

*Washington State Coastal Zone Management Program*

# WETLAND REGULATIONS GUIDEBOOK



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PUBLICATION NUMBER 88-5

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# WETLAND

REGULATIONS GUIDEBOOK



Washington State  
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July 1988

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Publication Number 88-5

Wetland Regulations Guidebook

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## ACKNOWLEDGEMENTS

This *Wetland Regulations Guidebook* was prepared by the Wetlands Section of the Washington Department of Ecology with assistance from URS Consultants.

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Photo, title page and page vi, Andy McMillan

Illustration, page 1, based upon figures in *Wetland Plants of the Pacific Northwest*,  
US Army Corps of Engineers, 1985

Illustration, page 5, based on Department of Ecology drawing by Tim Schlender

The preparation of this document was financially aided through a grant to the Washington Department of Ecology with funds obtained from the National Oceanic and Atmospheric Administration and appropriated for Section 306 of the Coastal Zone Management Act of 1972.

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## NOTE TO THE READER

Numerous federal and state laws affect the use and protection of wetlands. Because none of the laws were specifically designed as a comprehensive policy for wetlands management, understanding how and when the laws apply can be confusing.

The purpose of this guidebook is to provide planners, developers, and the general public with a basic guide to the use and application of existing wetland laws and regulations. As such, it is not a legal document and should not be considered as the final word on any of the laws or requirements presented.

A variety of agencies implement the laws and are referenced throughout this document. The reader should always contact the appropriate local, state or federal agencies for complete, up to date information on that agency's responsibility over wetland areas. A list of implementing agencies is provided at the back of this document.

We welcome any comments on how we can improve the usefulness of this guidebook. Please send your written comments to the Washington Department of Ecology, Wetlands Section, Mail Stop PV-11, Olympia, Washington 98504.



## WHAT IS A WETLAND?

*Wetlands are transitional areas between upland and aquatic environments where water is present long enough to form distinct soils and where specialized "water-loving" plants can grow.*

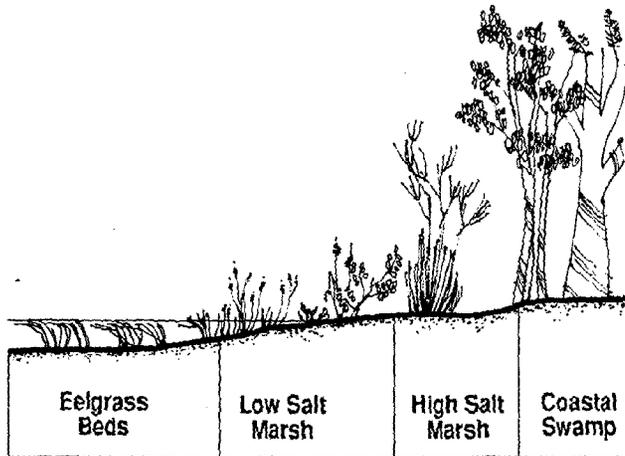
Where land and water meet, wetlands form in great variety. Wetlands include such familiar areas as marshes, swamps and bogs. Coastal salt marshes and mangrove swamps, wet meadows, cattail ponds, and marshy areas along the shorelines of lakes and rivers are all wetlands.

The presence of water greatly influences the soils and plant life found in wetlands. The water table is usually at or near the surface, and the area may be covered by shallow water all or part of the year. Water levels often fluctuate with seasonal changes and the soils may alternate between saturation and dryness. Frequent saturation makes

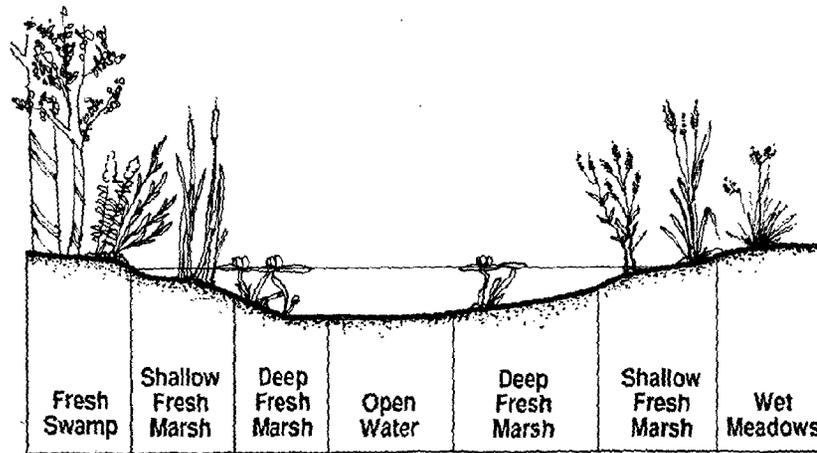
wetland soils distinctly different from upland soils. The presence of water reduces the amount of oxygen in the soil. Only plants that can withstand lowered oxygen due to periodic flooding of their roots will survive in wetlands. Shrubs or trees may grow in some wetlands, while in others, grasses and grass-like plants may be the most common form of vegetation.

A number of important regulatory definitions can be found in the sections of this guidebook describing the major regulatory programs that affect development in wetlands. Differences in wetland designations can result in some agencies asserting jurisdiction over certain wetlands where other agencies may not.

*A number of important regulatory definitions of wetlands can be found in the sections of this guidebook describing the major regulatory programs that affect development in wetlands.*



Idealized Cross Sectional View of Estuarine Wetlands



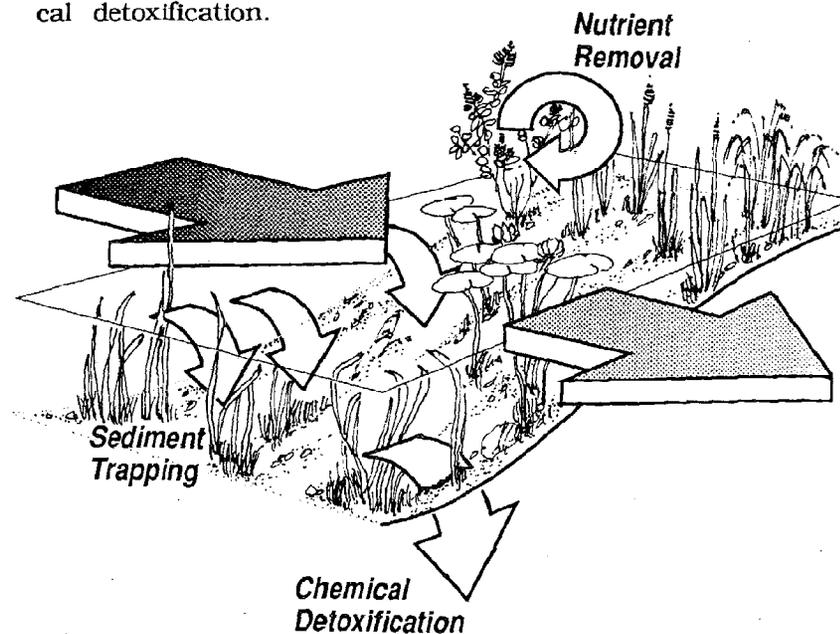
Idealized Cross Sectional View of Freshwater Wetlands

## WETLAND VALUES AND FUNCTIONS

Many people have viewed wetlands simply as unimportant, useless lands that could be improved in value by draining or filling. Recent efforts, however, to preserve and protect wetlands are motivated largely by a greater appreciation for the many important ecological functions that wetlands perform. These functions vary from wetland to wetland, but include providing water quality protection, flood control, shoreline stabilization, contributions to groundwater and streamflows, and wildlife and fisheries habitat. Also, many people value wetlands as natural areas providing aesthetic, recreational, and educational opportunities that should be preserved for future generations.

### WATER QUALITY PROTECTION

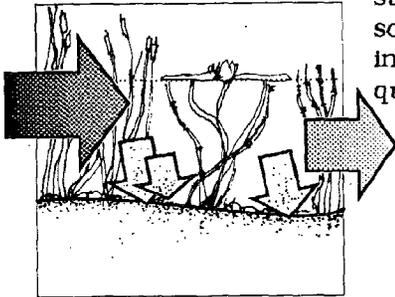
Many pollutants are washed by rainfall from urban or agricultural lands and are carried overland to water bodies. Pollutants include soil particles, fertilizers, pesticides, and grease and oil from cars and trucks. Wetlands can improve water quality by removing pollutants from surface waters. Three pollutant removal processes provided by wetlands are particularly important: sediment trapping, nutrient removal, and chemical detoxification.



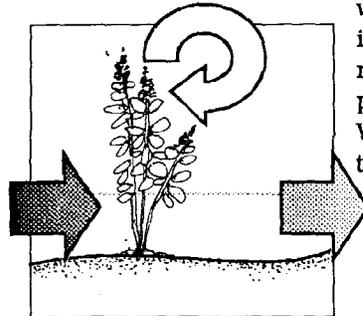
### Sediment Trapping

Runoff flowing through a wetland is slowed by the resistance of wetland plants. With reduced velocity, the runoff drops many of the soil particles (sediment) that it is carrying. The roots of wetland plants can then bind the accumulated sediments. Sediments in runoff often settle in stream beds where they clog gravels and prevent fish spawning. Also, since many pollutants such as heavy metals are attached to soil particles, the settling of sediments in wetlands further improves water quality.

*Sediment Trapping*



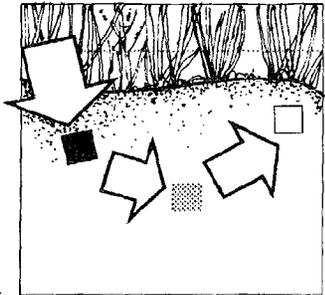
*Nutrient Removal*



### Chemical Detoxification

Some of the toxic chemicals carried into a wetland in runoff are trapped along with settled soil particles. Some of these pollutants may be buried in the sediments, while others may be converted to less harmful chemical forms by biochemical processes. Still other pollutants may be taken up by plants and either recycled within the wetland or transported from it.

*Chemical Detoxification*



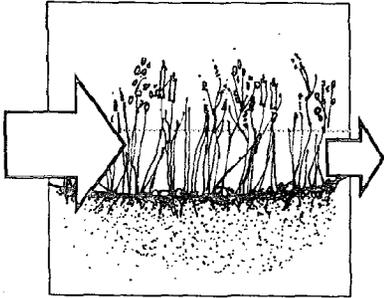
### Nutrient Removal

Certain chemical forms of nitrogen and phosphorus stimulate plant growth. An overabundance of these nutrients in surface waters can promote excess plant and algal growth resulting in a degradation of water quality. Such nutrients may enter wetlands from surrounding areas and accumulate within the soils of the wetland. Microorganisms in the wetland soils convert some nutrients into less harmful chemical forms. Other nutrients may be taken up by wetland plants and converted to plant materials. When wetland plants die and decay, nutrients are recycled within the wetland.

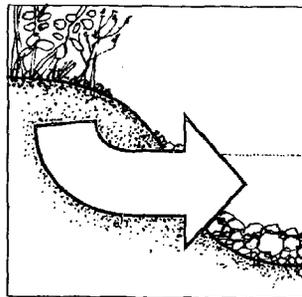
**FLOOD PROTECTION**

During storms, the amount of rainfall runoff increases, and in severe storms, flooding may result. Many wetlands have the capacity to store floodwaters, particularly frequently flooded forested areas along rivers and those with organic soils (peat, muck). During high runoff, these wetland soils temporarily store some of the flood waters much as a sponge soaks up water. After the flooding, the water is released slowly from the wetland soils. Holding back some of the flood waters and slowing the rate that water re-enters the stream channel can reduce the severity of downstream flooding and erosion. In watersheds where wetlands have been lost, flood peaks may increase by as much as 80 percent.

*Flood Protection*



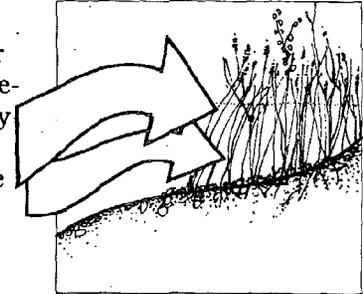
*Streamflow Maintenance*



**SHORELINE STABILIZATION**

Vegetated wetlands along shorelines can protect against shoreline erosion caused by waves along the shores of lakes and estuaries or river currents during floods. Wetland vegetation can absorb much of the energy of the surface waters and binds soil and deposited sediments in its dense root systems.

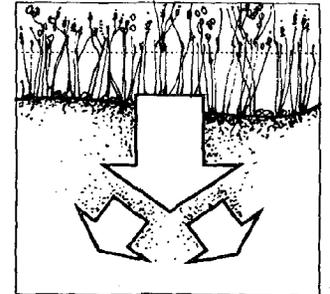
*Shoreline Stabilization*



**GROUNDWATER RECHARGE**

Groundwater is frequently used for public or private water supply. Some wetlands temporarily store water that moves through the underlying soil and enters the local or regional groundwater system. Such movement of surface water into the groundwater system is called groundwater recharge.

*Groundwater Recharge*



**STREAMFLOW MAINTENANCE**

Water stored in wetlands during wet periods may be released slowly to adjacent streams during drier periods. This water is important in maintaining stream flows necessary for the survival of animals and other wildlife, fish, plants and other organisms that live in or near the stream.

