Washington State Department of Ecology's Wetland Regulations

Presented by

Julie Fox and Jakob Rowny

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State Regulations for Non-Federally Regulated Wetlands

- Water Pollution Control Act (RCW 90.48, WAC 173-201A)
- Shoreline Management Act (RCW 90.58) and Shoreline Master Programs (SMPs)

https://ecology.wa.gov/water-shorelines/wetlands/regulations/state-wetland-regulations

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State Environmental Policy Act (SEPA) (RCW 43.21C)

- SEPA Environmental Review
- SEPA Checklist

SEPA[1] Environmental Checklist

Purpose of checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

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Joint Aquatic Resource Permit Application (JARPA)

WASHINGTON STATE
Joint Aquatic Resources Permit Application (JARPA) Form[1,2] [help]
USE BLACK OR BLUE INK TO ENTER ANSWERS IN THE WHITE SPACES BELOW.

US Army Corps of Engineers
Seattle District

AGENCY USE ONLY
Date received:
Agency reference #: _____
Tax Parcel #(s): _____

Part 1–Project Identification

1. Project Name (A name for your project that you create. Examples: Smith's Dock or Seabrook Lane Development) [help]

Part 2–Applicant

The person and/or organization responsible for the project. [help]

2a. Name (Last, First, Middle)			
2b. Organization (If applicable)			
2c. Mailing Address (Street or PO Box)			
2d. City, State, Zip			
2e. Phone (1)	**2f.** Phone (2)	**2g.** Fax	**2h.** E-mail

- Administrative Order to comply with Water Pollution Control Act
- Shoreline Management Permits
- Hydraulic Project Approvals (HPA)

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Local Approach to Wetland Protection and Regulation

- State Growth Management Act (GMA) (RCW 36.70A)
- Critical Areas Ordinance (CAO)
- State code defines five types of critical areas:
  - Wetlands
  - Aquifer recharge areas for potable water
  - Frequently flooded areas
  - Geologically hazardous areas
  - Fish and wildlife habitat conservation areas

