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Appendix A - Information Contacts

Please contact the following persons for more information on specific aspects of Washington's Coastal Zone Management Program and the program's enforceable policies. Copies of the authorities and enforceable policies are also available from the Federal Consistency Coordinator.

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Ocean Resources Management Act
Outer Continental Shelf (OCS) Policy Coordinator and
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Northwest Straits Marine Conservation Initiative

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Section 404/Section 10 Permits and Section 404 Nationwide Permits

US Army Corps of Engineers

Seattle District

Regulatory Branch

PO Box 3755

Seattle, WA 98142-2255

(206) 764-3495 telephone

or

US Army Corps of Engineers

Portland District

Regulatory Branch

PO Box 2946

Portland, OR 97208-2946

Washington Clean Air Act

Myron Saikewicz

Air Quality Program

Washington Department of Ecology

PO Box 47600

Olympia, WA 98504-7600

(360) 407-6823

Washington State Energy Facility Site Evaluation Council
Energy Facility Site Evaluation Council
Washington State Energy Office
PO Box 43165
Olympia, WA 98504-3165
(360) 956-2150

Puget Sound Water Quality Plan
Puget Sound Water Quality Authority
PO Box 40900
Olympia, WA 98504-0900
(360) 407-7300

Stormwater Management Manual for the Puget Sound Basin
Water Quality Program
Washington Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
(360) 407-6614

US Coast Guard Permits:
(Bridges and Causeways over Navigable Waters; Deepwater Port Permits;
Anchorage and Layup Nominations)
Commander, 13th Coast Guard District
Aides to Navigation and Waterways
Management Branch
Attention: **John Mikesell**
915 Second Avenue
Seattle, WA 98174-1067
(206) 220-7270

U.S. Army Corps of Engineers
(Rivers and Harbors Act, Clean Water Act)
Regulatory
Attn: County in which proposed project is located
P.O. Box 3755
Seattle, WA 98124
(206) 764-3495

Appendix B - **Glossary**

Accretion: The accumulation of (beach) sediment, deposited by natural fluid flow processes.

Agree: Ecology’s decision that a “federal activity” is “consistent to the maximum extent practicable” with the federally approved Washington State Coastal Zone Management Program.

Air Pollution Control Authority (APCA): A multi-county special purpose local government which administers federal and state air pollution control laws and regulations within the jurisdictions it covers.

Ambient Air Quality: Ambient air means the surrounding outside air. WAC 173-403-030(7). Ambient air quality is the level of cleanliness in the surrounding outside air throughout a community.

Applicant: See the definition of “federal license or permit” below.

Applicant Agency: See the definition of “federal assistance” below.

Authorities: The constitutional provisions, laws, and other legally enforceable documents that contain or authorize the development of the enforceable policies Washington uses to manage the coastal zone. The Washington State Coastal Zone Management Program includes the following program specific authorities: the Shoreline Management Act, the Washington State Environmental Policy Act (SEPA), the Ocean Resources Management Act, the Clean Water Act, the Clean Air Act, and the Washington State Energy Facility Site Evaluation Council (EFSEC) law.

Beach: (1) A deposit of non-cohesive material (e.g. sand, gravel) situated on the interface between dry land and the SEA (or other large expanse of water) and actively “worked” by present-day hydrodynamics processes (i.e. waves, tides and currents) and sometimes by winds. (2) The zone of unconsolidated material that extends landward from the low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation. The seaward limit of a beach low water line. a beach includes foreshore and backshore. (3) (SMP) The zone of unconsolidated material that is moved by waves, wind and tidal currents, extending landward to the coastline.

Certification (or Consistency Certification): A statement submitted by an application for a federal license, permit, grant, loan or Outer Continental Shelf (OCS) plan stating that the proposal is consistent with the Washington State Coastal Zone Management Program. Certifications may need to be accompanied by supporting information. Please see Appendix E for details.

Coast Line: The line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters. Source: The Submerged Lands Act, 43 U.S.C. § 1301(c) (1982).

Coastal zone: The land-sea-air interface zone around continents and islands extending from the landward edge of a barrier beach or shoreline of coastal bay

to the outer extent of the continental shelf.

Coastal Zone Counties: Washington's 15 coastal zone counties are: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom counties.