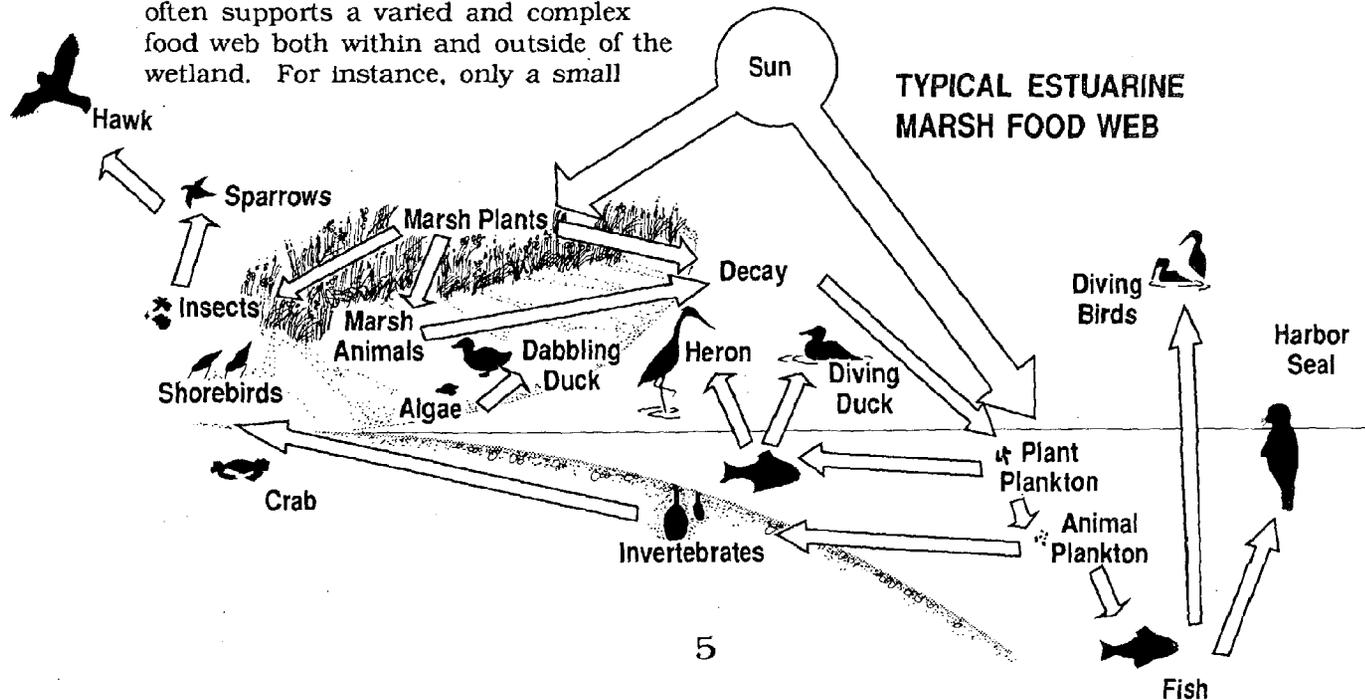
**WILDLIFE AND FISHERIES HABITAT**

Wetlands provide essential habitat and food for numerous wildlife species. Many species of waterfowl and freshwater and saltwater fish require wetland habitat for breeding, nesting, or rearing of young. About 20 percent of the species listed by the federal government as threatened or endangered depend heavily on wetlands.

Coastal wetlands and some types of inland, freshwater marshes exhibit very high rates of plant productivity – the conversion of energy from the sun into plant materials. This high productivity often supports a varied and complex food web both within and outside of the wetland. For instance, only a small

amount of the plant material produced in a coastal saltmarsh is eaten by animals during the growing season. When the marsh plants die, much of the plant material is broken down into small particles and flushed into adjacent waters. There it becomes a potential food source for fish and other estuarine organisms.

In addition to serving as a food source, the dense vegetation found in most wetlands provides places for wildlife to build homes and hide from predators. While many species live in wetlands year round, others, such as salmon, use wetlands for a part of their life cycle or during certain times of year.



## ALTERNATIVES TO WETLAND ALTERATION

It is usually easier and less expensive to avoid wetland alteration than to obtain the required federal, state and local permits.

Development activities that affect wetlands may be costly in terms of time, environmental impact assessment and required mitigation. Permits for controversial projects may take several years to process and may ultimately be denied or require extensive project modifications. In many cases the burden of proof that a project meets the conditions for permit approval rests with the applicant and may result in the need for extensive analysis.

There are a variety of alternatives for protecting wetlands that benefit both society and the individual property owner. Benefits for property owners include completing projects more easily and for lower cost, potential tax benefits, as well as the satisfaction of having protected a valuable natural resource.

Numerous local jurisdictions have adopted provisions which allow trade-offs between preservation of natural areas (such as wetlands) and densities of development; an example would be

"planned unit development" provisions. In many cases retaining wetlands as open space within a development increases the value of the property for future residents or employees. City and county planning departments can discuss local regulations and options pertaining to protecting wetlands.

Many new organizations have become involved in purchasing or accepting donations of private land and managing them in their natural state. In some instances, lands are transferred to government agencies that will protect them. While federal and state governments are the largest landholders and managers of land, a few private groups, such as The Nature Conservancy, have become major landholders and managers as well. In many cases, transfer of land to a public or private conservation group may have tax benefits for the property owner.

The Department of Ecology's Wetlands Section is available to discuss options for avoiding project impacts to wetlands (see "Implementing Agencies" for phone number). In addition, a guide entitled *Wetlands Acquisition and Preservation: a Guide for Landowners and Government Agencies* is available free of charge from Ecology.

## **HOW WETLANDS ARE REGULATED**

A variety of federal and state and local regulations affect construction and other activities in wetlands and adjacent areas. None of them, however, focus on the regulation of wetlands as their primary purpose. In addition, the types, sizes and locations of wetlands included in the regulations vary from law to law. As a result, case by case review is needed and applicants are advised to contact the appropriate agency prior to project development. Contacting the Department of Ecology, U.S. Army Corps of Engineers, or your local planning department will provide the best start.

The tables and figures in the following section assist in identifying the jurisdiction of the principal federal and state laws that regulate projects in or near wetlands.

### **FEDERAL REGULATIONS**

The principal federal laws that regulate activities in wetlands are Sections 404 and 401 of the Clean Water Act and Section 10 of the River and Harbor Act. Other federal laws include the National Environmental Policy Act, the Coastal Zone Management Act, and a provision of the 1985 Food Security Act known as "Swampbuster."

### **STATE REGULATIONS**

The primary state regulations that affect development activities in and near wetlands include the Shoreline Management Act, the Hydraulic Project Approval, the State Environmental Policy Act, and the Floodplain Management program.

### LOCAL REGULATIONS

Many local jurisdictions in Washington also have provisions in ordinances and other regulations that affect projects proposed in or adjacent to wetlands. Because there is considerable variation in the provisions of these local regulations, it is necessary to contact local planning departments to determine the local provisions that affect a particular wetland. In many cases, local regulations may cover wetlands not covered by federal and state regulations and may be more restrictive than those of federal and state regulations.

The most common local means for regulating development in wetland areas is through Shoreline Master Programs (SMPs) developed by cities and counties under the State Shoreline Management Act (SMA). City and county offices responsible for administering local SMPs usually have maps available which show areas of shoreline under SMA jurisdiction. These maps should also show wetlands (floodplains, marshes, bogs and swamps) included within SMA jurisdiction. Unfortunately wetland inventories in many jurisdictions are incomplete and may not show all wetlands or boundaries accurately. Site specific review is usually necessary to determine the actual limits of the local SMP.

Most existing SMPs recognize the importance of wetlands. Wetlands considered significant are often managed under policies and regulations that limit certain disruptive activities such as dredging and filling.

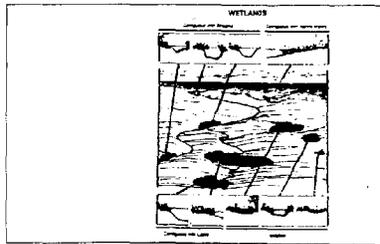
In addition to the SMPs, wetlands may be regulated by local ordinances (such as sensitive areas or clearing and grading ordinances). Special analysis and review may be required for projects affecting wetlands covered by local sensitive areas ordinances. Such policies and regulations may regulate wetlands or activities that are not covered under state and federal laws.

Other local mechanisms that may be used to regulate developments affecting wetlands include comprehensive plans, zoning ordinances, and floodplain management regulations. Local planning and public works agencies can assist project proponents in determining local requirements.

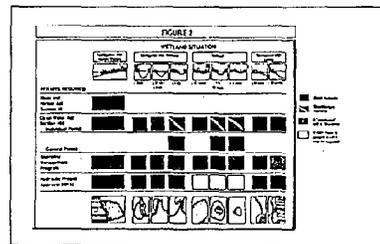
# HOW TO USE THIS GUIDE

The following graphics and tables are designed to help you determine what permits may be required for your project, provide an overview of the major permit requirements and give a general idea of the sequencing and interrelationships of permit processing. Detailed descriptions of each permit start on page 15.

**What type of wetland do you have?**  
(See Figure 1)



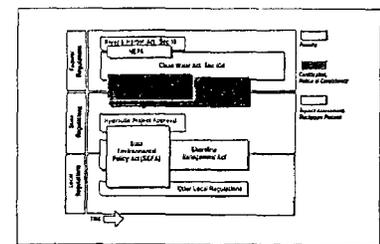
**What permits apply to your type of wetland?**  
(See Figure 2)



**What are the major features of the permits that apply to your wetland?**  
(See Table 1)

Wetland Type	Section 404	Section 402	Section 401	Section 403	Section 404	Section 402	Section 401	Section 403
...	...	...	...	...	...	...	...	...

**How will your permits be processed?**  
(See Figure 3)



**What are the specifics of the permits you need?**  
(See page reference on Table 1)

## WETLAND JURISDICTION

Jurisdiction refers to the extent or range of authority given by a regulation. Understanding the jurisdiction of the federal and state regulations applicable to a particular wetland may be confusing. The accompanying figures assist in determining the jurisdiction of the principal state and federal regulations for various wetland types and topographic locations. However, permit requirements vary depending upon the type of activity proposed and the specific wetland situation. Always contact an agency for clarification if you are not sure about permit requirements.

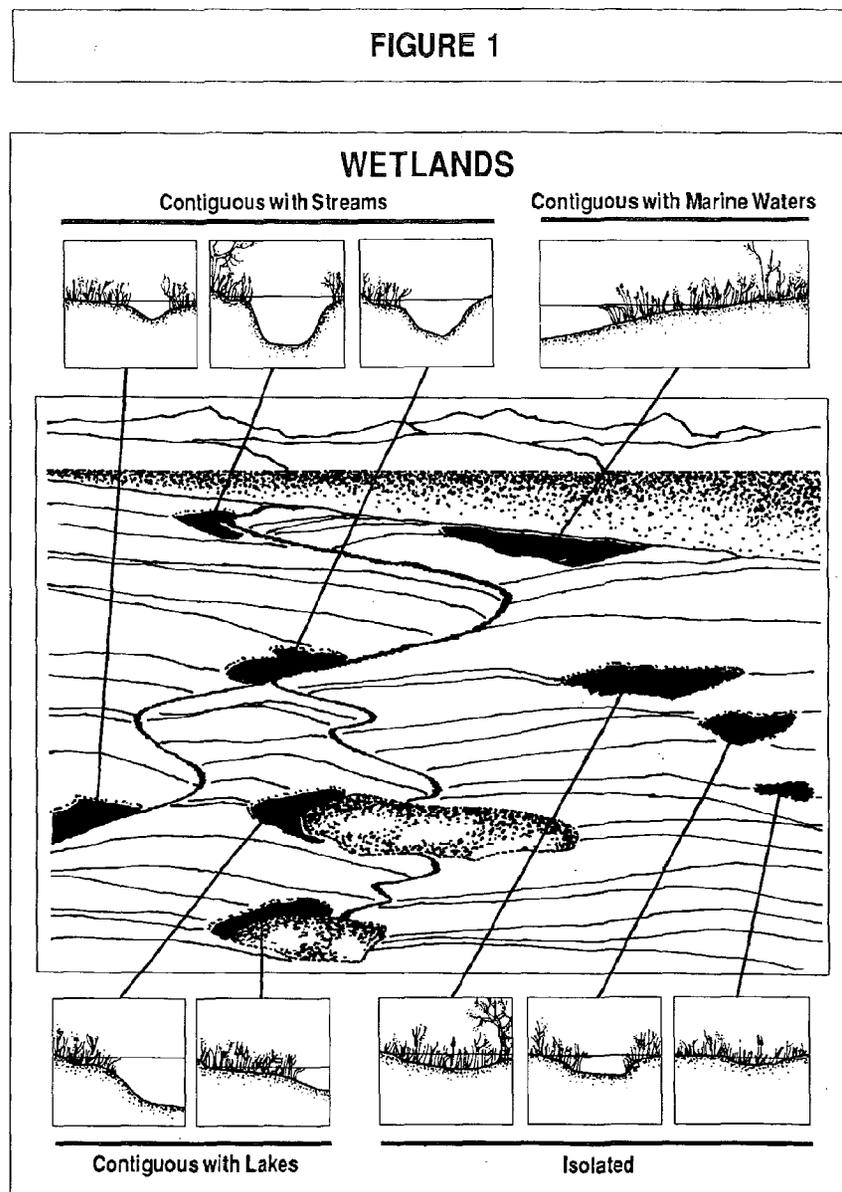
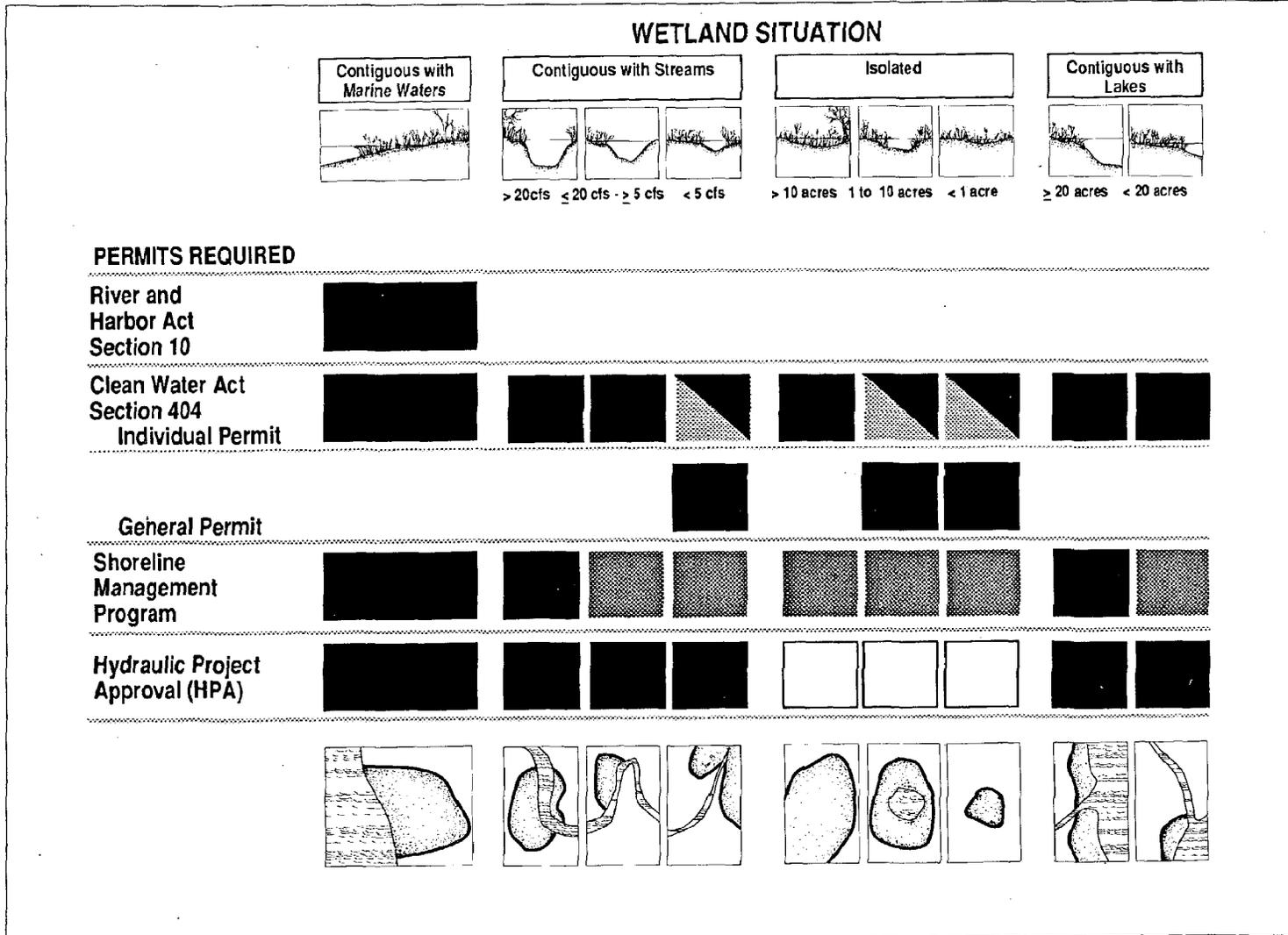


