Innovation and Assistance provides information about state environmental permits, and environmental permit coordination services between state agencies and applicants. Using the coordination services is not mandated (except in some cases) - normal agency permit processes continue to apply. The system is focused on larger projects, though smaller projects can also use the system. The Office serves as custodian for communication tools such as the JARPA form and its updates, the EZview project information sharing tool, and permit assistance documents (such as the Project Questionnaire, and the Environmental Permit Handbook).
- **The North Carolina Division of Environmental Assistance and Outreach:** <http://portal.ncdenr.org/web/deao/ea/pa>
The North Carolina Division of Environmental Assistance and Outreach provides comprehensive permit coordination services more typical of a local government's permit review system. Their effort is similar to the WA ORIA program but more detailed. The program includes technology such as a permit tracking and mapping function, and special processes such as Express Permitting.³⁰

WHAT ARE THE BARRIERS AND SUCCESS FACTORS?

Agreement to change – a major barrier

The primary barrier to a regional coordination program would be obtaining the partner agencies' agreement. This includes changes to operations, possible funding improvements, and timeliness. It also includes developing the system of interaction and determining the host of the coordination process. In many ways it would be like developing a new department within an agency, which needs to create a new set of operations and policies.

Specific commitments needed

Developing agreements for a coordinated process would require a number of commitments along with dedication to both formal and informal arrangements. Agencies and local governments would need to commit to:

- Adequately fund individual agency permit review processes – particularly by those agencies with currently underfunded ones.
- Alter processes and procedures to facilitate coordination efforts.
- Develop and follow procedures to resolve both conflicts and participation deficiencies in an efficient manner.
- Train staff to use the procedural system for use for their projects (for local government staff that aren't hosting the coordination process (small cities, etc.)).
- Allow partner agency staff access to the hosting local government's permit tracking system (with appropriate security protections), and provide training on how to use it.
- Use both their own internal agency permit tracking system and the interagency coordination system.
- Correct existing individual agency problems, such as delayed reviews, through changes to internal process and priorities, through adequately funding their program, and through changing staff assignments to focused geographic areas (a maximum of 6 counties is recommended). Agencies suffering from delayed reviews that cannot commit to fixing problems could instead provide passive information sharing so that applicants are informed and violations are avoided.
- Use the agreed upon local coordination process.
- Be active participants and provide timely responses.

³⁰ North Carolina Department of Environment and Natural Resources. Environmental Permit Coordination and Assistance. Retrieved from http://www.google.com/url?sa=t&rct=j&q=environmental%20permit%20coordination%20&source=web&cd=1&cad=rja&ved=0CCoQFjAA&url=http%3A%2F%2Fportal.ncdenr.org%2F%2Fdocument_library%2Fget_file%3Fuuid%3D86a6e55a-057d-46d8-97ee-98372f31b76a%26groupId%3D38322&ei=asfMUbizMunriQKtpoCQAw&usg=AFQjCNE40AQAs3x2huCcH6tuRRnZZSIhAQ&bvm=bv.48572450,d.cGE

WA-OR INTERSTATE COMPACT FOR THE COLUMBIA GORGE

The federal Columbia River Gorge National Scenic Area Act (1986) established the scenic area and included an interstate compact by Washington and Oregon. The goals were to protect and enhance the scenic, natural, cultural and recreational resources of the Gorge, and to protect and support the economy of the area by encouraging growth to occur in urban areas and allowing future economic development consistent with resource protection.

Coordinating body: Columbia Gorge Commission

The act, along with Washington and Oregon legislation in 1987, established a joint planning effort between the two states, the federal government, local tribes, and the six local counties (Clark, Hood River, Klickitat, Multnomah, Skamania and Wasco) on both sides of the Gorge. A bi-state compact agency - Columbia Gorge Commission - is the coordinating organization. The Commission has 13 members: three appointed by each of the governors of Oregon and Washington, one appointed by each of the six Gorge counties, and one (non-voting) representative from the U.S. Forest Service. The Commission is funded equally by the two states. The functions of the Commission are to:

- **Set policy for non-federal lands in the gorge.** The Commission develops and adopts land use and resource protection policy through the Scenic Area Management Plan. Development within local city boundaries is exempt from the act.
- **Serve as an appeals board.** In order to increase uniformity through the six counties and two states, the Commission is the appeals board for Scenic Area land use decisions issued by a county or by the Commission's Executive Director and challenged by another party. The Commission typically receives one or two appeals in a year and approximately half are withdrawn or settled.
- **Support counties and constituents.** The Commission works with Gorge counties who administer the land use ordinances that implement the Management Plan, except Klickitat County, which has not adopted its own

ordinance. The Commission helps other agencies and groups in projects to improve the Gorge, ranging from new recreation sites to economic development initiatives.