Coastal Zone (CZ): Washington's Coastal Zone is composed of (1) the 15 coastal and (2) all lands and waters from the coast line seaward for three geographical miles.

Coastal Zone Management Act (CZMA): The Coastal Zone Management Act of 1972, as amended. 16 U.S.C. § 1451 et seq.

Coastal Zone Management Program (CZMP): The federally approved Washington State Coastal Zone Management Program.

Concurrence: Ecology's decision that a proposed federal license, permit, grant, loan, or Outer Continental Shelf (OCS) plan and any activities that will be undertaken as a result of such approval are consistent with the federally Washington State Coastal Zone Management Program.

Consistency Determination (or Determination): A federal agency's written conclusion that a "federal activity" is consistent to the maximum extent practicable with the Washington State Coastal Zone Management Program.

Consistent: To be consistent, an applicant proposing an activity, use, development, or project must (i) comply with all applicable enforceable policies of the federally approved Washington State Coastal Zone Management Plan, (ii) obtain all required permits, licenses and approvals, (iii) pay any required fees and post any required bond, insurance, or evidence of financial responsibility, and (iv) give adequate consideration to any advisory policies.

Consistent to the Maximum Extent Practicable: The term "consistent to the maximum extent practicable" describes the requirement that "federal activities," including development projects, within or outside the coastal zone that affect any land use, water use, or natural resource of the Washington Coastal Zone be fully consistent with the federally approved Washington State Coastal Zone Management Program unless compliance is prohibited based upon the requirements of existing law applicable to the federal agencies' operations. Source: Coastal Zone Management Regulations, 15 CFR § 930.32(a).

Disagree: Ecology's decision that a "federal activity" is not "consistent to the maximum extent practicable" with the Washington State Coastal Zone Management Plan.

Ecology: The State of Washington Department of Ecology.

Enforceable Policies: State policies which are legally binding and enforceable through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a state exerts control over private and public land and water uses and natural resources of the coastal zone. Source: The Coastal Zone Management Act, 16 U.S.C. § 1453(6a).

Erosion: Wearing away of the land by natural forces. On a beach, the carrying away of beach material by wave action, tidal currents or by deflation. (2) (SMP) The wearing away of land by the action of natural forces.

Estuary: (1) A semi-enclosed coastal body of water which has a free connection with the open sea. The seawater is usually measurably diluted with freshwater. (2) The part of the river that is affected by tides. (3) (SMP) The zone or area of water in which freshwater and saltwater mingle and water is usually brackish due to daily mixing and layering of fresh and salt water.

Excluded Federal Lands: Land or water areas which are not a part of the coastal zone because the federal government owns, leases, holds in trust or otherwise has sole discretion to determine their use.

Federal Activity: Any functions performed by or on behalf of a federal agency in the exercise of its statutory responsibilities. The term “federal activity” excludes issuing a federal license or permit (see 15 CFR §§ 930.50-930.66 or their successors), granting federal assistance to an applicant agency (see 15 CFR §§ 930.90-930.100 or their successors) or leasing activities for Outer Continental Shelf oil and gas under 16 U.S.C. § 1456(c)(3)(b) (see 15 CFR §§ 930.70-930.86 or their successors). Source: 15 CFR §§ 930.31 and 930.33(b)(2).

Federal Assistance: Assistance provided under a federal program to an applicant agency through grant or contractual arrangements, loans, subsidies, guarantees, insurance, or other form of financial aid. An applicant agency is any unit of state or local government, including special districts. Source: 15 CFR §§ 930.91-930.92.

Federal Development Project: A “federal activity” involving the planning, construction, modification, or removal of public works, facilities, or other structures, and the acquisition, utilization, or disposal of land or water resources. Source: 15 CFR § 930.31(b).

Federal License or Permit: Any authorization, certification, approval, or other form of permission which any federal agency is empowered to issue to an applicant. The term also includes the following types of renewals and major amendments which affect any land use, water use, or natural resource of the coastal zone: (i) Renewals and major amendments of federal licenses and permits not previously reviewed by the state agency; (ii) Renewals and major amendments of federal licenses and permits previously reviewed by the state agency which are filed after and are subject to management program amendments not in existence at the time of the original state agency review; (iii) renewals and major amendments of federal licenses and permits previously reviewed by the state agency which will cause coastal zone effects substantially different than those originally reviewed by the state agency. **Source: 15 CFR § 930.51.** For purposes of federal licenses and permits, the term “applicant” means any individual, public or private corporation, partnership, association, or other entity organized or existing under the laws of any state, or any state,

regional, or local government, who files an application for a federal license or permit to conduct an activity affecting the coastal zone. 15 CFR § 930.52. As provided by 15 CFR § 930.52, the term applicant does not include a federal agency applying for a federal license or permit.