FIGURE 2



- Direct Authority
- Discretionary Authority
- If "associated" with a "shoreline"
- If open water is present an HPA may be required

**TABLE 1. OVERVIEW OF MAJOR REGULATIONS PERTAINING TO WETLANDS**

<b>Regulation</b>	<b>Implementation</b>	<b>Jurisdiction</b>	<b>Application To Wetlands</b>	<b>Implementing Agency</b>	<b>Reference Page</b>
<b>Federal Clean Water Act Section 404</b>	Permit required for placement of dredge/fill materials	Waters of the United States	Includes all wetlands (with some exemptions)	United States Army Corps of Engineers/ Environmental Protection Agency	15
<b>Federal Clean Water Act Section 401</b>	Certification that federal permit meets state water quality standards is a condition of federal permit approvals	Federal permits affecting waters of the state	Includes all wetlands that may be affected by a federally permitted activity	Washington Department of Ecology	23
<b>Federal River and Harbor Act Section 10</b>	Permit required for all construction activity	Navigable waters to the mean high water mark of tidal waters and the ordinary high water mark (OHWM) of fresh water	Wetlands within the limits of "navigable waters"	United States Army Corps of Engineers	25
<b>State Shoreline Management Act</b>	Permits required to ensure that proposed activity complies with local shoreline master plan	Shorelines of the state including streams with flows greater than 20 cfs or lakes 20 acres or larger and landward area 200 feet from OHWM or floodway; associated wetlands, river deltas and certain floodplains	Includes all land within 200 feet of the OHWM of a state shoreline. Jurisdiction may be extended to include the entirety of an associated wetland and/or floodplains	Local jurisdiction/ Washington Department of Ecology	29
<b>State Hydraulic Code</b>	Permit ( Hydraulic Project Approval) required for all work	Below the OHWM of state waters	Includes portions of wetlands that are state waters	Washington Departments of Fisheries/Wildlife	32

**TABLE 1. OVERVIEW OF MAJOR REGULATIONS PERTAINING TO WETLANDS**

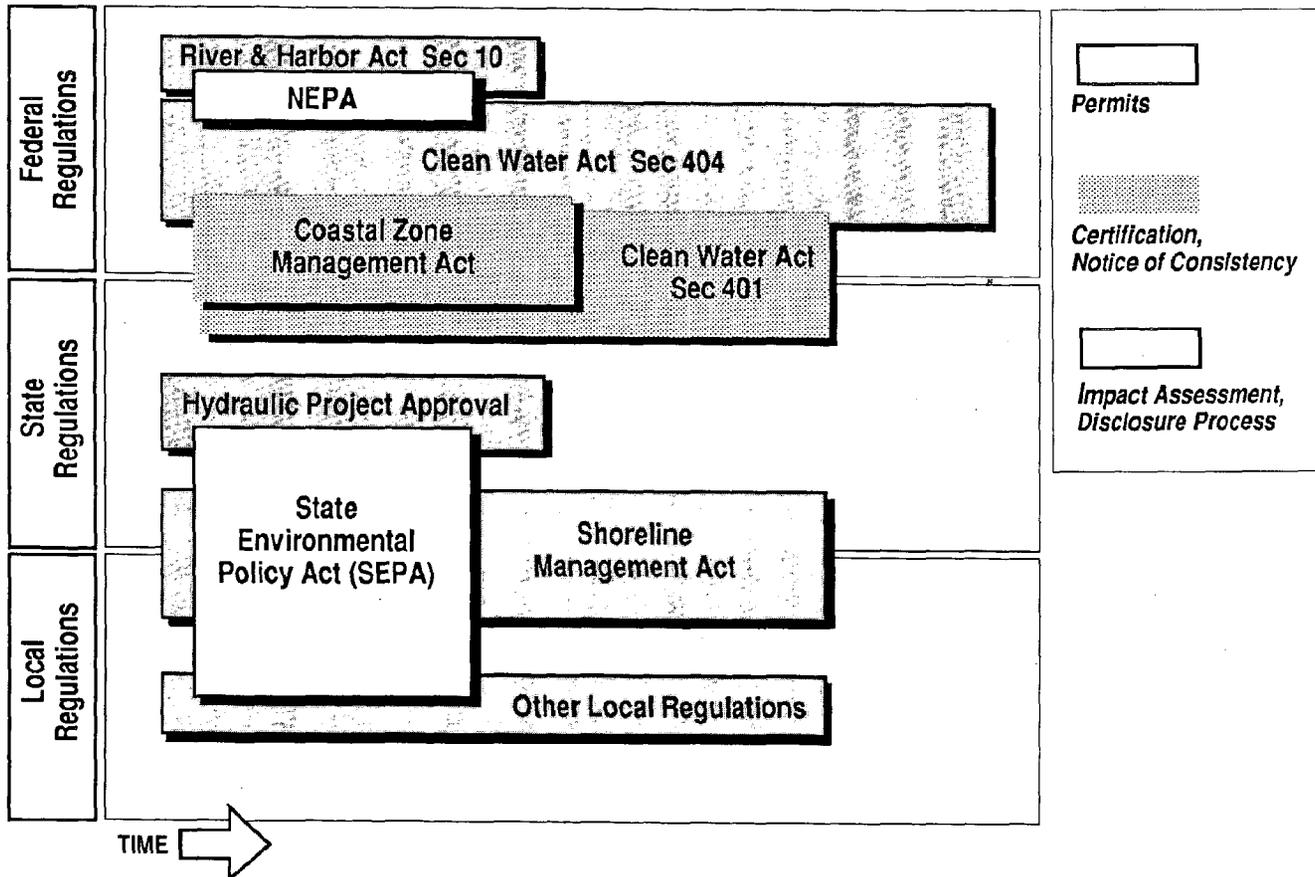
<b>Regulation</b>	<b>Implementation</b>	<b>Jurisdiction</b>	<b>Application To Wetlands</b>	<b>Implementing Agency</b>	<b>Reference Page</b>
<b>State Environmental Policy Act (SEPA)</b>	State process which requires full disclosure of potential impacts associated with proposed actions	All federal, state, and local actions	All wetlands	Usually a local agency	36
<b>National Environmental Policy Act (NEPA)</b>	Federal process which requires full disclosure of potential impacts associated with proposed actions	All federal actions	All wetlands	Varies (usually the federal agency issuing the permit)	27
<b>Federal Coastal Zone Management Act</b>	A notice of consistency with the state coastal zone management plan is a condition of federal activities, federal license and permit approval, and federal support of local activities	Applies to Washington's 15 coastal counties	Wetlands within the 15 coastal counties of Washington	Washington Department of Ecology	26
<b>Floodplain Management Program</b>	Consistency with state or local floodplain management program. Flood control zone permit	Construction in floodway and/or floodplain that may affect flood elevations and/or flood protection	Incidental protection to wetlands from limits on allowable increases in upstream and downstream flood elevations	Local jurisdictions with approved programs or Department of Ecology	40
<b>Local Regulations</b>	Consistency with local zoning, ordinances, shoreline master program. Various permits may be required	As defined by local ordinances and regulations	May identify specific wetlands and performance standards	Local Jurisdiction	8

**FIGURE 3**

**PERMITTING SEQUENCE**

Completion of the permit processes that apply to a particular project can take from three months for small projects to more than a year for complex projects.

This graphic shows the relative timing of major permit and related activities. One or more of these permits may be required. See "Wetland Jurisdiction" figures and detailed regulation descriptions for more information.



## FEDERAL REGULATIONS

In this section, federal and that affect the use of wetlands are described in more detail. Particular focus is given to provisions of the federal Clean Water Act (Sections 404 and 401)

## CLEAN WATER ACT SECTION 404

*Wetlands are defined as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas (33 CFR 328.3(b))." To implement this definition, the Corps uses a multi-parameter approach that requires the presence of wetland vegetation, hydrology, and soils.*

### PURPOSE

The primary goal of the Clean Water Act (CWA) is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 404 is specifically directed towards regulating discharge of dredged or fill material into waters of the United States, including wetlands (see Definitions in sidebars). (Other pollutants are regulated under Section 402 of the CWA by EPA.)

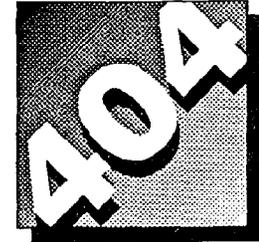
### IMPLEMENTATION

Section 404 provides for government and public review and comment on projects that alter or destroy waters of the

United States by filling (including any soil movement) or disposal of dredge spoil. A permit program is used to administer the provisions of Section 404. Through the program, the United States Army Corps of Engineers (Corps) issues or denies permits. Enforcement actions may be brought by the Corps against individuals who violate 404 provisions. Permit approval must comply with guidelines developed by the Environmental Protection Agency (EPA) under Section 404(b)(1). If a project does not comply with the 404(b)(1) guidelines, the permit application generally will be denied, the project modified to minimize impacts, or the permit applicant required to create or restore other wetlands to compensate for unavoidable project impacts. In some cases, an environmental impact statement may be required prior to permit issuance.

### PROVISIONS OF THE LAW

Under the law, actions in wetlands may either be subject to an individual permit, covered under the provisions of a general permit, or exempt from regulatory requirements. In general, individual permits are issued for a single proposed activity. Some activities have been given blanket authorization under the provisions of a general permit issued



*The 404(b)(1) guidelines were developed by the EPA for use by the Corps of Engineers in determining the suitability of a fill project. The guidelines provide for the identification of adverse impacts to wetlands and discourage avoidable fills in wetlands.*

**Waters of the United States means:**

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

2. All interstate waters including interstate wetlands;

3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:

continued on right sidebar

by the Corps. General permits may pertain to a geographic region or the entire nation or to particular water body characteristics. Special conditions may apply to general permits. Exempt activities, on the other hand, are not addressed by any special provisions or requirements. However, with respect to wetlands it is important to note that proposed activities may be subject to other laws even if exempted or covered by a general permit. When a project involves an especially valuable ecological area, the Corps Division Engineer or Chief of Engineers can exercise discretionary authority to require an applicant to obtain an individual permit regardless of the 404 authority or presence of a general permit.

**Individual Permits**

With the exceptions noted in the remainder of this section, most proposals to modify wetlands in any way will require issuance of an individual Section 404 permit. The Corps should always be contacted to determine permit requirements.

