



# Focus

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## WASHINGTON'S COASTAL ZONE MANAGEMENT PROGRAM - FEDERAL CONSISTENCY

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### **The Washington Coastal Zone Management Program**

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Congress passed the federal Coastal Zone Management Act in 1972 to encourage the appropriate development and protection of the nation's coastal and shoreline resources. The Coastal Zone Management Act gives states the primary role in managing these areas. To assume this role, the state prepares a Coastal Zone Management Program (CZMP) document that describes the State's coastal resources and how these resources are managed. Washington was the first state to receive federal approval of a Coastal Zone Management Program in 1976. The Department of Ecology's Shorelands and Environmental Assistance Program is responsible for implementing Washington's Program.

### **Applicability of the Program**

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Washington's Program defines the State's coastal zone to include the 15 counties with marine shorelines: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom counties. The CZMP applies to activities within the 15 counties as well as activities outside these counties, which may impact Washington's coastal resources. Most, but not all, activities and development outside the coastal zone are presumed to NOT impact coastal resources.

### **Federal Consistency**

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Under Washington's Program, federal activities that affect any land use, water use or natural resource of the coastal zone must comply with the enforceable policies within the six laws identified in the Program document. The six laws are:

- ❖ the Shoreline Management Act (including local government shoreline master programs)
- ❖ the State Environmental Policy Act (SEPA)
- ❖ the Clean Water Act
- ❖ the Clean Air Act
- ❖ the Energy Facility Site Evaluation Council (EFSEC)
- ❖ the Ocean Resource Management Act (ORMA)

Activities and development affecting coastal resources which involve the federal government are evaluated through a process called "federal consistency". This process allows the public, local governments, Tribes, and state agencies an opportunity to review Federal actions likely to affect Washington's coastal resources or uses. There are three categories of activities, which trigger a federal consistency review: 1) activities undertaken by a Federal agency, 2) activities which require Federal approval and 3) activities which use federal funding. If a project falls into one of these categories AND is either in the coastal zone or it impacts coastal uses or resources, then the federal consistency process is triggered. Each of the categories has different federal consistency requirements; therefore each category is discussed separately below.

### **Activities Undertaken by a Federal Agency**

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A federal activity is any development or function performed by or for a federal agency. Examples include adopting a management plan for a wildlife sanctuary, constructing nearshore facilities and dredging new channels. The federal agency determines if coastal effects are reasonably foreseeable.

In these cases, the Federal agency reviews the activity for consistency with the six laws and prepares a "federal consistency determination". The determination describes the activity and whether the activity impacts coastal resources. If the activity impacts coastal resources, a statement must be provided that the activity is consistent to the maximum extent practicable with the enforceable policies in the six laws. Ecology has up to 60 days to concur with or object to, in writing, with the determination.

### **Activities which Require Federal Approval**

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A federal approval is any authorization, certification, approval, license, permit or other form of permission which any federal agency is empowered to issue to an applicant. Examples include U. S. Army Corps of Engineers Section 404 and Section 10 permits. A federal agency cannot provide approval unless Ecology concurs that the project is consistent with the Coastal Zone Management Program. Unlike activities undertaken by federal agencies, activities requiring federal approval must be fully consistent, with the six laws.

In these cases, the applicant for federal approval reviews the activity for compliance with the six laws and prepares a "federal consistency certification". The certification describes the activity and whether the activity impacts coastal resources. If the activity impacts coastal resources, a statement must be provided that the activity is consistent with the six laws. In the case of Corps permits, the applicant forwards their certification to the Corps, who then forwards it to Ecology. For all other federal permits, the applicant submits their certification directly to Ecology. Ecology has six months from the receipt of the certification to approve or deny it. If Ecology does not act within the six months, the activity is approved and presumed consistent.

### **Activities Which Use Federal Funding**

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Federal grant or loan applicants who seek funding for all or part of an activity that affects the coastal zone must meet federal consistency requirements. Federal agencies cannot approve grants or loans for activities, which are inconsistent with the Coastal Zone Management Program.

In these cases, the applicant for federal funding reviews the activity for consistency with the six laws and prepares a "federal consistency certification". The certification describes the activity and whether the activity impacts coastal resources. If the activity impacts coastal resources, a statement must be provided that the activity is consistent with the six laws. The applicant submits their certification to Ecology. Ecology has six months from the receipt of the certification to approve or deny it. If Ecology does not act within the six month, the activity is approved and presumed consistent. The applicant then provides the federal funding agency with Ecology's decision.

### **Public Involvement**

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Public involvement provisions for shoreline permits and some Corps permits are provided independently of the consistency process and are deemed adequate for purposes of consistency. For projects not required to provide a public involvement process through shoreline or Corps permits, or for large, complex and controversial projects, Ecology has developed a separate public involvement process. This involves public notice, a 21-day public comment period, and potentially a public meeting or hearing. Notification is sent to interested parties based on the development of general and project-specific mailing lists.

### **For more information**

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For more information, review Ecology's Federal Consistency Procedures document call/write the Federal Consistency Coordinator, Shorelands and Environmental Assistance Program, Department of Ecology, PO Box 47600, Olympia, Washington 98504. Telephone (360) 407-6068.

If you require this document in alternative format, please contact (360) 407-6068 (Voice) or 711 or 1-800-833-6388 (TTY).