Floodway: Those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can be reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

Jetty: (1) On open seacoasts, a structure extending into a body of water to direct and confine the STREAM or tidal flow to a selected channel, or to prevent shoaling. Jetties are built at the mouth of a river or entrance to a bay to help deepen and stabilize a channel and facilitate navigation. (2) (SMP) A structure usually projecting out into the sea at the mouth of a river for the purpose of protecting a navigational channel, a harbor or to influence water currents.

Lead Agency: Also known as the SEPA lead agency. The local government or state agency with the main responsibility for complying with the Washington State Environmental Policy Act's (SEPA) procedural requirements.

Littoral: (1) Of, or pertaining to, a shore, especially a seashore. (2) (SMP) Living on, or occurring on, the shore.

Littoral drift: (1) The sedimentary material moved in the littoral zone under the influence of waves and currents. (2) (SMP) The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

Management Program: The federally approved Washington State Coastal Zone Management Program.

Minerals Management Service (MMS): The U.S. Department of Interior's Minerals Management Service.

Nonattainment Area: A geographic area that does not comply with a federal Clean Air Act ambient air quality requirement for at least part of the year.

Objection: Ecology's decision that a proposed federal license, permit, grant, loan, or Outer Continental Shelf (OCS) plan and any activities that will be undertaken as a result of such approval are inconsistent with the federally Washington State Coastal Zone Management Program.

Outer Continental Shelf (OCS): Federal law defines the outer continental shelf (OCS) as all submerged lands under the ocean which are more than three geographical miles from the coast line where the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control. The seaward limit of jurisdiction for the continental shelf is generally 200 miles.

Source: 43 U.S.C. § 1331(a).

Outer Continental Shelf (OCS) Plan: Any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. § 1331 et seq.), and the regulations under the Act, which is submitted to the Secretary of the Interior or his or her designee. The Minerals Management Service is currently the Secretary's designee. Source: 15 CFR § 930.73(a).

Section 401 Certification: Section 401 of the Federal Water Pollution Control Act (Clean Water Act) requires that applicants for federal licenses or permits for any activity that may result in a discharge into navigable waters shall obtain a certification from the state in which the discharge will originate that the discharge will comply with sections 301, 302, 306, and 307 of the Federal Water Pollution Control Act. This certification is made by Ecology for discharges that will originate in the Washington State. Source: WAC 173-225-010.

Shorelands or shoreland areas: Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of the SMA; the same to be designated as to location by the department of ecology.

Shorelines: All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the shorelands associated with such upstream segments; (iii) shorelines on lakes less than twenty acres in size and shorelands associated with such small lakes. Source: RCW 90.58.030(2)(d).

Shorelines of the State: The total of all shorelines and shorelines of state-wide significance within Washington State. Source: RCW 90.58.030(2)(c).

Shoreline of State-wide Significance: The following shorelines of the state:

- (i) The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;
- (ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

(A) Nisqually Delta—from DeWolf Bight to Tatsolo Point,

(B) Birch Bay—from Point Whitehorn to Birch Point,

(C) Hood Canal—from Tala Point to Foulweather Bluff,

*(D) Skagit Bay and adjacent area—from Point Brown to Yokeko Point,
and*

(E) Padilla Bay—from March Point to William Point;

- (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;
- (iv) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;
- (v) Those natural rivers or segments thereof as follows:
 - (A) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more,*
 - (B) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer;*
- (vi) Those shorelands associated with (i), (ii), (iv), and (v) above. Source: RCW 90.58.030(2)(e).

Shoreline management: The development of strategic, long-term and sustainable and land-use policy within a sediment cell.

Shoreline Management Act (SMA): The Shoreline Management Act of 1971 as amended. RCW 90.58.

Shoreline Master Program (SMP) or master program or master plan: A comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. Source: RCW 90.58.030(3)(b).