The Corps evaluates Section 404 permit applications based upon two standards: (1) guidelines developed by the EPA (Section 404(b)(1) guidelines) to assess the impact of a project on environmental quality and (2) factors to determine if the project is in the public interest.

The Section 404(b)(1) evaluation and the public interest review go hand in hand. If a project cannot meet the Section 404(b)(1) guidelines, a permit would generally be denied.

The primary basis for evaluating the environmental impacts of Section 404 permits are the EPA Section 404(b)(1) guidelines (40CFR Part 230). The Corps must consider the requirements in the guidelines that discourage placement of dredged or fill material into the aquatic ecosystem, unless it can be demonstrated that such a discharge will not have an "unacceptable adverse impact on restoring and maintaining the chemical, physical, and biological integrity of the waters of the United States."

To assure that the goals of the Clean Water Act are being met, the guidelines state that "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to proposed discharge which would have less adverse impacts on the aquatic ecosystem." If the fill can be placed somewhere else and the same purpose achieved, the permit must be denied. The EPA's guidelines also state that no permits should be given if the disposal of dredged or fill materials will:

- Cause violations of state water quality standards
- Violate toxic effluent standards

continued from left sidebar

a. which are or could be used by interstate or foreign travelers for recreational or other purposes; or

b. from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

c. which are used or could be used for industrial purpose by industries in interstate commerce;

4. All impoundments of waters otherwise defined as waters of the United States under the definition;

5. Tributaries of waters identified in paragraphs (a) (1)-(4) of this section;

6. The territorial seas;

7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) (1)-(6) of this section.

[33 CFR 328.3(a)(1-7)]

- Jeopardize federally listed endangered or threatened species
- Adversely affect municipal water supplies, plankton, fish, shellfish, wildlife and special aquatic sites (i.e. wetlands)
- Adversely affect the capacity of a wetland to assimilate nutrients, purify water, or reduce wave energy
- Significantly reduce recreational, aesthetic and economic values

In addition, no permits are to be granted which involve alteration to wetlands unless "the benefits of the proposed alteration outweigh the damage to the wetlands resource" (33 CFR Part 320.4(b)(4)).

All permit applicants are required to look for alternatives to the proposed wetland action. If the project does not require access or proximity to water (the "water dependency test"), it is presumed that other workable options exist unless proven otherwise; if the proposed action is water dependent, impacts are to be minimized to the greatest extent possible (40 CFR 230.10(a)(3)). Analysis of alternatives must include cost, logistics, and technology.

If no practicable alternatives exist, impacts must be minimized to the greatest extent possible. The EPA and United States Fish & Wildlife Service (USFWS)

have developed strong mitigation guidelines; the Corps usually incorporates them into permit requirements.

The second standard that the Corps uses to evaluate permits is the "public interest review." Through this process, the Corps balances many factors to determine if the project is in the public's interest. The factors considered include conservation, economics, aesthetics, environmental quality, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and the needs and welfare of the people.

#### **General Permits**

The Corps has authority to issue general permits which provide blanket authorization on a nationwide, state, or regional level for actions which have minimal adverse impacts on the environment. Such actions do not require individual permits as long as the project complies with the conditions in the general permit. Typical projects include navigation markers, utility line structures, bank stabilization projects, minor road crossings and bridges, minor dredge and fill projects involving less than 10 cubic yards of fill material (not in wetlands), boat docks, and certain federally approved and funded projects.

A general permit (Nationwide Permit #26) specifically addresses wetlands which are above the headwaters of a river or stream (less than 5 cfs average annual flow) or are isolated. Under the permit:

- Blanket authority is provided for up to 0.99 acre of fill in wetlands provided certain conditions are met such as: the wetlands do not provide habitat for endangered species, the work would not degrade water quality or, the work does not negatively affect wild and scenic rivers or effect international or tribal treaties regarding fish or migratory birds.
- For fills between 1 and 10 acres, the Corps must be notified. The Corps will consider the proposed fill action and coordinate with EPA, USFWS, NMFS, Ecology, WDW, and WDF. The process takes about 20 days and results in either authorization to proceed with the proposed action or notification that an individual permit is required. (In most cases, unless adequate mitigation is provided, wetland fills of an acre or more will require an individual permit.

- All proposed fill actions which require filling more than 10 acres of wetlands require an individual permit.

Actions allowed under a nationwide permit are not subject to an appeal process. However, the Corps' Division Engineer can override provisions of a general permit on a case-by-case basis if there is sufficient reason to be concerned about the effect of the project on the aquatic environment.

#### **Exemptions (33 CFR 323.4)**

Exempted activities or areas include:

- Normal existing farming, forestry, and ranching activities including cultivation, soil conservation practices, farm ponds, irrigation ditches, roads used strictly for farming or forestry operations, regular maintenance, and emergency reconstruction (such projects may not be exempt if they convert natural wetlands to another use)

Although agricultural activities are exempt as noted above, if agricultural lands have been abandoned and wetlands have developed which would require hydrologic modification to return the land to agricultural uses, then an individual permit would be required.

**REGULATING AGENCIES**

The Corps and the EPA jointly administer Section 404 requirements. The Corps reviews permit applications and issues or denies the permits and may also override EPA guidelines in the interest of navigation (although this rarely occurs). EPA is responsible for setting the guidelines which are used to assess the environmental impacts of proposed disposal permits. It also has veto power over any disposal permit that would have an unacceptable impact on water supply, fish, shellfish, wildlife, and recreational uses (Section 404(c)). If EPA prohibits or requires restriction of a proposed placement of fill, the Corps' permit processing ends and EPA assumes responsibility for approval, modification, or denial of the proposed activity (Section 404(c)). In the event of disagreement between local Corps and EPA (or USFWS or NMFS) permit reviewers, the disagreement may be elevated to the national agency heads for resolution (Section 404(q)). Both the Corps and EPA have authority to bring enforcement action against individuals who violate Section 404 requirements.

The U.S. Fish and Wildlife Service and the National Marine Fisheries Service also have major roles in implementation of the 404 program. The agencies review and comment on permit applications and provide technical assistance

to protect fish and wildlife resources and mitigate project impacts. Their authority is derived from the Fish and Wildlife Coordination Act.

Under Section 401 provisions of the Clean Water Act, the state certifies whether a proposed project complies with state water quality laws. Ecology has the right to place conditions on or request denial of a Section 404 permit if a proposed project does not comply with state water quality laws. The Corps cannot generally issue a Section 404 permit if the state has denied water quality certification. In fact, if any local agency permit associated with the project is denied, the Corps will also deny the 404 permit.

**PERMIT INFORMATION**

Upon determination of the need for an individual permit, the Corps issues a public notice of a 404 permit application. The public notice follows a set format which includes a project description, characteristics of the fill and the extent of wetland proposed to be filled, criteria for permit review, and potential impacts on threatened and endangered species, cultural resources and wild and scenic rivers.

**PERMIT PROCESS**

An overview of the permit process is shown in the figure below. Elements of the process are described in the following paragraphs. It should be noted that the 404 provisions are complex and include many exceptions. Because of the flexibility in the implementation of the law, this overview of the process is intended only as a description of a typical sequence of events.

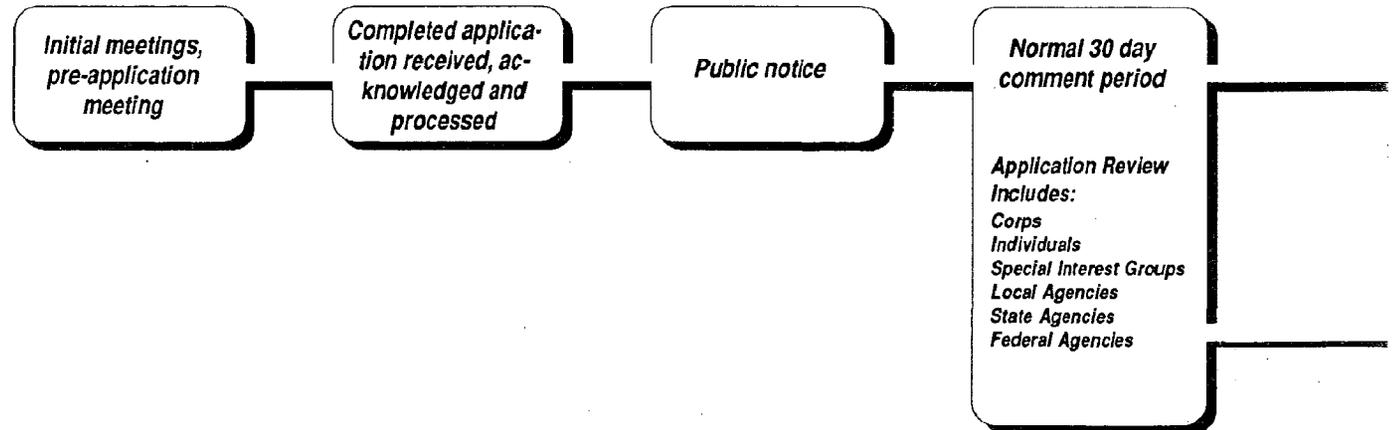
Prior to formal application, the following may occur:

**Informal meetings** with the Corps may be requested at any time to

discuss project concepts, potential permit requirements and probable time required to complete this permit process.

An optional **Pre-Application Meeting** may be requested prior to submittal of a permit application. The meeting provides an opportunity for the applicant to present the proposed project to federal, state, local and tribal groups to obtain preliminary technical input.

The remaining paragraphs describe steps in the formal application and review process.

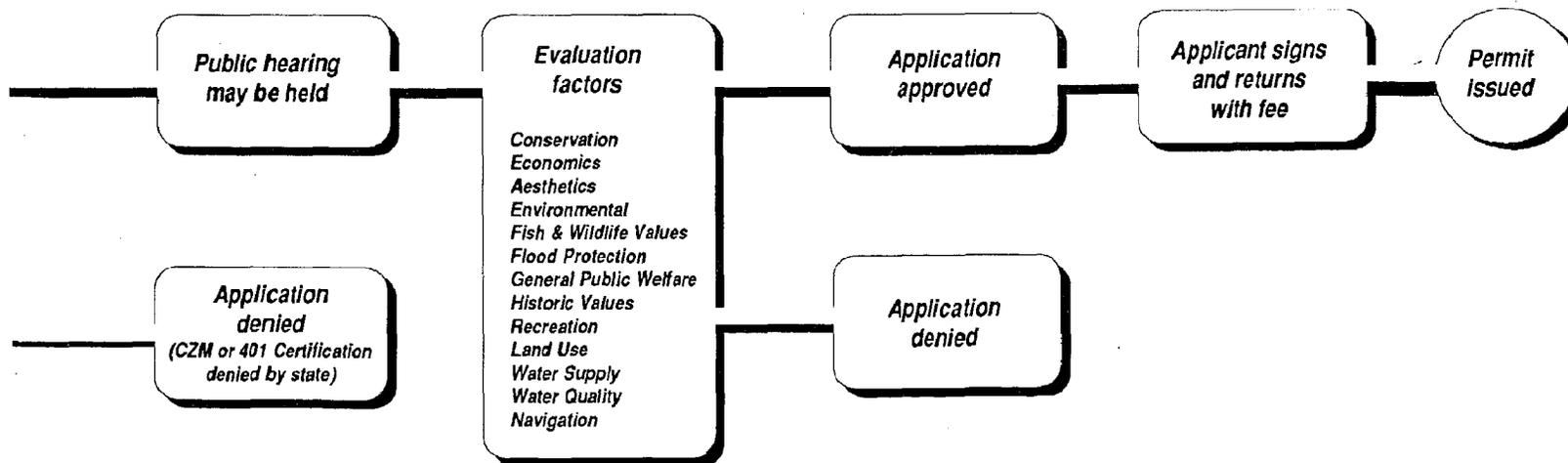


**Submittal of the Application to the Corps.** The application is checked for correctness and completeness and compliance with Corps format requirements.

**Public Notice.** Once a complete submittal is received, the Corps publishes a public notice. The notice is sent to an extensive list of groups and individuals including public agencies, newspapers, adjacent property owners, treaty Indian tribes, and environmental groups. Any individual may request to be on the mailing list for specific regions or projects. The Corps solicits public and agency comments for 30 days. Public

agencies involved in the review process include:

- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- National Marine Fisheries Service (for wetlands associated with any anadromous fish stream)
- Treaty Indian Tribes
- Ecology (which incorporates comments of other state agencies including Department of Natural Resources, Department of Fisheries, and Department of Wildlife)
- Local jurisdictions



Ecology serves as the clearinghouse for all state agency review of the application and consolidates comments including:

- Section 401 water quality certification that fill will not cause water quality degradation
- Hydraulic Project Approval Provisions
- Coastal Zone management consistency requirements through the Shoreline Management Act in the 15 coastal counties (bordering the Pacific Ocean and Puget Sound).

If the state denies either a 401 certification or a determination of coastal zone consistency, the Corps must deny the permit application. In addition, if any local permits are denied, the Corps must also deny the 404 permit.

**Public Hearing.** The Corps is not required to hold a public hearing, but may do so if requested and if it appears that important "new" information will come out of the hearing process.

**Environmental Review.** Since every permit issued by the Corps is a federal action, the provisions of NEPA apply to every permit. Thus the Corps prepares

an environmental assessment and a 404(b)(1) analysis if necessary. If the result of this step is a Finding of No Significant Impact (FONSI), the environmental documentation is concluded. If there is reason to believe that the project will "cause significant damage to the human environment," preparation of a federal environmental impact statement (EIS) is required.

**Permit Evaluation and Decision-Making.** The Corps prepares a decision document which weighs the benefits of the project against the environmental impacts and the permit is either issued or denied. All applicable federal laws are considered during this point in the process. In addition, comments received during the public notice process are reviewed. If necessary, the applicant is required to provide additional information. The final decision for permit approval or modification rests with the Corps.

