

ENVIRONMENTAL PERMIT STREAMLINING
MULTI-AGENCY TRANSITION NOTEBOOK

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Agencies Involved Department of Ecology, Department of Fish and Wildlife, Department of Community, Trade, and Economic Development, Department of Transportation

Overview Environmental permitting is an area that cuts across government agencies and levels, involving federal, state and local governments and impacting nearly every activity in the state. The protection and preservation that permitting provides is vital to maintaining Washington's quality of life. The environmental permitting process is also seen as a hindrance to Washington's economic prosperity, and is frequently blamed for any business expansion that fails to go forward. Over the last ten years, numerous efforts have been made to "streamline" or simplify permitting, and this has been a major legislative battleground for years.

Regulatory agencies have made significant strides in documenting and improving their own permit processing. Local governments have revised and improved their permitting processes. State and Local agencies have tried to put themselves into the applicant's shoes by reviewing and critiquing their systems and performance. Feedback from customer surveys and stakeholder reviews has been used to view the process from the outside. This customer perspective has been essential to improving permitting.

Business and economic development leaders want predictability and consistency on the part of government, while still allowing flexibility in how the requirements are met.

Recent improvement efforts focus on multi-agency coordination and integration. Applicants want to deal with a consistent, identifiable governmental contact or interface, and do not want to have to understand the different responsibilities and authorities of governmental entities. It is in this area of integration of permitting between agencies and levels of government where the most progress can be made to improve the system and where the Governor can have the greatest impact.

By bringing together the different agencies, and encouraging multi-jurisdictional efforts, the Governor can lead the implementation of significant improvement in the environmental permitting system without sacrificing environmental quality. To be successful, efforts to improve the permitting system need to continue to focus on:

- Integration between agencies and levels of government;
- Consistency and compatibility of requirements between agencies;
- Flexibility in meeting requirements and a focus on common-sense outcomes; and,
- Responsiveness to feedback and changing requirements to foster continuous improvement.

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This document outlines the major environmental permit streamlining efforts currently underway. These fall into two, inter-related categories: gathering and reviewing information and feedback, and finding and implementing solutions. It also identifies some areas where the Governor's leadership and vision can lead to enhanced results in cooperation and integration. Individual agency efforts are described in the agency transition materials and are not covered in this document.

Gathering Information and Reviewing Feedback

TPEAC

Transportation Permit Efficiency and Accountability Committee (TPEAC)
The transportation crisis in Washington has led to numerous efforts to streamline transportation permitting, particularly for major projects. TPEAC, created by the legislature in 2001, has led to several significant permitting improvements. TPEAC provides funding for staff support in the state agencies (Ecology, Fish & Wildlife, Natural Resources, Community, Trade and Economic Development), local agencies, tribes, and federal agencies. This funding has been crucial in the development of several significant efforts, including the development of programmatic permits for commonly performed activities, such as bridge washing/painting, culvert maintenance or replacement, and fish way maintenance. It also has a subcommittee working on watershed-based mitigation for transportation projects. The Multi-Agency Permit Team (MAP), described in more detail below, was developed partly under the auspices of TPEAC. TPEAC is scheduled to sunset in March of 2006. It is expected that TPEAC will not be reauthorized, but that there will be budget items to continue and institutionalize the work that TPEAC began.

Joint Task Force

Joint Select Legislative Task Force on Permitting
The Joint Select Legislative Task Force on Permitting was created by SSCR 8418 in 2004 to develop permitting recommendations for the “buildable lands” counties and cities with at least 50,000 residents. The task force consists of the chair and ranking minority member of the Senate Land Use and Planning Committee, and the chair and ranking minority member of the House Local Government Committee, and the Governor to form a “five corners” task force. The legislation also established a large advisory committee made up of representatives of the state agencies, including ecology, community, trade and economic development, and regulatory assistance; the local government associations; trade associations; business and building communities; environmental representatives; agricultural representatives; labor representatives; property rights organizations; and the tribes. The task force has had two meetings thus far and has not reached consensus as to how it should be run or what it should try to accomplish. During the September meeting of this task force, it decided to focus on areas of potential overlap in permit regulations with particular attention to the interaction between the Shoreline Management Act, Growth Management Act, and Hydraulic Project Approvals. Thus far the task force has assembled a list of the issues identified by the advisory members; the prime focus is “redundancy” in the permitting system. The task force is to submit its recommendations to the legislature by January 1, 2006.