Shoreline Permit: A substantial development permit, conditional use permit, or variance approved under the State of Washington Shoreline Management Act. RCW 90.58.

Special Area Management Plan (SAMP): A comprehensive plan providing for natural resource protection and reasonable coastal-dependant economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone. Source: 16 U.S.C. § 1453(17).

State Environmental Policy Act (SEPA): The Environmental Policy Act of 1971, as amended. RCW 43.21C.

Subsidence: Sinking or downwarping of a part of the earth's surface.

Tsunami: A large, high-velocity wave generated by displacement of the sea floor (such as sudden faulting, landsliding, or volcanic activity); also called seismic

sea wave. Commonly misnamed tidal wave.

Wetlands: Areas that are inundated or saturated by surface water 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. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

Appendix C. -

The National Requirements of the Coastal Zone Management Act

The following is a reference that demonstrates how Washington meets the requirements of the CZMA. Before NOAA can approve a state's program, a state's program must contain certain elements that illustrate how the state is complying with the CZMA.

1. Identify coastal zone boundaries subject to the management plan
Please see Chapter 2, Section A for a legal description and a map of the coastal zone boundaries.
2. Inventory and designate areas of particular concern in the coastal zone
Please see Chapter 2, Section D.
3. Describe the planning process for siting energy facilities
Please refer to Chapter 5, Section A 2 for a description of the Energy Facilities and Site Evaluation Council
4. The organizational structure implementing the management program
Please refer to Chapter 5, Section A 1 for a full description of how Ecology is organized and how it primarily implements Washington's Coastal Zone Management Program through the Shorelands and Environmental Assistance Program.
5. How the State exerts control over the land and water uses
Please refer to Chapter 5 Section A 2 for a description of Washington's authorities and enforceable policies.
6. Broad guidelines on priority of uses in particular areas, including those uses of lowest priority.
7. Permissible land uses and water uses within the coastal zone, which have a direct and significant impact on the coastal waters.
These two national requirements are addressed through the implementation of the Shoreline Management Act. See Chapter 5, Section A 2.
8. Describe a planning process for assessing the effects of, and studying and evaluating ways to control or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.
Ecology's approach has not been to "control" erosion, which is a natural process; rather, the efforts have been focused on assisting local governments to plan for the impacts of erosion. There must be a balance between competing interests: the desires of private property owners and

local government to protect property; and the need to mitigate the impacts from structures intended to “stop” erosion. In part, this is done through SMA policies and state guidelines require that the impact of natural hazards be considered during the preparation, review, and approval of shoreline master programs. The programs require consideration of erosion, flooding, geological hazards, and natural protective features including beaches, dunes, and wetlands.

Another effort was the Coastal Erosion Management Study (1992-1995), which addressed the adverse effects of widespread shoreline armoring for erosion control in Puget Sound. The results of the study indicated that shoreline retreat in Puget Sound is an interactive process of periodic bluff landsliding and subsequent shoreline erosion. The recommendations for integrated management measures, including greater reliance on land use practices such as building setbacks and “softer” approaches to erosion control are yet to be fully implemented. Chapter 4, Section B 3 includes a discussion of erosion and the Southwest Washington Coastal Erosion Study.

9. Define “beach” and describe the planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, aesthetic, ecological, or cultural value.

A beach can be technically defined as noncohesive material affected by wave action along a body of water. There are many types of beaches, composed of particles of different sizes and subject to varying degrees of exposure to the surf. A beach may consist of sand, mud, shingle, shells or shell fragments, or a mixture of these materials. Chapter 2, Section C includes a discussion of the types of beaches in Washington.

SMA policies and state guidelines requires protection of the public’s right to enjoy the shorelines and contains a preference for public access improvements as well as new developments that provide recreational opportunities. Shoreline master programs include provisions to preserve and enlarge recreational and public access opportunities to varying degrees depending on the local government. Ecology has recommended shoreline master program policies and regulations that may be used as examples in developing a local master plan. Once incorporated into a shoreline master plan, these recreational and public access policies become criteria for permit approvals. Please refer to Chapter 5, Section A 2 for a discussion of the SMA.