Wetland Guidance for Critical Areas Ordinance (CAO) Updates

Western and Eastern Washington

Shorelands and Environmental Assistance Program

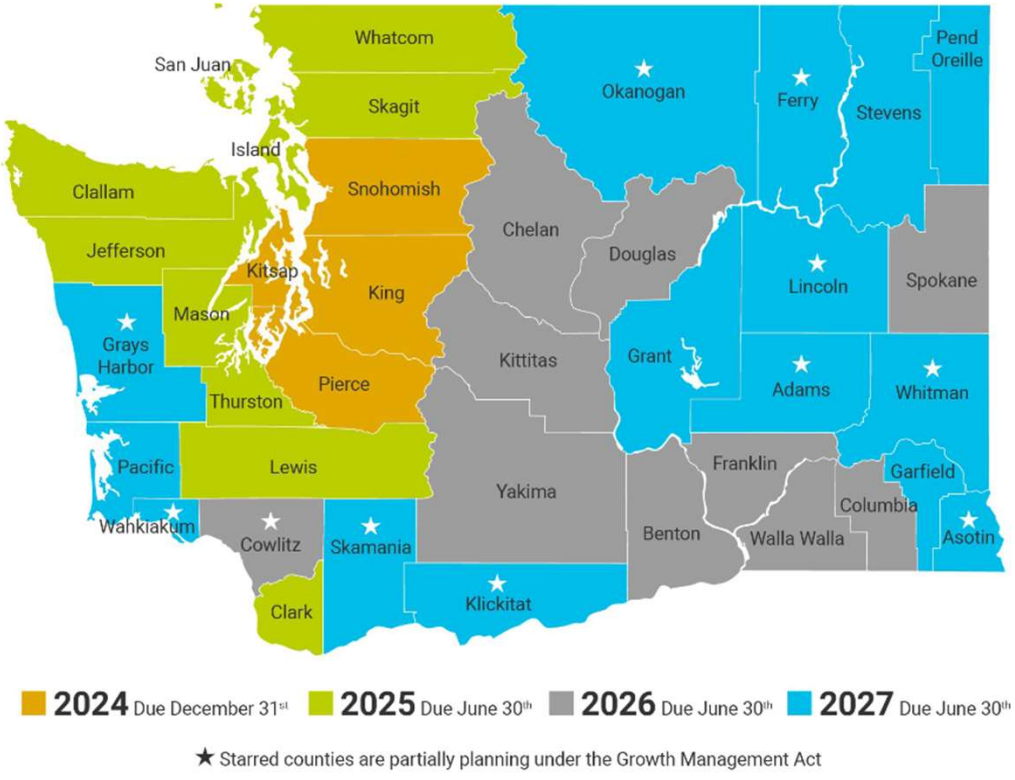
Washington State Department of Ecology

Olympia, Washington

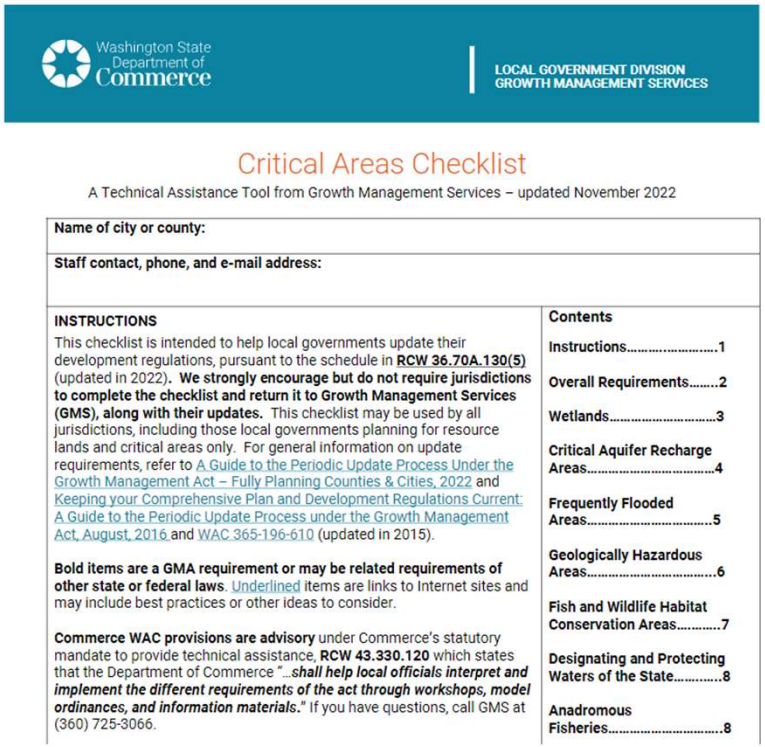
October 2022, Publication #22-06-014

County and City Comprehensive Land-use Plans

- GMA Update Schedule Map



- Critical Areas Checklist



Washington State Department of Commerce | LOCAL GOVERNMENT DIVISION GROWTH MANAGEMENT SERVICES

Critical Areas Checklist

A Technical Assistance Tool from Growth Management Services – updated November 2022

Name of city or county:

Staff contact, phone, and e-mail address:

INSTRUCTIONS

This checklist is intended to help local governments update their development regulations, pursuant to the schedule in **RCW 36.70A.130(5)** (updated in 2022). **We strongly encourage but do not require jurisdictions to complete the checklist and return it to Growth Management Services (GMS), along with their updates.** This checklist may be used by all jurisdictions, including those local governments planning for resource lands and critical areas only. For general information on update requirements, refer to A Guide to the Periodic Update Process Under the Growth Management Act – Fully Planning Counties & Cities, 2022 and Keeping your Comprehensive Plan and Development Regulations Current: A Guide to the Periodic Update Process under the Growth Management Act, August, 2016 and WAC 365-196-610 (updated in 2015).

Bold items are a GMA requirement or may be related requirements of other state or federal laws. Underlined items are links to Internet sites and may include best practices or other ideas to consider.

Commerce WAC provisions are advisory under Commerce's statutory mandate to provide technical assistance, **RCW 43.330.120** which states that the Department of Commerce "***...shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials.***" If you have questions, call GMS at (360) 725-3066.

Contents

Instructions.....1

Overall Requirements.....2

Wetlands.....3

Critical Aquifer Recharge Areas.....4

Frequently Flooded Areas.....5

Geologically Hazardous Areas.....6

Fish and Wildlife Habitat Conservation Areas.....7

Designating and Protecting Waters of the State.....8

Anadromous Fisheries.....8

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Ecology Contacts by Subject and Region

https://ecology.wa.gov/Water-Shorelines/Wetlands/Tools-resources/Contacts-by-subject-region

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The Regulatory Gap

Future Department of Ecology Regulation of Wetlands Losing Federal Protections

Sackett v. Environmental Protection Agency

On May 25, 2023, the Supreme Court ruled that the Clean Water Act extends only to:

"those wetlands with a continuous surface connection to bodies that are 'waters of the United States' in their own right, so that they are 'indistinguishable' from those waters."

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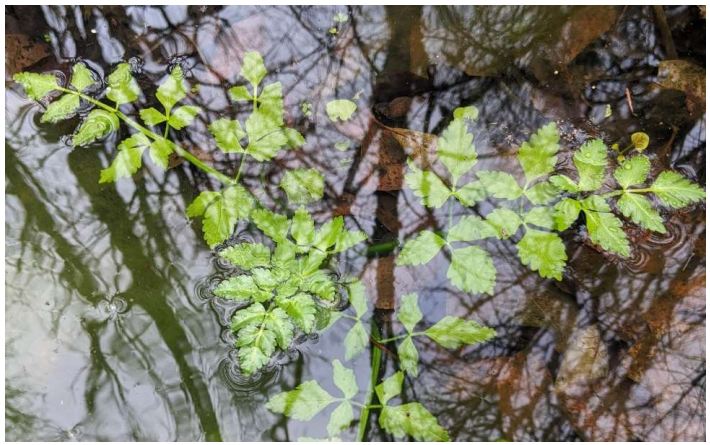
Wetlands Losing CWA Protections

Depressional wetlands: naturally formed, low lying areas that encounter groundwater or collect enough runoff and precipitation during the growing season to support hydrophytic vegetation communities, and have no continuous surface connection to other waters of the U.S.

WA: more than 50% of wetlands affected



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The Problem: Administrative Orders

Before *Sackett*, Ecology issued very few Administrative Orders per year

After *Sackett*, Ecology anticipates 50-100 Administrative Orders per year

- Time consuming
- Inefficient
- Expensive
- Opaque

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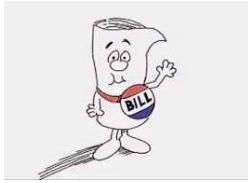
The Solution: Proposed Ecology Dredge Fill Permit Program

Ecology has provided a Bill Request to Gov. Inslee's office to establish a new Dredge Fill Permit to establish a streamlined state review process and fee schedule

Plans include general permits for common project types such as restoration projects, culvert replacement, and maintenance.

Timeline:

- **Immediate** (FYs 2025-2027): Increased hiring to support anticipated increase in Administrative Orders
- **Long-term** (FYs 2025-2028): Development of Dredge Fill Permit Program to be implemented in FY 2028



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What questions do you have?