- **Economic Development.** The Commission certifies grants and loans by Oregon and Washington's Investment Boards to encourage economic growth in the Gorge.

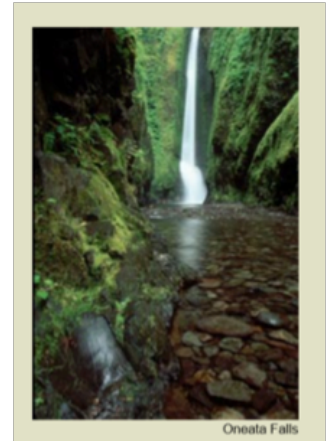


IMAGE: GORGE COMMISSION

How new land use actions are reviewed

New land uses within the Columbia River Gorge National Scenic Area are reviewed for consistency with land use ordinances that implement the Management Plan for the Columbia River Gorge National Scenic Area by the following processes:

- The Commission reviews new land use applications for Scenic Area lands within Klickitat County.
- All other new applications are reviewed by the applicable county planning department.
- Applications reviewed using an expedited review process takes at least 30 days and the standard review takes at least 72 days. Both review processes include these basic steps:
 - A check to determine if the application is completed and acceptance of application,
 - Preparation of a public notice and conducting public comment period,
 - A thorough analysis of the proposal and
 - Writing and issuing the final decision
- All land use decisions are subject to an appeal period after the decision has been issued.

TASK FORCES FOCUSED ON SPECIFIC ISSUES

Primary area of coordination	Typical method(s) of coordination
Policy Communication	Interagency agreement

WHAT IS IT?

Task forces focused on specific issues established on a temporary basis to assess and create coordinated or collaborative approaches for targeted issues promote more uniform permit reviews and enforcement by agencies.

Background and description

Occasionally, specific issues arise that could benefit from focused attention. These issues range from new technologies or tweaks to existing land use to natural resources for which there is new scientific research. In these cases, it is beneficial for agencies to work together to develop new protocols, appropriate mitigation, or other changes.

In Washington, these issue-specific task forces historically have been initiated by legislative directive, staff initiative at one agency, or when there is recognition that multiple efforts are occurring simultaneously and it would be advantageous to coordinate these efforts and conversations.

In addition, there are existing agencies, such as the Puget Sound Partnership and the Salmon Recovery Council, whose mission is to coordinate the work of all of the “partners.”

Committees are designed to be short-term

Recent task force-type committees such as the Shellfish Aquaculture Regulatory Committee (see Case Study on page 80) and the Puget Sound Monitoring Consortium which was the precursor to Puget Sound Ecosystem Monitoring Collaborative (PSEMP) (see Case Study for PSEMP nearshore workgroup effort to standardize shoreline monitoring protocols on page 81) were developed to address specific needs. These efforts are not meant to last indefinitely but to sunset once the need has been met or to adaptively adjust to new permanent committee structures if needed.

New focused task force committees could provide agencies with a mechanism to share information and coordinate approaches to address regulatory issues. Meetings would allow agencies to discuss specific problems and seek advice from other agencies. Individual agencies would need to agree to coordination solutions and implementation.

These task forces provide a way for informal interagency coordination in a committee structure that does not require that regulations be changed immediately or that normal processes unique to each agency be adjusted.

Examples of use and case studies

- **Shellfish Aquaculture Regulatory Committee (SARC) (case study):**
www.ecy.wa.gov/programs/sea/shellfishcommittee/committee.html
- **Workgroup Establishes Consistent Shoreline Monitoring Protocols**

WHAT ARE THE BARRIERS AND SUCCESS FACTORS?

Funding and logistics need to be addressed

Ad hoc or temporary task force committees need some level of structural support such as staffing and a low level of funding. In addition, because public agencies are involved, it is beneficial if the notes and presentations from the meetings are posted on the web.