Current Task Force Members:

Senator Joyce Muliken, Chair
Senator Tim Sheldon
Senator Jean Berkey, Prime Sponsor
Representative Dave Uptegrove
Representative Lynn Schindler
Ron Shultz, Governor’s Executive Policy Office

JLARC Study

JLARC Study

The Joint Legislative Audit and Review Committee has been asked to provide a study of transportation project environmental permitting. It has contracted the study to a third party; the work is scheduled to be completed by January 2005. The study will review prior environmental permitting studies, current coordination and streamlining efforts in Washington as well as a sample of other states and the federal level. It is expected that this study might lead to future performance audits and perhaps legislation.

Gang of 7

Multi-State Environmental Director's Group (Gang of 7)

Environmental agency directors and ministers in Washington, Oregon, Idaho, Alaska, British Columbia and the U.S. Environmental Protection Agency and Environment Canada have an established process and forum for sharing and taking action on key environmental priorities of the Pacific Northwest Region. The seven environmental directors and ministers have been meeting approximately twice per year since 1997. Their primary objective is to share information on best practices and collaborate on significant issues of strategic regional interest in the management of air, land and water. Current issues of strategic interest are innovation in compliance and permit streamlining, sharing information technology advances, collaborating with agricultural agencies, and reducing diesel emissions, global warming and greenhouse gasses.

Finding and Implementing Solutions

ORA

Office of Regulatory Assistance (ORA)

ORA provides a “front door” where people can find environmental permit information on permits required in Washington, as well as providing facilitation to permit applicants for projects requiring permits from multiple agencies. ORA is part of the Office of Financial Management, while its director is part of the Governor’s Executive Policy Office. OFM, on behalf of ORA, contracts with the Department of Ecology to provide staff and resources to provide most of the permit assistance function. That includes the Permit Assistance Center, with a help-desk, call center, web assistance, and regional permit assistance specialists who provide facilitation and permit coordination services for multi-agency and multi-jurisdictional permit teams. The specialists are currently handling between 40 – 45 “big” projects in some stage of the permitting process.

The staff represents ORA but are employees of the Department of Ecology. The ORA budget is approximately \$1,000,000 for FY 03-05; for FY 05-07 an additional \$442,000 has been requested. Part of that request is to fully fund the IT position to support the on-line permit system, described more fully below, as well as other planned systems to provide information to the public on regulatory requirements. The bulk of the request is to add one FTE to the call center/help desk in Lacey, and one FTE permit assistance specialist, to work on major projects not tied to a specific region (i.e., multi-jurisdictional projects such as the Williams Natural Gas Pipeline Capacity Expansion project, which crosses multiple jurisdictions in Washington).

ORA negotiates with other permit agencies to establish ORA leads in each agency. ORA staff frequently facilitates permitting teams when working on projects requiring environmental permits from multiple agencies.

ORA currently has signed Memoranda of Understanding with the Departments of Ecology and Natural Resources to provide permitting assistance, permit tracking, and benchmarking of permit processes. ORA has an agreement with the Department Fish and Wildlife to provide permit assistance as part of its facilitation services.

Map Team

Multi-Agency Permit Team (MAP Team)

The Multi-Agency Permit Team is a multi-agency, multi-jurisdictional team doing the environmental permitting for the “nickel” projects in the Northwest Region. This is a project to improve the timeliness and effectiveness of the permitting process, including improving the environmental outcomes. It is a joint effort of the Departments of Ecology, Fish and Wildlife, Transportation, and includes King County and the Army Corps of Engineers. Representatives of each agency are physically co-located in Ecology’s Bellevue office, and they work together to streamline the permitting for transportation projects in the Northwest Region. They hold early coordination meetings with the DOT teams in charge of each transportation project to cover project issues, problems, and proposed solutions. After this meeting, generally the MAP Team provides the DOT project team with a letter acknowledging the

permitting scope, a project-specific permit complete application checklist, and a list of requirements so that the permits can be issued in time to accommodate the Project Advertisement Date. Once the application is submitted, the MAP team reviews the application; if insufficient information has been provided, the team members will explain what information is necessary to process the necessary permits. Once all that information has been received, the permit process begins, including the necessary public notices. The individual permits and issuing agencies may require additional information or submittals; the agencies will individually render permit decisions.