Appendix D – **Authorities & Enforceable Policies**

The following discussion includes additional information on the six laws that constitute the authorities of Washington’s CZMP. Those provisions of the authorities that “exert control over private and public land and water uses and natural resources of the coastal zone” are also enforceable policies. Following each discussion is a list of regulations (Washington Administrative Code) pertaining to each law that OCRM as approved as enforceable policies:

1. Shoreline Management Act - Chapter 90.58 RCW

In 1969, the Washington State Supreme Court decided *Wilbour v. Gallagher* (462 P.2d 232), commonly known as the “Lake Chelan Case.” Suddenly, shoreline legislation looked like a very good idea. Some action was necessary to clarify the relationship of the public trust doctrine, riparian rights, and navigability in Washington State as well as to coordinate haphazard coastal development. Two proposals were submitted to the people in the 1972 general election. The Shoreline Management Act of 1971 succeeded and became the foundation for Washington’s Coastal Zone Management Program.

Shoreline Master Programs

SMA guidelines provide a uniform basis throughout the state for applying policies and use regulations to different shoreline locations. The guidelines suggest four categories into which particular shoreline areas will fit: natural, conservancy, rural, and urban. These “environmental designations” are based on the existing development pattern, the biophysical capabilities, and the goals of the local citizens. Some local programs have more than the basic four classifications while some have only three; it depends upon the character and diversity of the shorelines in that jurisdiction.

The categorization system encourages uses in a particular environment, which enhance the character of the shoreline and regulates activities according with local goals and objectives. The system results in the superimposition of an overall environment class over local planning and zoning along the shorelines.

The Natural Environment is intended to preserve and restore those natural resource systems existing relatively free from human influence. The outstanding characteristic of this environment is natural or cultural features valuable for their natural or original condition and relatively intolerant of intensive human use. Activities that degrade or change the natural characteristics in these areas are restricted. Because of its restrictive nature, the Natural Environment designation has been used sparingly in the state, especially on privately owned shorelines.

The Conservancy Environment is intended to protect, conserve, and manage existing natural resources and valuable historic and cultural areas in order to

ensure a continuous flow of recreational benefits to the public and to achieve sustained natural resource use. The Conservancy designation is suitable for those areas intended to maintain their existing character with the preferred uses non-exploitative of the physical and biological resources of the area. Examples of appropriate uses include outdoor recreational activities, sustained-yield timber harvesting, passive agricultural uses such as pasture and range lands and other related uses and activities. Areas with steep slopes, those prone to flooding, and those which cannot provide adequate water supply or sewage disposal are best designated as Conservancy environments.

The Rural Environment is intended for those areas characterized by intensive agricultural and recreational uses and those especially capable of supporting such uses. Those areas having high potential for such uses can be set aside for future needs and can be used to alleviate pressures from urban expansion. New developments in the Rural environment should reflect the area's character by limiting residential density, and providing permanent open space. Adequate building setbacks from the shoreline should be maintained to prevent resource destruction. Public recreation facilities that minimize conflicts with agricultural activities are recommended for the Rural environment.

The Urban Environment is intended for areas of high-intensity land use including residential, commercial, and industrial development. Shorelines planned for future urban expansion should have few biophysical limitations for urban activities and contain few characteristics that would point to a different environmental designation. Because shorelines suitable for urban use are limited, development within already developed areas and water-dependent industrial and commercial uses are preferred. Many local shoreline master programs give priority to public visual and physical access to the water. Industrial and commercial facilities are designed to permit pedestrian waterfront activities.

SMA and public participation

Under the CZMA, management programs must establish methods of timely and effective notice and opportunities for public and local government participation in coastal management decision making. In Washington, public notice and comment periods are required of Ecology for permit consistency certifications, shoreline permits, and both Clean Air Act and Clean Water Act permits. Local governments also incorporate public notices, public hearings, and public comment periods into shoreline master programs and program amendments they develop. Ecology houses a permit assistance center established by RCW 90.60, which educates the public on the permitting process and can coordinate when multiple permits are required for a project.

The CZMA obliges states to continue consultation, coordination, and consideration of the views of federal agencies affected by state programs. To this end, the SMA and implementing regulations require consultation with federal agencies in the preparation of shoreline master programs and amendments. Federal agency plans and studies must also be considered during periodic review of

the program. Informally, local government and Ecology regularly consult with federal agencies, often with respect to particular projects and federal permitting decisions.