Documenting decisions and preventing loss of institutional memory

Preserving institutional memory is important! Because of staff turnover and other issues, it is helpful to document the decisions and outcomes of a task force and provide a way for long-term hosting of the committee materials, especially after the committee has sunsetted. A decision is needed as to the best host agency to house the material from the committee for the long-term.

SHELLFISH AQUACULTURE REGULATORY COMMITTEE (SARC)

In 2007, the Washington State passed SSHB 2220 relating to shellfish aquaculture (codified as RCW 43.21A.681), which:

- Commissioned a series of intertidal geoduck aquaculture scientific research studies to be led by Washington Sea Grant.
- Directed Ecology to develop Shoreline Master Program guidelines for geoduck aquaculture operation siting and operation.
- Directed the Washington Department of Fish and Wildlife to expand the information required for aquatic farm registration.
- Created a Shellfish Aquaculture Regulatory Committee with members representing a wide range of perspectives.

The committee structure and tasks

The Shellfish Aquaculture Regulatory Committee met regularly from 2007 to 2009 and continued with sporadic meetings through 2012. The 14-member committee represents the shellfish industry, the environmental community, shoreline property owners, four state agencies (Ecology, Fish and Wildlife, Agriculture, and Natural Resources) and tribal governments.

The law outlined three committee tasks:

- Develop recommendations for an integrated regulatory process for all current and new shellfish aquaculture projects.
- Advise Ecology on geoduck aquaculture guidelines related to local Shoreline Master Programs.
- Oversee WASHINGTON Sea Grant's intertidal geoduck scientific research program authorized by the law.

The committee provided recommendations in three reports to the legislature in 2007, 2008 and 2009.

Issues the committee tackled

Aquaculture is a controversial issue in Washington because of the economic strength of the industry coupled with a history of opposing opinions about the ecological impacts of aquaculture activities in Puget Sound and other waters. In addition to working on specifics related to rule amendments to the SMP Guidelines, the committee also addressed issues such as best management practices for aquaculture, the scope and funding for Washington Sea Grant geoduck research, marine debris, permits, including application process and notification, and documentation of approvals.



Source: Washington State Department of Ecology. *Shellfish Aquaculture Regulatory Committee*. Retrieved from <http://www.ecy.wa.gov/programs/sea/shellfishcommittee/committee.html>

WORKGROUP ESTABLISHES CONSISTENT SHORELINE MONITORING PROTOCOLS

As part of Puget Sound Ecosystem Monitoring Program (PSEMP), a workgroup has been formed to address nearshore/shoreline monitoring. Jason Toft with University of Washington School of Aquatic and Fisheries Science and Washington Sea Grant chairs the workgroup and has led development of an online Shoreline Monitoring Toolbox. The goal of the toolbox is to help standardize protocols for shoreline monitoring and to help users prioritize their monitoring needs.

Toolkit components

The toolkit is comprised of decision tree, a data management section, protocols and references. The toolbox emphasizes methods that are simple and affordable, and that can be used for monitoring restoration sites and evaluating status and trends. Fifteen protocols are included, reflecting the interests and requests of users (volunteers groups, agencies and consultants). By standardizing and simplifying the protocols and putting them into the toolkit, users don't have to dig through scientific reports to find methods. Further, the same approaches can be used Puget Sound-wide helping make data more comparable.

Example protocol: Sediment size

Characterizing sediment sizes gives valuable information on the physical structure of the beach, which changes due to winter storms, restoration activities, and shoreline armoring. Sediment size can affect the type of resident invertebrates and beach spawning areas for forage fish (surf smelt, sand lance).

The toolkit has a practical component in that Scale of Effort is rated. For the Sediment Size Protocol, the following levels of effort are identified:

- Cost – low, simple materials and data are all field-based.
- People – low, 2-3 people can establish transects and record quadrat data.
- Fieldwork time – low, 1 day, once or twice a year (summer daytime low tides allow sampling at MLLW).
- Processing time – low, entering field data into computer format.
- Technical expertise – medium, knowledge of sediment size classes and analytical techniques is useful.



PHOTO: JASON TOFT, WASHINGTON SEA GRANT

Beach monitoring.

STATE INTERAGENCY COORDINATION WORKGROUP

Primary area of coordination	Typical method(s) of coordination
Policy	Interagency agreement Mandated operations

WHAT IS IT?

A state interagency coordination workgroup examines larger problems of coordination between local, state, and federal levels (and the agencies and departments within them) and makes recommendations to improve coordination.