#### PERMIT TIMING

The review process normally is completed within 60 days of a completed application. However, the complexity of the wetland issues and laws, and the number of agencies involved may greatly lengthen the process. In particular, if a controversial action is proposed or an

*Anyone may request that under the discretionary authority of 404(c) the Regional Administrator of EPA restrict or deny the use of a wetland for disposal of dredged material.*

EIS is required, the application process may take one to two years before the actual decision to approve, modify or deny the permit application is made.

If EPA, USFWS, or NMFS exercise their option to elevate a permit decision to the national level (under 404), the decision may be delayed for 30 to 60 days. If EPA decides to exercise its authority to deny or restrict use of a site for placement of fill material, the Corps cannot issue a permit. The 404(c) process may involve hearings but will take at most 6 months. This process allows for public participation.

## **CLEAN WATER ACT SECTION 401**

### **PURPOSE OF THE LAW**

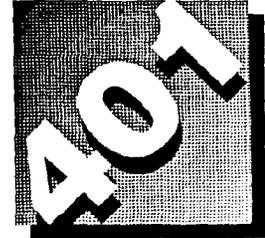
The purpose of Section 401 provisions is to ensure that federally permitted activities comply with the federal Clean Water Act, state water quality laws, and any other appropriate state laws (such as the Water Resources Act and Hydraulic Code).

### **IMPLEMENTATION OF THE LAW**

Section 401 is implemented through a certification process. With respect to wetlands, the state certification process is most typically triggered through a Section 404 Public Notice and permit application.

### **PROVISIONS OF THE LAW**

Any applicant for a **federal permit** for any activity that could result in the discharge of a pollutant in violation of state water quality standards is required to obtain a certification from the state in which the activity is to occur. In essence the state is to certify that the materials to be discharged into a wetland will comply with the applicable effluent limitations, water quality standards and



any other applicable conditions of state law. A certification obtained for construction of any facility must also pertain to the subsequent operation of the facility. If the state denies certification, the federal permitting agency must deny the permit application. If the state imposes conditions on a certification, the conditions become part of the federal permit.

#### **ACTIVITIES COVERED**

Section 401 requirements pertain to any activity that requires a federal permit and that may result in a discharge to state water. While most of the 401 certifications pertaining to wetlands are initiated through a Section 404 Public Notice, occasionally other federal permit processes may also require 401 certification. An example would be the Federal Energy Regulatory Commission requirements for hydropower plants.

#### **REGULATING AGENCIES**

In the State of Washington, the Department of Ecology implements the Section 401 requirements. Ecology also tracks the responses of other state reviewing agencies and has the final word on approval, denial, or special conditions for certification.

#### **PERMIT INFORMATION**

Typically, sufficient information to process a 401 certification is provided through the federal permit application process. If additional information is required, the applicant is notified by Ecology or the state agency requesting additional information.

#### **PERMIT PROCESS**

Typically, the 401 certification process begins with the receipt of a Section 404 Public Notice from the Corps by each state reviewing agency. The public notice includes a notice of request for 401 certification. Ecology's Environmental Review Section serves as the clearinghouse for state agency responses. State reviewing agencies respond both to the applicant and to Ecology. Ecology prepares a state comment letter based on the various state agency responses along with the 401 Certification or denial. However, unless a violation of a state law would result, Ecology has authority to override any state agency recommendation. State 401 certifications are exempt from State Environmental Policy Act (SEPA) requirements.

**TIMING**

Ecology has 30 days from the issuance of a public notice to respond to the Corps (and up to one year for response to other federal agencies) concerning certification of a proposed activity. Ecology's response may be certification, denial, or a request for delay due to lack of information. At most, Ecology has up to 60 days to issue or deny certification. If Ecology has not responded within 60 days, the federal agency is authorized to waive certification requirements. The Corps District Engineer can extend the time period for state response when so requested by the state. The public has 20 days from the time of public notice to respond to the request for certification to the state. However, for some more controversial projects the time allowed, for public responses may be lengthened.

**OTHER RELATED  
FEDERAL LAWS AND  
POLICIES****RIVER AND HARBOR ACT  
SECTION 10**

This law was enacted in 1899 to preserve the navigability of the nation's waterways. Section 10 prohibits the unauthorized obstruction or alteration of any navigable water of the United States. The provisions apply to all structures or work below the mean high water mark of navigable tidal waters and the ordinary high water mark of navigable fresh waters. Actions in wetlands within these limits are subject to Section 10 provisions. The provisions also apply to proposed actions "in, over, or affecting" navigable waters.

Navigable waters include all presently, historically, and reasonably potential navigable waters and all waters subject to the ebb and flow of the tide up to mean higher high water in tidal waters and up to ordinary high water in freshwater areas. In Washington, these waters include the Pacific Ocean, Puget Sound, and portions of several major rivers. The Corps has a complete listing of navigable waters in Washington. Provisions of Section 10 are implemented

through a permit process that includes consideration of navigational, flood control, fish and wildlife management, and environmental impacts. NEPA compliance is required. Section 10 reviews often occur simultaneously with Section 404 permit processing. The Corps does not use the 404(b)(1) guidelines in the review process.

### **COASTAL ZONE MANAGEMENT ACT OF 1972**

The federal Coastal Zone Management Act (CZMA) of 1972 and subsequent amendments established a voluntary program through which states could receive financial and technical assistance to formulate a plan for the efficient use of coastal zone areas within its boundaries. Through the CZMA, each state is encouraged to develop a state coastal zone management plan for coastal resources. Fifteen counties in Washington are affected by the plan. Once the state plan is approved by the federal government, additional federal financial assistance becomes available to implement the plan.

If a proposed action does not comply with the CZMA, an applicant for a federal license or permit to conduct an activity in the coastal zone must certify that the project is consistent with the state's approved program. Ecology publishes a list of activities that fall within

this category. For example, prior to public notice on Section 404 permit applications for proposed actions in the 15 coastal counties, Ecology's Shorelands Program confirms or denies that the proposed action complies with the Washington Coastal Zone Management Program.

### **EXECUTIVE ORDER 11990**

In 1977, President Jimmy Carter officially recognized the value of the country's wetlands. His Executive Order 11990 included the following statement on wetland values:

"The Nation's coastal and inland wetlands are vital natural resources of critical importance to the people of this country. Wetlands are areas of great natural productivity, hydrological utility, and environmental diversity, providing natural flood control, improved water quality, recharge of aquifers, flow stabilization of streams and rivers, and habitat for fish and wildlife resources."

Through the order, the President directed federal agencies to avoid the unnecessary alteration or destruction of wetlands. Federal agencies must provide leadership and take action to minimize the destruction, loss, or degradation of wetlands affected by a federal project or by any project that receives federal funding. Most highway projects are included under this order and must

address impacts to wetlands and mitigate for unavoidable impacts.

While the order does not regulate wetlands per se, it does establish wetland protection as the official policy of all federal agencies.

### **NATIONAL ENVIRONMENTAL POLICY ACT OF 1969**

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.) established a process requiring federal agencies to consider the environmental impacts of agency-sponsored development projects and of agency decisions on permits and approvals required for privately-sponsored development projects. The NEPA process emphasizes the full-disclosure of environmental impacts and their consideration, along with technical and economic considerations, prior to an agency decision.

Guidance for the implementation of NEPA is provided by the Council on Environmental Quality (CEQ). The CEQ Regulations (40 CFR 1500-1508) place a great deal of emphasis upon the consideration of alternatives, including ways to mitigate (avoid or reduce) harmful environmental effects. Generally, the NEPA process occurs concurrently with Section 404 reviews by the Corps of Engineers. Most federal agencies have adopted their own regulations for implementing NEPA requirements.

NEPA requires that an environmental impact statement (EIS) be prepared for any major federal action that would have **significant adverse environmental impacts**. The EIS must thoroughly evaluate any adverse environmental impacts of the proposed action and its alternatives. Permits issued by a federal agency (such as Section 404 permits) are considered to be federal actions that may require an EIS. Anyone can recommend to the permitting federal agency that an EIS be prepared. However, any such recommendation should be based on evidence indicating that a proposed action would result in significant adverse environmental impacts.

To determine if a proposal would have significant adverse environmental impacts, the agency may prepare an environmental assessment (EA). A permit applicant often provides much of the information and analysis used to prepare the EA. The EA contains sufficient evidence and analysis to determine if an EIS is required. If an EIS is not required, a finding of no significant impact (FONSI) document is prepared by the federal agency that explains why an EIS is not required for a particular proposal. In Washington, environmental documents prepared under the State Environmental Policy Act (SEPA) may provide information and analysis useful in

#### **Mitigation under NEPA includes:**

*Avoiding the impact altogether by not taking a certain action or parts of an action*

*Minimizing impacts by limiting the degree or magnitude of the action and its implementation*

*Rectifying the impact by repairing, rehabilitating or restoring the affected environment*

*Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action*

*Compensating for the impact by replacing or providing substitute resources or environments*

preparing the EA or FONSI. The conditions for attaining compliance with NEPA requirements are fulfilled upon completion of the FONSI or EIS.

The State Environmental Policy Act (SEPA) parallels the requirements of NEPA. In virtually the same manner as federal agencies, state agencies are required to consider environmental impacts associated with proposed actions.

Because more wetlands subject to the regulations described in this guidebook will be required to meet SEPA requirements, and because the processes are nearly identical, a more detailed analysis of the process for environmental impact assessment or analysis is provided under the SEPA section, but may be considered to apply to NEPA with respect to the general requirements of the act.

## **1985 FOOD SECURITY ACT**

### **Swampbuster Provision**

The 1985 Food Security Act contains a provision regarding wetland conversion to agricultural land. This provision, known as Swampbuster, denies eligibility for all United States Department of Agriculture (USDA) farm programs to farmers who convert wetlands to croplands. This provision applies to all commodity crops produced by those farmers, not just those produced on converted wetlands.

Programs covered by the Swampbuster regulations include USDA price and income supports, disaster payments, crop insurance, Farmers Home Administration Loans, Commodity Credit Corporation storage payments, farm storage facility loans and Conservation Reserve Program payments.

Farmers who apply for certain USDA programs must certify that they will not produce agricultural commodities on land that was converted from wetland after December 23, 1985. Each farm is professionally evaluated by the Soil Conservation Service.

## STATE REGULATIONS

In this section state laws that affect the use of wetlands are described in more detail. Particular emphasis is given to the Shoreline Management Act, Hydraulic Code and the State Environmental Policy Act.

*Shorelines of the State include:*

1. *all marine waters and their associated wetlands (together with the lands underlying them)*
2. *all lakes and reservoirs equal to or greater than 20 acres in size and their associated wetlands (together with the lands underlying them)*
3. *all streams and river segments with a mean annual flow greater than 20 cubic feet per second, and their associated wetlands (together with the lands underlying them)*



## SHORELINE MANAGEMENT ACT OF 1971

### PURPOSE

The state's Shoreline Management Act (SMA) of 1971 (Chapter 90.58 RCW) was passed to manage appropriate uses of the shorelines of the state. In its action, the Legislature stated that shoreline areas are among the most valuable and fragile natural resources and established a state policy to provide management by planning for and fostering all reasonable and appropriate uses. Under the SMA, development of the state's shorelines is intended to be done in a manner that promotes and enhances the public interest, and that protects against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life.

### IMPLEMENTATION

The SMA is implemented through a permit program for activities in and on the shorelines of the state. Permits for substantial development, conditional uses, and variances are issued by local government if permit applications are in conformance with the local shoreline master program for the city or county and the policies and provisions of the SMA. The Washington Department of Ecology has primary responsibility to review issued permits for conformance with the SMA. Chapter 173-14 WAC sets out regulations related to the permit system for developments on shorelines of the state.

Other relevant agency rules include Chapter 173-16 WAC, which provides guidance on the development of local government shoreline master programs, and Chapter 173-22 WAC, which provides criteria for designating wetlands associated with shorelines of the state. Through their association with these shorelines, many wetlands are covered by the provisions of the SMA. This is particularly true of estuarine wetlands, and wetlands associated with streams with flows greater than 20 cubic feet per second (cfs) and lakes 20 acres or larger.

### PROVISIONS OF THE LAW

The SMA provides for local governments to prepare shoreline master pro-

*Wetlands and Wetland Areas According to the SMA, wetlands or wetland areas include:*

1. *all lands which extend 200 feet landward from the ordinary high water mark (OHWM)*
2. *floodways and lands which extend 200 feet from a floodway*
3. *all marshes, bogs, swamps and river deltas that are "associated" with water bodies that come under SMA jurisdiction.*  
*It is the marshes, bogs and swamps which fit the description of what people traditionally think of as wetlands. Indeed "marshes, swamps and bogs" are further defined in the regulations with language that is very similar to the USFWS wetland definition (see Glossary). For the purposes of the SMA, a marsh, bog, or swamp is an area dominated by either wetland plants or by wetland soils. (under the CWA definition, an area must be dominated by wetland plants, soils and hydrology in order to be considered a wetland)*

**Associated Wetlands**

*In addition to the area within 200 feet of the OHWM, the SMA exerts jurisdiction over marshes, bogs and swamps which are associated with shorelines of the state. These wetlands may fall inside, outside or may straddle the 200 foot boundary line.*

*In order to be considered associated, a marsh, bog or swamp must meet two criteria:*  
 1. *it must be in proximity to a shoreline of the state*  
 2. *it must influence or be influenced by a shoreline of the state*

grams (land use plans) for all shorelines within their jurisdiction. These programs are based on shoreline inventories and generally classify shorelines based on appropriate uses. The SMA also set up a review process for shoreline development to balance shoreline development with habitat protection and other shoreline interests such as public access.