This MAP team concept has been extremely successful. Thus far all the Northwest Projects submitted to it have gotten their permits in time to meet their scheduled advertisement dates.

On-Line Permits

On-Line Permit Applications

ORA is co-sponsoring a pilot project to help streamline the environmental permitting process by developing an on-line permit information and application system. Partners include the Washington Departments of Ecology, Fish and Wildlife, Transportation, the MAP team, the US Army Corps of Engineers, and King County's Department of Development and Environmental Services. Agencies have already provided staff time and dollars where possible. Part of this project is the implementation of the "Integrated Permit System" authorized in Chapter 245, Laws of 2003 (2SSB 5694).

Phase I is being implemented to provide an on-line guidance system that will help permit applicants fill out the Joint Aquatic Resource Permit Application (JARPA) form. The guidance provides more detailed information on what is required by the agencies, as well as "good" examples of specific applications. This is currently being tested with DOT's Northwest Office, and the "good" examples are being added to the system now.

Phase II, scheduled to begin November 2004, will combine the on-line guidance system with an on-line application and submittal system, moving toward an integrated multi-agency permit application and review system. Once submitted, an "application available" notice would be electronically forwarded to each of the permitting agencies. The applicant will be able to check on the status of the application; application information will be stored on a secure server so that changes can be easily shared between agencies and the applicant. While Phase II is in development, the guidance developed in Phase I will be rolled out to all of DOT and more "good" examples will continue to be added. The intent is to make this system compatible with current agency tracking and data systems, so that information can be transferred from this system to agency proprietary systems.

Phase III, should Phases I and II be successfully completed and funding be secured, would involve broadening the scope of the on-line system beyond DOT projects. This would probably initially be limited to "mega-projects" and such other high volume users of JARPA as ports, large commercial developments, pipelines, utilities, and public works departments. Ultimately the intent is to build a system that would be accessible and user-friendly for

smaller projects as well as sophisticated enough for mega-projects. In this phase (or potentially in Phase IV), the system would also be able to interact with agency proprietary systems in such a way that data could be compiled between the systems, so that, for example, an authorized user could track all the activities in a particular area. Funding has not been obtained for Phase III. The cost is estimated to be in the \$400-500,000 range.

Subsequent phases will involve making the appropriate parts of this guidance, permitting, information sharing, and tracking system accessible to the public at large. After that, the system would be expanded to include other kinds of permits.

*King County
Harmonization*

King County Harmonization Efforts

This year, two agreements were signed between King County and state and federal agencies to enhance permitting efforts in the county. The first agreement between King County and Department of Fish and Wildlife establishes inter-agency cooperation on Hydraulic Project Approvals (HPA permits), which are required for developments altering the bed or flow of a river or stream. This agreement includes co-location of Fish & Wildlife staff at the King County offices, cross-training, shared databases, and standardized best management practices.

The second agreement includes signatures from King County, Department of Ecology, and the Office of Regulatory Assistance and the Corps. The agreement covers projects requiring certification under the Federal Clean Water Act and generally falls into the category of large site disturbances with water runoff issues. King County has agreed to use the JARPA form, to notify applicants which King County requirements satisfy state requirements, and standardize, as much as possible, the King County and state requirements.

ORA intends to use these agreements as models for greater coordination with other counties, focusing initially with those counties that have the greatest amount of permitting activity.