Background and description

While interagency coordination can be greatly improved by staff-to-staff interpersonal collaboration, there are broad-scale barriers and issues that could benefit from a concerted effort and intense study. A state-wide standing interagency coordination workgroup could work to find solutions that all agencies can help implement. This workgroup tool is based on the recommendations from the Partnership for Reinventing Government (an initiative of Vice President Al Gore during the Clinton administration).

A governor- or legislature-established workgroup could examine the larger problems of coordination between local, state, tribal and federal levels (and the agencies and departments within them) and make recommendations to improve coordination. This may be best hosted by the Washington State Governor's Office for Regulatory Innovation and Assistance or the Puget Sound Partnership, although other options are possible.

Tackle real issues

The workgroup could provide agencies with a mechanism to share information and coordinate approaches to regulatory issues. Ideally, the workgroup would be composed of agency administrators or their designees and other knowledgeable persons. Meetings would allow agencies to discuss specific problems and seek advice from other agencies. Individual agencies would need to agree to coordination solutions and implementation. Alternatively, the forum would forward recommendations to legislators or other decision-makers.

Specific areas of work

Specific areas of work would include efforts to improve permit coordination, coordination in non-regulatory areas that could take some pressure off of the regulatory work, monitoring of general conditions, restoration efforts (mainly participating in other efforts), and public education and outreach about shoreline protection. The subject areas below include both regulatory and non-regulatory efforts.

Some staff or administrators may feel they should not coordinate with other agencies without authorization or state law requirements. One possible way to improve coordination would be an omnibus state law providing amendments to many agency laws to authorize them and local governments to coordinate on permit reviews for water-related laws. The effort could adjust laws to allow issuance of coordinated permit approvals including allowing agencies to:

- Incorporate other agency requirements into their own permits.
- Incorporate their own permit requirements onto other agencies permits.

- Decline to do the above activities if coordination will not accomplish agency needs.
- Include federal requirements in state permits.
- Jointly undertake simple initial enforcement actions for each other.
- Jointly coordinate on enforcement court cases.
- Include other improvements that are identified.

Centralized state permit application and review

One of the subjects that many practitioners mention is the idea of consolidating state permit into one review, or even a single permit. This would be a major change. Creating a centralized state permit review system can be accomplished in three ways:

- A reorganization of state agencies to facilitate coordination of permits.
- A less dramatic alternative would be to centralize the many different state agency permit functions.
- A simpler effort would be to create an online application form that could be used for all shoreline-related permits, with customization to account for local regulations, but would still require unique permits to be issued at local, state and/or federal levels.

Several models exist for coordinated permit review. Many local governments have developed permit review systems that cross department boundaries to improve coordination and streamline internal and cross-departmental review. These systems include process and technological improvements (such as permit tracking systems). Many also included substantial department reorganizations.

Permit streamlining efforts sometimes involve co-locating staff from different agencies in a centralized permit center. In Washington, the state shoreline regulatory work related to natural resource protection could be grouped to include DNR (forestry, mining reclamation, oil and gas functions), Ecology (dams and reservoirs, shorelines and wetlands), and WDFW (hydraulic code development permits). Since agencies maintain their independence, this approach requires high levels of commitment from agencies, long term dedication of resources to the centralized permit center, and new allowances for funding the system that may require changes to laws.

State agency reorganization and merging to place all of the land development permitting functions under a single agency would be difficult to accomplish and would require legislative changes. Reorganization would be complicated because so many resource agencies are also land managers. Those activities might be consolidated into one or two departments that would manage state resource lands such as forests, rangeland, aquatic beds, wildlife preserves; parks and recreation lands; resources such as fish and wildlife populations and water rights; and salmon recovery.

Examples of use and case studies

- **The Washington Habitat and Recreation Lands Coordinating Group (case study):**
<http://www.rco.wa.gov/boards/hrlcg.shtml>
- **Texas' Interagency Coordinating Group:**
<http://onestarfoundation.org/onestar-networks/state-agency-faith-community-liaisons>
In 2009, the Texas legislature created the Interagency Coordinating Group which was charged with improving the working relationship between faith-based and community organizations and state government. The Group is composed of high-level representatives of several agencies and the OneStar Foundation. In 2011, the Group was expanded to include more state agencies. The quarterly meetings are open to the public.