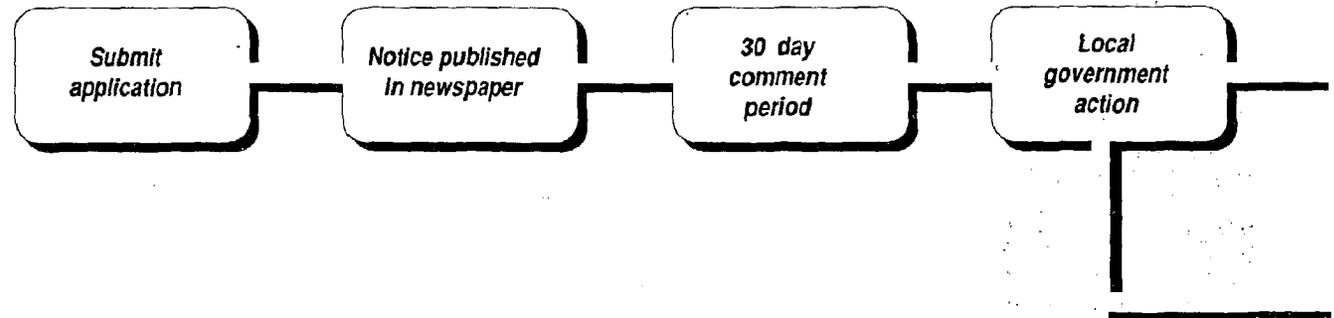
Most activities in and on shorelines are subject to the SMA. However, some activities are exempted from the permit process. Major exemptions include:

- developments having a fair market value less than \$2500
- maintenance and repair of existing structures
- construction of protective bulk heads on property occupied by single family residence
- emergency construction to protect property from damage by the elements
- construction and practices necessary for farming, agricultural, and ranching activities
- construction of certain single family residences

**Proximity and Influence**

*Factors which help determine proximity include distance, elevation, topographic relief, and continuity of soils, vegetation and hydrology.*

*Factors which help determine influence include: ground or surface water connections, occurrence of flooding or tidal inundation, species composition of plant communities, soil types, and water salinity. Determinations of proximity and influence are made on a site-by-site basis due to the complex interactions among these physical and biological variables.*



RCW 90.58.030 and WAC 173-14-040 provide additional detail related to permit exemptions. (Caution: although the above activities may be exempt from permits, they must still comply with policies and provisions of the SMA.)

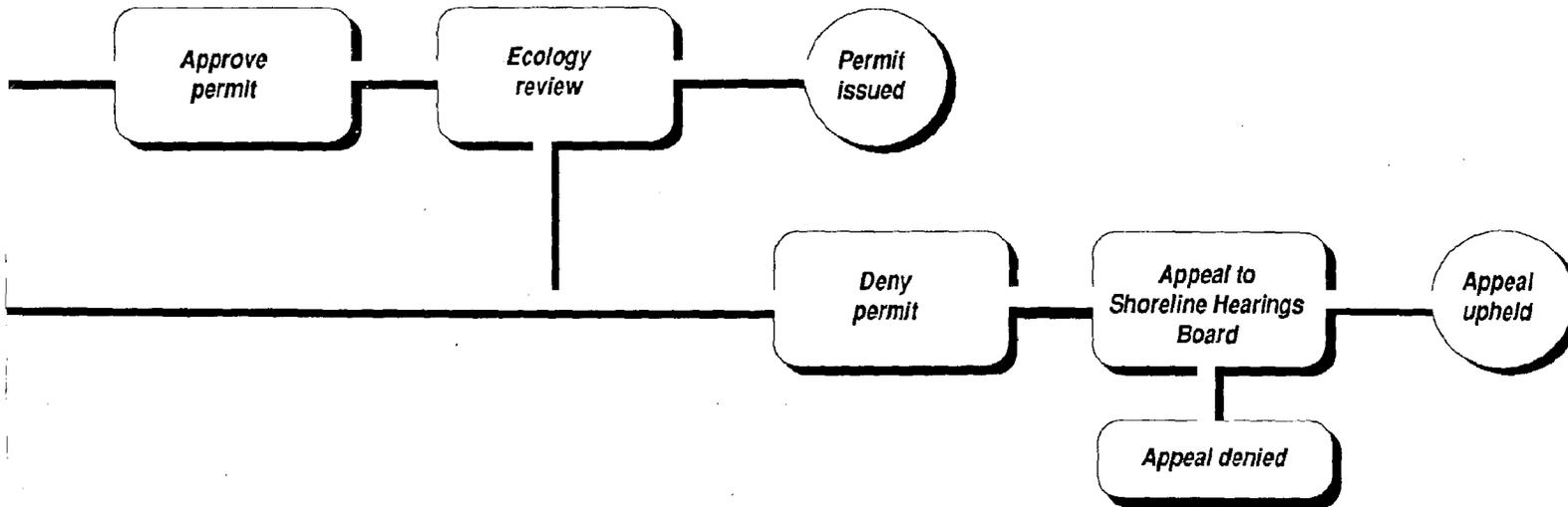
**REGULATING AGENCIES**

The SMA established a cooperative shoreline management program between local government and the state. Local governments are responsible for development of local shoreline master programs and administration of the shoreline permit program. Ecology acts pri-

marily in a supportive and review capacity with primary emphasis on insuring compliance with the policies and provisions of the SMA.

**PERMIT INFORMATION**

Local governments provide application forms for substantial development, conditional use, and variance permits authorized under the SMA. The application requires submittal by the applicant of project diagrams including site plans and maps drawn to scale and other relevant information needed to determine compliance with the shoreline master program.



### PERMIT PROCESS

Details of the permit process vary somewhat among local jurisdictions; however, all are consistent with the guidelines contained in Chapter 173-14 WAC. The flow diagram outlines the typical process for a substantial development, conditional use, or variance permit.

All permit actions are subject to appeal by applicants, citizens, and/or government agencies (including Ecology). Such appeals are heard by the Shoreline Hearings Board, a six-member quasi-judicial body appointed by the governor. Chapter 461-08 WAC contains the rules of practice and procedure for the Shoreline Hearings Board. Appeals must be received by the board within 30 days of the date of filing the permit with Ecology.

### PERMIT TIMING

From the time that a complete application for a substantial development permit is submitted to a local planning agency, the minimum time periods required by state regulations total approximately 70 days until construction may begin. Local shoreline permit processes may vary somewhat from the timing shown in the flow diagram.

## HYDRAULIC CODE

### PURPOSE

Passed into law in 1949, the State Hydraulic Code (RCW 75.20.100-140) is intended to protect fish life from damage by construction and other activities in all marine and fresh waters of the state. In enacting the code, the Legislature recognized that virtually any construction within the high water areas of state waters has the potential to cause damage to fish life and its supporting habitat.

### IMPLEMENTATION

The Hydraulic Code is implemented through a permit called the Hydraulic Project Approval (HPA) obtained from the Washington Department of Fisheries (WDF) or the Department of Wildlife (WDW). A set of agency rules (Chapter 220-110 WAC) has been adopted by both departments to guide their administration of the code.

While not directly aimed at the protection of wetlands, the HPA is required for any work within the high water areas of state waters, which often include wetlands. Because such wetlands may provide habitat for fish and shellfish, the HPA is an important regulatory tool for the protection of fish and fish habitat.



**Ordinary High Water Line**

An HPA is required for any activity within the ordinary high water line of state waters. This line is identified by examining the bed and banks along the shore to determine where the action of the water has created a distinct mark upon the soil with respect to upland vegetation. If this line cannot be found, then the mean higher high water elevation in saltwater and the mean high water elevation in freshwater are used to determine the limit of Hydraulic Code applicability. Typically, however, field personnel from the WDF or WDW can assist in determining the ordinary high water line.

**Waters of the State**

All marine and fresh waters within the ordinary high water lines and within the territorial boundaries of the state are subject to the Hydraulic Code.

**Fish Life**

Hydraulic Code rules apply to all fish species, including but not limited to food fish, shellfish, and game fish, and all stages of development of these species.

**PROVISIONS OF THE LAW**

Prior to construction or other work that will use, divert, obstruct, or change the natural flow or bed of any state waters, approval of the WDF or WDW is required. Most often, approval is in writing. However, in emergency situations, verbal approvals can be given by WDF and WDW personnel. The Hydraulic Code applies to any individual, business, organization, and local, state and federal government agency.

The major types of activities in freshwater that require an HPA include (but are not limited to):

- streambank protection
- construction of bridges, piers, and docks
- pile driving
- channel change or realignment
- conduit (pipeline) crossing
- culvert installation
- dredging
- gravel removal
- pond construction
- placement of outfall structures
- log, log jam or debris removal
- installation or maintenance (with equipment) of water diversions
- mineral prospecting

Major saltwater activities requiring an HPA include:

- construction of bulkheads, fills, boat launches, piers, dry docks, artificial reefs, docks, floats, and marinas
- pile driving
- dredging

The Hydraulic Code Rules (WAC 220-110) contain technical provisions that may apply to different types of projects occurring in fresh and salt waters. Depending upon the individual proposal and site-specific conditions, these technical provisions may be included in the HPA as permit conditions. Special permit provisions may also be included where site-specific conditions warrant them.

**REGULATING AGENCIES**

The Washington Department of Fisheries and the Department of Wildlife administer the Hydraulic Code. The Department of Fisheries takes the lead for the HPA in salt waters and fresh waters containing salmon. In fresh waters of the state without salmon, the Department of Wildlife takes the lead. Applications for the following areas should be submitted to the Department of Fisher-

ies headquarters (see "Implementing Agencies"):

- All of Western Washington; i.e., all areas lying west of the summit of the Cascade Mountains
- All of the mainstem Snake River and all of the mainstem Columbia River downstream of Chief Joseph Dam
- All marine and estuarine waters of the state

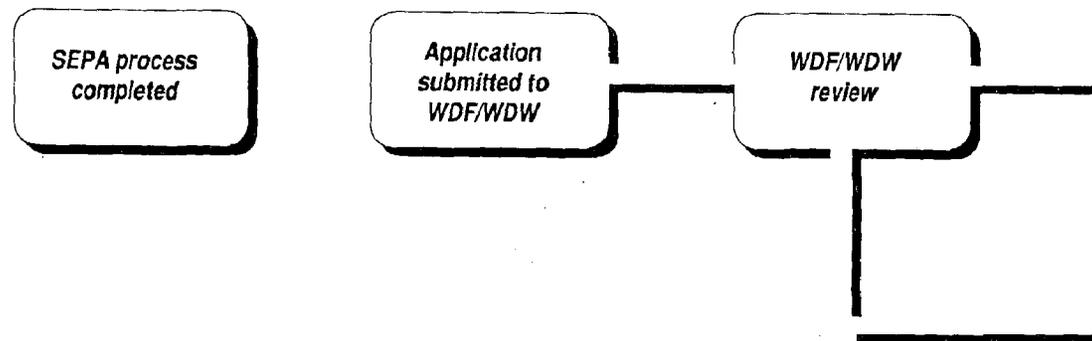
Applications for other areas should be submitted to the Department of

Wildlife headquarters. Some applications received by the WDF will be processed by the WDW, and vice versa. When this happens, applicants are notified by mail.

#### **PERMIT INFORMATION**

Applicants may obtain HPA forms in-person at any WDF or WDW office, by phone, or by mail. If a Corps of Engineers or Forest Practices Act permit will also be required, application for either of them serves as an HPA application and an HPA application is not required.

There is no charge for an HPA. A complete HPA application contains



general plans for the overall project, complete plans and specifications for the proposed construction or work within the high water line, and complete plans and specifications for the proper protection of fish life.

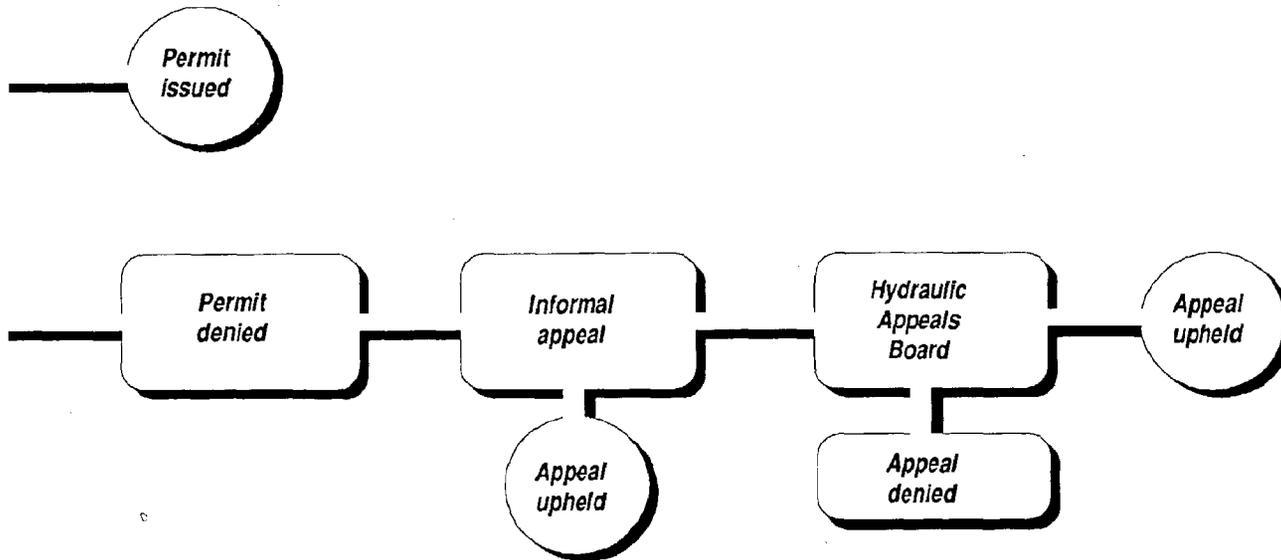
**PERMIT PROCESS**

Applications are assigned to a WDF or WDW habitat management specialist. In most cases, the representative visits the project site and tries to meet with the applicant to point out fish habitat needs and how the project may affect that habitat. Suggestions may be made

to help the applicant achieve his or her objective while protecting fish, shellfish, and their habitat.