*DOE/EPA
Memorandum of
Agreement*

Ecology/Environmental Protection Agency Memorandum of Agreement

In May 2004, the Department of Ecology and the US Environmental Protection Agency (EPA) signed a "memorandum of agreement" that Ecology and the EPA would work together to increase the efficiency and effectiveness of the "National Environmental Performance Track" program by working with facilities to identify ways to streamline and facilitate the application for, and evaluation into, the Performance Track Program, to develop incentives to reduce program members burdens, such as reduced reporting requirements and expedited permitting, where feasible. Performance Track is a federal program that rewards facilities that exceed environmental regulatory requirements, going beyond the bare minimums to reduce and prevent pollution. The Memorandum of Agreement recognizes the ability to achieve better environmental and regulatory results by working together with facilities to "encourage organizations to commit to practices that yield results beyond compliance and ensure the higher level of environmental protection" sought by agencies and the public.

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Hydraulic Project Approvals

Integrating Hydraulic Project Approvals

Any project that will use, divert, obstruct or change the natural flow or bed of any river or stream or utilize any waters of the state must obtain approval from the Department of Fish & Wildlife (DFW). This approval, called a hydraulic project approval, is a stand-alone permit with a 45-day decision timeline. Recent efforts at DFW have developed “programmatic” or “pamphlet” permits for routine, minor, low-to-no impact activities. DFW is part of the MAP team, a member of TPEAC, and has also agreed to be part of the Office of Regulatory Assistance permit coordinated approach. On a local level, DFW has signed an agreement with King County to co-locate staff and share information to improve coordination at the local level.

Work with Counties

Work with Counties

Some of the most contentious issues in permitting revolve around land use. The legislature has tried several options to improve this. The Department of Community, Trade and Economic Development (CTED) has been tasked to provide technical assistance and guidance to counties in working with the Growth Management Act. (GMA) In the mid-1990s CTED was given \$3 million to provide grants for local integration of environmental review under the State Environmental Policy Act and land use planning under GMA. This “Planning and Environment Review Fund” (PERF) was used to fund the environmental review and planned action ordinance of approximately 4,000 acres of industrially zoned land for the Southwest Everett/Paine Field subarea plan. Projects approved as planned actions under the previous planning include manufacturing facilities for Solectron and King Extrusions, a biotechnology research facility, a distribution facility for Food Services of America, and was a major selling point in winning Boeing’s final assembly of the 7E7 in Everett. CTED has submitted a budget request to fund the PERF at \$3million for the 05-07 biennium.

In 2003 the legislature provided a way for counties to site a major industrial development outside urban growth areas if certain specific requirements are met. The intent of this was to allow siting for industries when suitable industrial land within the existing growth areas cannot be found. Numerous protections are required before the development can be approved, including buffers, environmental protection and transit planning. The first attempt to use this process is currently underway. Cardinal FG Company has selected a site in rural Lewis County to site a new 600,000 square foot glass manufacturing facility. CTED has been extensively and intensely involved in working with the county, the company, and state officials regarding land use, permitting, and infrastructure requirements. The Lewis County Board of County Commissioners unanimously voted to change the zoning to allow the facility. The project is now in the permitting and pre-construction phase, with construction planned to begin in spring 2005. Appeals are likely, which may delay the construction. CTED is working on “lessons learned” and guidance for future projects of this type.

*Additional
Areas of Focus*

Additional Areas for Continued Focus

Washington needs to continue to emphasize integration and streamlining efforts between as well as within state, local, and federal permitting agencies.

To ensure that the progress made to date on process improvements is not lost, performance tracking within agencies must continue. Agencies must be encouraged to investigate best practices in other places and to import what lessons can be transferred.

In addition, significant efforts should be made to incorporate local jurisdictions and tribes into permit streamlining efforts, by providing technical assistance and funding where available and appropriate.

Washington should investigate using more flexible regulatory methods. Some studies have shown promising results by implementing performance-based standards in the environmental area. Performance-based standards can lead to more cost-effective and innovative ways to avoid or minimize environmental impacts.

Washington has a strong culture of public participation in government and community decision-making, but public and interest group participation can significantly complicate and lengthen permitting processes. Although some attempts have been made to consolidate the appeals and public input process, much more attention must be directed to finding ways to improve this part of the process.