For more info

- Partnership for Reinventing Government website: <http://govinfo.library.unt.edu/npr/index.htm>
- Webpage with model recommendation: <http://govinfo.library.unt.edu/npr/library/reports/reg01.html>

WHAT ARE THE BARRIERS AND SUCCESS FACTORS?

Commitment from senior management needed

In order to be effective, a state interagency coordination workgroup would need high level support and direction from agency directors. Otherwise, there is the risk that the workgroup members won't spend the necessary time or be willing to commit to discussion of major potential changes. They must also be able to speak authoritatively for their agency and decide on the issues to which the agencies will commit resources – including direct implementation of recommendations. Members should be able to appoint experienced staff with relevant expertise to task forces or sub-groups to perform work on specific issues, and coordinate with experts from other agencies.

HABITAT AND RECREATION LANDS COORDINATING GROUP

In 2007, the Washington State Legislature created the Habitat and Recreation Lands Coordinating Group to improve the visibility and coordination of state habitat and recreation land purchases and disposals. The coordinating group was formed in response to concerns about increasing population putting strains on resources and the need to increase collaboration and transparency with regard to state actions. Specifically, there was a concern about how state lands' actions affect local tax revenues.

Committee activities

Since its inception, the lands group has established a process for making state habitat and recreation land purchases and disposals more visible and coordinated.

The committee established an annual State Land Coordinating Forum to bring together state agencies, local governments, non-government organizations, landowners, tribes, and citizens to learn about and share ideas on proposals for state habitat and recreation land purchases and disposals.

In addition, they publish an online *Biennial State Land Acquisition Forecast Report* to provide information about planned state land purchases and disposals that are being planned around the state, including the proposed number of acres, estimated cost, sources of funding, intended uses, project significance, and partners. They also publish an online *Biennial State Land Acquisition Performance Monitoring Report* that tracks progress made by state agencies on achieving their initial acquisition project objectives.

How the committee is run

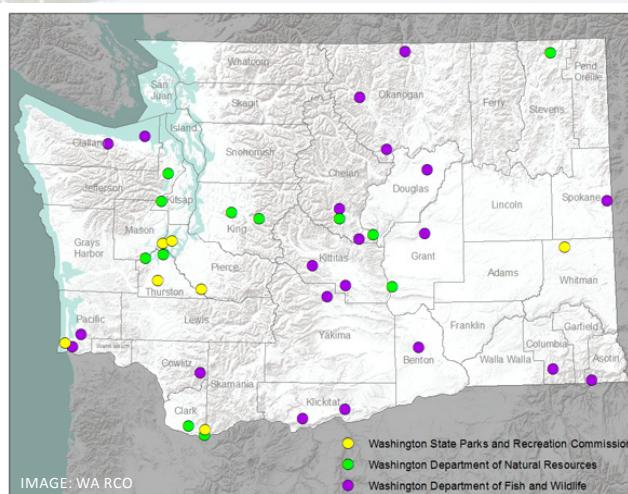
Lands group members include representatives of state and local governments, private landowners, and conservation organizations. The lands group meets quarterly. Meetings are open to the public. The committee is scheduled to sunset on July 31, 2017; its work will culminate in final recommendations to the Legislature in December 2016. The Recreation and Conservation Office provides staff

support. The meetings are narrowly focused on the lands topics.

Successes of the effort

This committee has improved access by the public and local governments about state lands purchase plans by making information more accessible, developing a method for early notification about projects, and creating opportunities for communication. In addition, a large focus has been on strategic purchases, which has been important in this time of economic downturn. The regularly scheduled meetings have served a major coordination role, as they bring agencies together to communicate about acquisition priorities and practices. As stated in their 2011 report to the legislature, "When agencies review each project together, they might identify overlapping priorities or share ideas about —best practices. These discussions can lead to cost savings on land purchases." Finally, because they have created a centralized documentation approach, the lands group pulls together an acquisition dataset and presents it at the annual forums and in the biennial reports. Using standardized data makes it possible to analyze state land purchases on a statewide, county-wide, or agency-wide basis.

Proposed State Habitat and Recreation Land Acquisitions 2013-2015



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Ecology	Washington State Department of Ecology
DNR	Washington State Department of Natural Resources
EPA	United States Environmental Protection Agency
NOAA	National Oceanic and Atmospheric Administration

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