**PERMIT TIMING**

A maximum of 45 calendar days is specified in the agency rules for a decision by the WDF or WDW to grant or deny approval of a complete application unless certain circumstances prevent processing the application. However, most applications are processed and mailed within 30 days of receipt of a complete application and compliance with the State Environmental Policy Act (SEPA – Chapter 43.21C RCW).



**APPEAL**

Informal and formal appeals processes are available to an applicant or permit holder who wishes to contest denial of an HPA application or permit conditions. Informal appeals involve a review of the process by the chief of the habitat management division of the agency responsible for the site. If, following an informal appeal, an applicant or permit holder still feels aggrieved, he or she may request a formal hearing by the Hydraulic Appeals Board.

## STATE ENVIRONMENTAL POLICY ACT

**PURPOSE**

The Washington State Environmental Policy Act (SEPA) was passed by the Legislature to provide a process to analyze the environmental impacts of development. Information provided during the SEPA process helps agency decision-makers and the general public understand how a project would affect the environment. It is intended to help decision-makers at all levels of state government make better environmental decisions.

**IMPLEMENTATION**

SEPA is not a permit. It is a process geared to mesh with already existing permits, approvals and/or licenses. First adopted in 1971, SEPA was substantially revised in 1983. New implementing rules (Chapter 197-11 WAC), were adopted by Ecology in 1984.

SEPA requires a full disclosure of the likely significant adverse environmental impacts of a project and the identification of ways to mitigate or reduce the impacts of a project. Impacts to the natural and built environment

**Significant Impact**

As used in SEPA, "significant" means a reasonable likelihood of more than a moderate adverse impact on environmental quality. Significance involves context and may vary from one physical setting to another. It also involves the intensity of an impact in terms of magnitude and duration, and the likelihood of its occurrence. SEPA focuses on likely significant adverse impacts.

**Mitigation under SEPA includes:**

*Avoiding adverse impacts*

*Minimizing adverse impacts by limiting the degree or magnitude of a project*

*Rectifying the impact by repairing, rehabilitating, or restoring the affected environment*

*Reducing or eliminating the impact by preservation and maintenance operations during the life of the project*

*Compensating by replacing or providing substitute resources or environments*

*Monitoring the impact and taking appropriate corrective measures*

are considered. For proposals likely to have a significant adverse impact on the environment, an environmental impact statement (EIS) must be prepared.

Although SEPA has no regulatory or policy provisions directed specifically at wetlands, through the process of identifying environmental impacts, agencies and the public become aware of likely impacts to wetlands and other environmental resources. Agencies or local governmental units may deny permits or other approvals under SEPA if the proposal would be likely to result in significant adverse environmental impacts and if mitigative measures would be insufficient to mitigate the identified impact. SEPA rules place a particular emphasis on the identification of mitigative measures that may be required under SEPA as permit conditions to avoid or reduce environmental impacts to wetlands and other environmental resources.

The consistency of a proposal with existing plans and policies, such as local shoreline master programs, comprehensive plans, zoning, and local sensitive areas ordinances, which may contain wetland policies, may be evaluated in a SEPA EIS. Completion of the SEPA process is necessary before agency decisions may be made on the Hydraulic Project Approval, shoreline substantial development permit, and many other local and state permits and approvals.

## PROVISIONS OF THE LAW

SEPA provides policies, goals, and procedures intended to assure that agencies consider the environmental impacts related to their decisions on proposals that may have a significant adverse impact on the environment. Procedural provisions distinguish between actions that are likely to have significant environmental impacts and actions that are not.

SEPA provides for a variety of proposed actions that are categorically exempt from the SEPA process. Most categorical exemptions use size criteria to differentiate between an exempt or nonexempt action.

Exempted projects include most single family homes, commercial buildings under 4,000 square feet, parking lots for 20 cars or less, and any landfill or excavation of 100 cubic yards or less. "Flexible thresholds" allow cities and counties to set their own size criteria within a specific range for five categories of exemptions. This means, for example, that in some areas, commercial buildings of up to 12,000 square feet may be exempt. Local planning departments have rules to determine what exemptions, local permits, and/or approvals apply.

### **Lead agency**

*The lead agency is the state or local governmental unit with the primary responsibility for complying with SEPA's procedural requirements.*

### **Determination of Significance.**

*"Determination of significance" (DS) means the written decision by the lead agency that a project is likely to have a significant adverse environmental impact. An EIS is required.*

### **Determination of Nonsignificance**

*"Determination of nonsignificance" (DNS) means the written decision by the lead agency that a project is not likely to have a significant adverse environmental impact. An EIS is not required.*

### **Scope**

*The "scope" means the range of proposed actions, alternatives, and impacts that will be analyzed in an environmental document. For an EIS, the scope is determined by the lead agency after a public and interagency scoping process intended to identify and narrow the range of significant issues to be addressed in the EIS.*

**REGULATING AGENCIES**

SEPA applies to all agencies, including local governments, but not the judiciary or state legislature. When agencies take certain actions, they must follow specific procedures to assure that they give appropriate consideration to environmental factors and carry out SEPA's provisions.

If review under SEPA is required, a lead agency is identified. The lead agency may be a city, county, state, or other public agency such as a port. This is based on the type of project proposed and the number and type of agencies requiring permits and/or approvals. For most private projects the lead agency is the city or county requiring permits. The lead agency makes sure that all SEPA requirements are met.

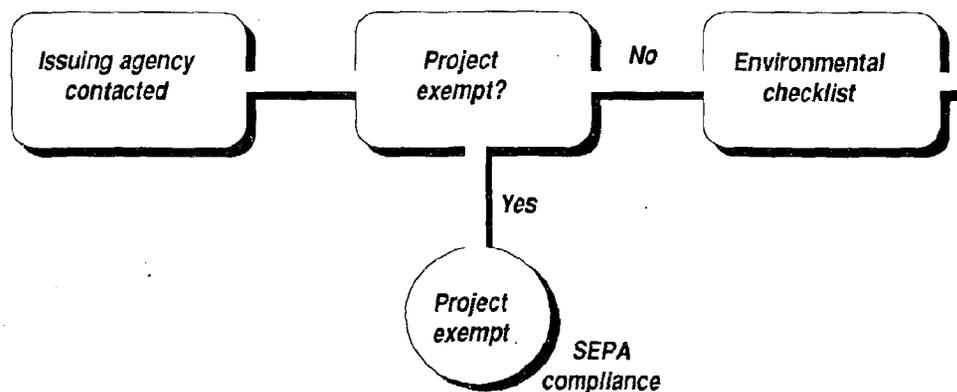
**SEPA PROCESS**

After determining that a proposal requires a permit, license, or approval, a lead agency is identified. The lead agency then determines whether the proposal is categorically exempt. If so, the SEPA process is satisfied.

The lead agency may request the preparation of an environmental checklist. The checklist asks a series of questions designed to assist the lead agency in making a determination on whether

the proposal would likely have a significant adverse environmental impact. If a determination of nonsignificance (DNS) is made, the lead agency issues a DNS. If certain criteria apply (contact lead agency) and a 15-day comment period is required, the lead agency will distribute the DNS and give public notice. After 15 days, the DNS becomes final unless the lead agency withdraws the DNS based on new information about the proposal.

If the lead agency decides that a proposal will likely have a significant adverse environmental impact, the agency issues a determination of significance/scoping notice (DS). The DS lets other agencies and the public know that an



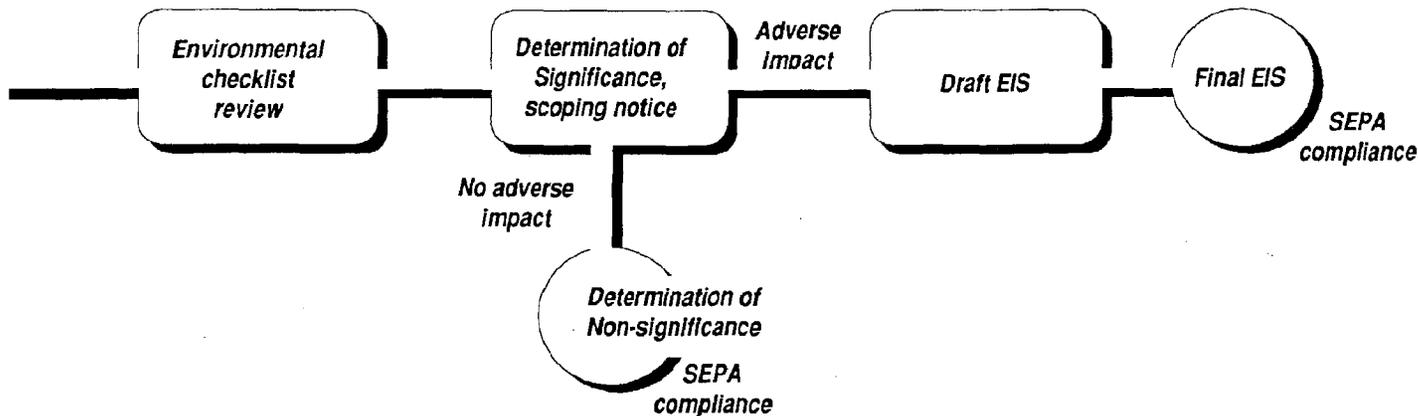
EIS is required and asks for suggestions regarding its content. This scoping period is usually 21 days, but can require up to 30 days to complete.

An EIS describes the proposal, alternatives to the proposal, existing environmental conditions, adverse environmental impacts that may be caused by the project, and mitigative measures that may prevent or lessen probable adverse impacts. Writing an EIS is the lead agency's responsibility, but proponents of a proposal often participate in its preparation.

A draft EIS (DEIS) is distributed to agencies with jurisdiction and other interested parties for review and com-

ment. The lead agency must provide a minimum 30-day comment period during which a public hearing may be held. Following the public comment period, the lead agency prepares responses to public and agency comments and issues a final EIS (FEIS). The FEIS is usually issued within 60 days of the end of the DEIS comment period, although this may be longer for complex projects.

A supplemental EIS (SEIS) may be needed if a proposal changes substantially or if new information indicates a proposal's significant adverse impact on the environment. The review process for an SEIS is the same as a DEIS and FEIS.



## **OTHER RELATED STATE LAWS AND POLICIES**

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### **FLOODPLAIN MANAGEMENT PROGRAM**

Washington State's floodplain management program seeks to integrate local state and federal regulatory programs in a comprehensive effort to reduce flood damages and protect human health and safety. The core of the state's regulatory program is that local floodprone jurisdictions adopt a flood damage prevention ordinance based upon federal standards contained in the National Flood Insurance Program (NFIP). Property owners in floodprone jurisdictions with such an ordinance are eligible for federal flood insurance.

After a community is identified as being floodprone, a Flood Insurance Study is conducted, resulting in the preparation of a map indicating the extent of the floodplain and floodway, and the depth of the base flood at various points in the community. The mapped area usually encompasses the majority of a community's wetland areas associated with riparian areas, lakes

and salt marshes. However in some jurisdictions, such as Pierce County, isolated wetlands are covered under the program. The majority of communities with such ordinances regulate all development within base (100-year) floodplains. These ordinances require elevation of new or substantially improved structures to levels above the base flood and include strict standards regulating any activity in designated floodways which might increase flood flows.

Through the Flood Control Assistance Account Program administered by Ecology, local governments participating in the NFIP and meeting state requirements are eligible for matching funds designed to repair or restore existing structural flood control facilities, for projects designed to maintain or improve channel capacity, and for the development of comprehensive flood control management plans. An optional element of this program provides for local governments to use the planning process to develop a wetlands management strategy for the community's floodprone areas. Approximately 3.5 million dollars per biennium are available for projects and plans.

Washington State (Chapter 86.16 RCW) has adopted the NFIP standards as the state minimum standard and has imposed certain other requirements

upon local governments. These additional state standards are primarily aimed at protecting health and safety. While the additional standards primarily address permitted types of development, Chapter 173-158 WAC does include an advisory standard pertaining to wetlands management. The standard points out the beneficial role wetlands play in alleviating flood damages. The advisory also suggests a program by which local governments, with technical assistance from Ecology, can identify and map critical wetland areas located within base floodplains that should not be filled.

## **FOREST PRACTICES ACT CHAPTER 76.09 RCW**

This act regulates forest practices on state and private lands. Responsibility for administering the provisions of the act lies with the Forest Practices Board and the Department of Natural Resources (DNR). Anyone proposing timber harvesting on state or private land must submit a forest practices application to DNR for approval.

Under the rules and regulations of the act (Chapter 222 WAC) wetlands are addressed in the following.

(1) Wetlands are defined using the USFWS definition (see glossary).

- (2) Wetlands are considered Type 3 waters that meet one of two criteria:
- (a) are less than one acre at seasonal low flow and have an outlet to an anadromous fish stream.
  - (b) are 0.5 acres or more in size at seasonal low flow.

Wetlands of one acre or more in size at seasonal low flow are designated Type 2 waters.