The Shorelines Hearings Board

To aid the courts in the anticipated increase in shoreline litigation resulting from the Act, the legislature created the quasi-judicial Shorelines Hearings Board. The Board provides an avenue of review for those aggrieved by a local government permit decision and for local governments opposing regulations and guidelines adopted by Ecology. The SHB has played a significant role in formulating policy and in resolving conflicts relating to the SMA.

The six-member SHB consists of three members of the Pollution Control Hearings Board, the Commissioner of Public Lands and one representative from the Association of Washington Cities and from the Association of Washington Counties. The SHB is recognized as one of the nation's most successful administrative appeal bodies. The Board presides over a judicial process providing an impartial body with natural resource expertise. Persons aggrieved over an SHB decision may appeal to the state Superior court.

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| WAC 173-15 | Permits for Oil or Natural Gas Exploration Activities Conducted from State Marine Waters |
| WAC 173-16 | Shoreline Management Act Guidelines for Development of Master Programs |
| WAC 173-18 | Streams and Rivers Constituting Shorelines of the State |
| WAC 172-20 | Lakes Constituting Shorelines of the State |
| WAC 172-22 | Designations of Wetlands Associated with Shorelines |
| WAC 173-26 | State Master Program Approval/Amendment Procedure |
| WAC 172-27 | Shoreline Management Permit and Enforcement Procedures |

2. THE STATE ENVIRONMENTAL POLICY ACT - Chapter 43.21C RCW

The Washington State Environmental Policy Act (SEPA) also forms part of Washington's Coastal Zone Program. SEPA requires environmental review for projects that need local government or state agency approval. This includes applications for shoreline permits or variances. SEPA exempts certain smaller projects, such as a residential building with fewer than four housing units constructed on uplands. The exemptions can be found in WAC 197—11-305 and WAC 197-11-800 through 197-11-880. Ecology reviews and comments on documents prepared in accord with SEPA. These comments are one method Ecology uses to address coastal zone issues. SEPA covers the entire coastal zone, allowing Ecology to manage areas that are not within the jurisdiction of the SMA but that still fall within the coastal zone. For example, Ecology can recommend storm water management measures in comments on a SEPA document for an

activity outside shoreline jurisdiction to protect the water quality within the coastal zone.

SEPA contains both objectives and procedural requirements. In RCW 43.21C.020, the legislature called for state agencies to do the following: fulfill their responsibilities as trustees for succeeding generations; ensure all Washingtonians safe, healthful, productive and aesthetically and culturally pleasing surroundings; attain the range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; preserve historic, cultural and natural aspects of our national heritage; maintain, wherever possible, an environment which supports diversity and variety of individual choice; achieve a balance between population and resource use that will permit a high standard of living and a wide sharing of life's amenities; enhance the quality of renewable resources and approach the maximum attainable recycling of non-renewable resources.

The legislature also recognized that each person has a fundamental and inalienable right to a healthful environment and the accompanying responsibility to contribute to the preservation and enhancement of the environment. The legislature provided that the policies, regulations, and laws of Washington shall be interpreted and administered in accordance with these objectives to the fullest extent possible.

To achieve these objectives, SEPA grants all local governments and state agencies supplemental authority to condition or deny permits as necessary to protect the environment. Local and State agencies must review the environmental impacts of activities that require their approval in accord with procedural requirements designed to implement the directives above. These procedural requirements are contained in the SEPA Rules, Chapter 197-11 WAC.

SEPA environmental review is conducted by the lead agency after an applicant completes an environmental checklist (a standard form in WAC 197-11-960). The lead agency can issue a determination of nonsignificance (DNS), or a determination of significance (DS). A DNS means the project will probably not have a significant adverse impact on the environment. If changes to a project are necessary so the project will not have a probable significant adverse impact, the lead agency can issue a mitigated DNS incorporating those conditions. Either DNS allows the agencies to approve the activity without further environmental review.

Where the activity will have a probable significant adverse environmental effect, an environmental impact statement (EIS) must be prepared. This involves three steps. First, the lead agency issues a DS/scoping notice. The scoping notice gives interested members of the public, governmental agencies and Indian tribes the opportunity to identify issues that should be addressed in the EIS. Second, a draft EIS is prepared. The public, local governments, state and federal agencies, and Indian tribes then have thirty days to review and comment on the draft EIS during which time a public hearing or meeting may also be held. Third, a final EIS is prepared that responds to comments on the draft.