(3) Wetlands adjacent to Type 1, 2, and 3 streams (WAC 222-30-020) are included in a Riparian Management Zone. These zones require additional care in harvesting trees as well as leaving certain numbers of trees per 1000 feet of stream, depending upon stream type.

(4) Road construction is not allowed in Riparian Management Zones (except for required crossings) or in marshes or wet meadows "when there would be substantial loss or damage to wildlife habitat unless mitigation is provided and DNR determines that alternatives would cause greater damage to public resources (WAC 222-24-020)."

The recent Timber, Fish and Wildlife agreement provides for greater review and input from agencies, tribes and the Washington Environmental Council into forest practice application approvals. For more information on forest practices requirements, contact the Department of Natural Resources.

## PUGET SOUND WATER QUALITY ACT

The Puget Sound Water Quality Act (Chapter 90.70 RCW) was enacted by the state legislature to create the Puget Sound Water Quality Authority (the Authority). The Authority was charged with development of a comprehensive plan for water quality protection in the Puget Sound Basin to be implemented by existing state and local government agencies. The Authority developed and adopted the *1987 Puget Sound Water Quality Management Plan* in response to this mandate. One element of this plan, Wetland Protection, recognizes the significant role of wetlands in surface and groundwater quality protection, habitat, flood and storm damage reduction, education, recreation and open space. This element is designed to ensure that the most important wetlands in the Puget Sound Basin are preserved in perpetuity and that degradation of other valuable wetlands is minimized.

The strategy for achieving this goal involves two different approaches. One is to identify those critical wetlands that should be preserved and either purchase or, through some other mechanism, safeguard those wetlands. The other approach requires local governments in the Puget Sound Basin to

develop local wetland management programs which meet minimum state standards promulgated by Ecology.

The Plan requires Ecology to develop and adopt rules containing standards for local wetland management programs. The standards will prescribe the minimum features that must be contained in local wetland management programs in the Puget Sound Basin. Local governments will review their existing wetland protection efforts against the minimum requirements established by Ecology and propose actions to meet those requirements. In many cases this will require the development of new local ordinances and permit systems. Ultimately, Ecology must approve each local government's methods of enacting the state standards.

## GLOSSARY

**ANADROMOUS FISH** Species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to fresh water rivers and streams to procreate.

**BOG** A wetland with limited drainage generally characterized by extensive peat deposits and acidic waters. Vegetation includes sedges, sphagnum moss, shrubs, and trees.

**CFR** Code of Federal Regulations, the compilation of federal regulations adopted by federal agencies through a rulemaking process.

**CUMULATIVE EFFECTS** The combined environmental impacts that accrue over time and space from a series of similar or related individual actions, contaminants, or projects. Although each action may seem to have a negligible impact, the combined effect can be severe.

**CLEAN WATER ACT** Previously known as the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

**DREDGING** Any physical digging into the bottom of a water body. Dredging can be done with mechanical or hydraulic machines, and it changes the shape and form of the bottom.

**ECOLOGY (WDOE)** The Washington Department of Ecology, which is responsible for implementing many environmental protection laws including the state Clean Water Act and the Shoreline

Management Act. Note that the abbreviation DOE is confusing because the Department of Energy uses the same term. Ecology is the preferred term for referring to the Department of Ecology.

**ECOSYSTEM** A community of living organisms interacting with one another and with their physical environment, such as a rain forest, pond, or estuary. An ecosystem, such as Puget Sound, can be thought of as a single complex system. Damage to any part may affect the whole. A system such as Puget Sound can also be thought of as the sum of many interconnected ecosystems such as the rivers, wetlands, and bays.

**EIS** Environmental impact statement, a document that discusses the likely significant impacts of a proposal, ways to lessen the impacts, and alternatives to the proposal. EISs are required by the national and state environmental policy acts.

**ESTUARINE** Tidal habitats that are usually semientlosed by land but have open, partial, or sporadic access to the open ocean, and in which ocean water is at least occasionally diluted by fresh water runoff from land. Ocean-derived salinities are usually greater than or equal to 0.5 parts per thousand (during average annual low flow) and less than or equal to 30 ppt; salinities may periodically exceed 30 ppt due to evaporation.

**FLOOD DESYNCHRONIZATION** The process by which simultaneous storage of peak flows within numerous basins

within a watershed, and their subsequent gradual release in a non-simultaneous, staggered manner, results in containment of flow within the channel downstream and, usually, more attenuated flow peaks downstream.

**FLOODPLAIN** An area adjacent to a lake, stream, ocean, or other body of water lying outside of the ordinary banks of the water body and periodically inundated by flood flows.

**FLOOD STORAGE** The process by which peak flows (from precipitation, runoff, groundwater discharge, etc.) enter a wetland and are delayed in their downslope journey.

**FOOD WEB** A community of organisms which are connected by dependence upon one another for food.

**FOREST PRACTICE** Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to: road and trail construction, final and intermediate harvesting, precommercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control.

**GROUNDWATER** Underground water supplies, also called aquifers. Aquifers are created by rain which soaks into the ground and flows down until it is collected at a point where the ground is not permeable. Groundwater then

usually flows laterally toward a river or lake or the ocean. Wells tap the groundwater for our use.

**GROUNDWATER DISCHARGE** The movement (usually laterally or upward) of water from a groundwater body to its emergence into a surface water system (such as a spring, seep, or stream channel).

**GROUNDWATER RECHARGE** The movement or percolation (usually downward) of surface water through an unsaturated zone of soil or rock into a groundwater body (the subsurface zone of saturation).

**HABITAT** The specific area or environment in which a particular type of plant or animal lives. An organism's habitat must provide all of the basic requirements for life and should be free of harmful contaminants.

**HYDRIC SOIL** Soil that is wet long enough to periodically produce anaerobic conditions, thereby influencing the biota.

**HYDROLOGICAL CYCLE** The continual cycling of water between the land, the sea, and the atmosphere through evaporation, condensation, precipitation, absorption into the soil, and stream runoff.

**HYDROPHYTE** Any plant growing in water or on a substrate that is at least periodically deficient in oxygen, during some part of the growing season, as a result of excessive water content.

**INTERTIDAL AREA** The area between high and low tide levels. The alternate wetting and drying of this area makes it a transition between land and water and creates special environmental conditions.

**MARINE** The open ocean and its associated high-energy coastline where ocean-derived salinities exceed 30 ppt with little or no dilution.

**MARSH** A wetland where the dominant vegetation is non-woody plants such as grasses and sedges, as opposed to a swamp where the dominant vegetation is woody plants like trees.

**MEAN ANNUAL FLOW** The average amount of water that flows past a given point in one year.

**MEAN HIGH WATER (MHW)** The average height (over many years) reached by the high tides.

**MIGRATION** Providing wintering grounds, stopover sites, or acclimatization to, or transition between, environments (as from fresh water to salt water).

**ORGANIC SOIL** A soil that consists primarily of plant and animal residue in various stages of decomposition.

**NUTRIENTS** Essential chemicals needed by plants or animals for growth. Excessive amounts of nutrients can lead to degradation of water quality by promoting excessive growth, accumulation, and subsequent decay of plants, espe-

cially algae. Some nutrients can be toxic at high concentrations.

**POLLUTANT** A contaminant that adversely alters the physical, chemical, or biological properties of the environment. The term includes pathogens, toxic metals, carcinogens, oxygen-demanding materials, and all other harmful substances. Particularly with reference to nonpoint sources, the term is sometimes used to apply to contaminants released in low concentrations from many activities which collectively degrade water quality. As defined in the federal Clean Water Act, pollutant means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

**PRIMARY PRODUCTION** The production of plant matter (plant tissues) from carbon dioxide and water through photosynthesis. By comparison, secondary production is the production of animal tissue. Different plant communities are often compared by measuring their rates of primary production.

**RCW** Revised Code of Washington, the compilation of the laws of the state of Washington published by the Statute Law Committee. For example, the law that created the Puget Sound Water Quality Authority is incorporated in the code as Chapter 90.70 RCW.

**REGULATORY FRAMEWORK** A particular set of laws, rules, procedures, and agencies designed to govern a particular type of activity or solve a particular problem.

**SEDIMENT** Material suspended in or settling to the bottom of a liquid, such as the sand and mud that make up much of the shorelines and bottom of water bodies.

**SHELLFISH** An aquatic animal, such as a mollusk (clams and snails) or crustacean (crabs and shrimp), having a shell or shell-like exoskeleton.

**SHORELINE DEVELOPMENT** As regulated by the Shoreline Management Act, the construction over water or within a shoreline zone (generally 200 feet landward of the water) of structures such as buildings, piers, bulkheads, and breakwaters, including environmental alterations such as dredging and filling, or any project which interferes with public navigational rights on the surface waters.

**SILTATION** The process by which a river, lake or other water body becomes clogged with sediment. Silt can clog gravel beds and prevent successful salmon spawning.

**STORMWATER** Water that is generated by rainfall and is often routed into drain systems in order to prevent flooding.

**SUBTIDAL** Below the ebb and flow of the tide. Used to refer to the marine environment below low tide.

**SUSPENDED SOLIDS** Organic or inorganic particles that are suspended in and carried by the water. The term includes sand, mud, and clay particles as well as solids in wastewater.

**SWAMP** A wetland where the dominant vegetation is composed of woody plants like trees, as opposed to a marsh where the dominant vegetation is non-woody plants like grasses.

**TOXIC** Poisonous, carcinogenic, or otherwise directly harmful to life.

**TOXIC SUBSTANCES AND TOXICANTS** Chemical substances, such as pesticides, plastics, detergents, chlorine, and industrial wastes that are poisonous, carcinogenic, or otherwise directly harmful to life.

**TURBIDITY** A measure of the amount of material suspended in the water. Increasing the turbidity of the water decreases the amount of light that penetrates the water column. High levels of turbidity are harmful to aquatic life.

**USFWS WETLAND DEFINITION** Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predomi-

nately hydrophytes; (2) the substrate is predominately undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

**WAC** Washington Administrative Code, which contains all state regulations adopted by state agencies through a rulemaking process. For example, Chapter 173-201 WAC contains water quality standards.

**WATERSHED** The geographic region within which water drains into a particular river, stream, or body of water.

**WATER TABLE** The upper surface of groundwater or the level below which the soil is saturated with water.

**WETLAND** An area having one or more of the following three attributes: (1) at least periodically that substrate is dominated by hydrophytes; (2) the substrate is predominantly hydric soil; (3) the substrate is nonsoil and is either saturated with or covered by shallow water at some time during the growing season. NOTE: Different wetland definitions are used in the various regulations described in this guidebook. Refer to each regulation for the specific wetland definition that applies.

**ZONING** To designate, by ordinances, areas of land reserved and regulated for different land uses.

## LIST OF ACRONYMS AND INITIALISMS

<b>CEQ</b>	<b>NMFS</b>
Council on Environmental Quality	National Marine Fisheries Service
<b>CFS</b>	<b>OHWM</b>
Cubic Feet per Second	Ordinary High Water Mark
<b>CWA</b>	<b>RCW</b>
Clean Water Act	Revised Code of Washington
<b>CZMA</b>	<b>SEPA</b>
Coastal Zone Management Act	State Environmental Policy Act
<b>DNS</b>	<b>SMA</b>
Determination of Non-Significance	Shoreline Management Act
<b>EA</b>	<b>SMP</b>
Environmental Assessment	Shoreline Master Program
<b>EIS</b>	<b>USDA</b>
Environmental Impact Statement	United States Department of Agriculture
<b>EPA</b>	<b>USFWS</b>
United States Environmental Protection Agency	United States Fish and Wildlife Service
<b>FONSI</b>	<b>WAC</b>
Finding of No Significant Impact	Washington Administrative Code
<b>HPA</b>	<b>WDF</b>
Hydraulic Project Approval	Washington Department of Fisheries
<b>NEPA</b>	<b>WDNR</b>
National Environmental Policy Act	Washington Department of Natural Resources
<b>NFIP</b>	<b>WDW</b>
National Flood Insurance Program	Washington Department of Wildlife

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## IMPLEMENTING AGENCIES

UNITED STATES ARMY  
CORPS OF ENGINEERS  
P.O. Box C-3755  
4735 E Marginal Way S.  
Seattle, WA 98109  
Regulatory Branch  
**(206) 764-3495**

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION X  
Attn: E.E.B.  
1200 6th Avenue, MIS WB-138  
Seattle, WA 98101  
Environmental Evaluation Branch  
**(206) 442-1412**

FISH AND WILDLIFE SERVICE  
UNITED STATES DEPARTMENT OF  
THE INTERIOR  
Ecological Services  
2625 Parkmont Lane S.W.  
Building B-3  
Olympia, WA 98502  
**(206) 753-9440**

NATIONAL MARINE FISHERIES SERVICE  
UNITED STATES DEPARTMENT  
OF COMMERCE,  
Environmental and Technical  
Services Division  
847 N.E. 19th Avenue, Suite 350  
Portland, OR 97232-2279  
**(503) 230-5421**

WASHINGTON STATE  
DEPARTMENT OF ECOLOGY  
Mail Stop PV-11  
Olympia, WA 98504  
**(206) 459-6000**

WASHINGTON STATE  
DEPARTMENT OF FISHERIES  
Habitat Management Division  
115 General Administration Building  
Olympia, WA 98507  
**(206) 753-6650**

WASHINGTON STATE  
DEPARTMENT OF WILDLIFE  
Habitat Management Division  
600 North Capitol Way  
Olympia, WA 98507  
**(206) 753-5897**

WASHINGTON STATE  
DEPARTMENT OF NATURAL RESOURCES  
Forest Regulations and Assistance Division  
120 East Union  
Mail Stop EK-12  
Olympia, Washington  
**(206) 753-5315**

Note: Local contacts provided by the  
Department of Ecology