The EIS describes the proposal and reasonable alternatives, the affected environment, the impacts of the proposal and the alternatives, possible conditions to lessen the impacts (mitigation measures), and any unavoidable adverse environmental impacts. The public agencies that have the responsibility for deciding whether to allow this activity then use the final EIS when making permit decisions. Agencies may use SEPA supplemental authority to condition a proposal when the SEPA document identifies specific adverse environmental impacts. An agency may also use SEPA authority to deny a proposal if the final EIS identifies significant adverse environmental impacts that cannot be reasonably mitigated.

Some projects may require compliance with both SEPA and the National Environmental Policy Act (NEPA) since approvals may be required from both a federal agency and a state or local agency. In these instances, SEPA encourages a combined review process and the issuance of a single document that would meet both laws' requirements. If this is impossible, the state or local agency may wait until the appropriate NEPA document is issued (environmental assessment or EIS) and adopt the NEPA document to meet SEPA requirements. The state or local agency must evaluate the NEPA document to ensure that it provides sufficient environmental analysis to meet SEPA requirements. If it is adequate, the state or local agency can adopt the NEPA document to reduce duplication and streamline the permit process. Agency decisions on SEPA can be appealed to the Washington State Shorelines Hearing Board as part of an appeal of a shoreline permit. Even where a shoreline permit is involved, the parties can request the Shorelines Hearings Board as a forum. SEPA appeals can also be filed in State Superior Court.

WAC 197-11 SEPA Rules
WAC 173-802 SEPA Procedures

3. OCEAN RESOURCES MANAGEMENT ACT - Chapter 43.143 RCW

Pursuant to ORMA, uses or activities that require federal, state, or local government permits or other approvals and that will adversely impact renewable resources, marine life, fishing, aquaculture, recreation, navigation, air or water quality, or other existing ocean or coastal uses, may be permitted only if the criteria below are met or exceeded:

1. There must be a significant local, state, or national need for the activity;
2. There is no reasonable alternative to the activity;
3. The activity will likely cause no long-term, significant adverse impacts on coastal or marine resources and uses;
4. All reasonable steps are taken to avoid and minimize adverse environmental impacts;

5. Special protection must be provided for the marine life and resources of the Columbia River, Willapa Bay, Grays Harbor, and the Olympic National Park;
6. All reasonable steps are taken to avoid and minimize adverse social and economic impacts of the activity;
7. Compensation must be provided to mitigate adverse impacts to coastal resources and uses;
8. Plans must be developed to rehabilitate the site after the activity is completed; and
9. The activity must comply with all applicable local, state, and federal laws and regulations.

In 1991, Ecology adopted Ocean Use Guidelines (WAC 173-16-064) to implement ORMA. The Guidelines are used to manage ocean uses and serve as the basis for evaluation and modification of local shoreline master programs. Ocean uses are activities or developments involving renewable and/or nonrenewable resources that occur on Washington's coastal waters and included their associated offshore, nearshore, inland marine, shoreland, and upland facilities and the supply, service, and distribution activities, such as crew ships, circulating to and between the activities and developments. Ocean uses involving nonrenewable resources include such activities as extraction of oil, gas and minerals, energy production, disposal of waste products, and salvage. Ocean uses that generally involve sustainable use of renewable resources include commercial, recreational, and tribal fishing, aquaculture, recreation, shellfish harvesting, and pleasure craft activity.

WAC 173-26-(Part V of new guidelines) old 173-16-064 new is 360

4. CLEAN WATER ACT - Chapter 90.48 RCW

The CZMA incorporates the requirements of the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.), into Washington's Coastal Zone Management Program. The U.S. Environmental Protection Agency (EPA) has delegated administration of the Federal Water Pollution Control Act to Ecology. Washington also adopted a similar state law, the Water Pollution Control Act (Chapter 90.48 RCW).

The water pollution control program, based upon these laws, requires permits for commercial and industrial uses that discharge to ground waters, surface waters, and, under certain circumstances, municipal treatment systems. Permits are also required for certain non-point discharges. Ecology requires public notice for water pollution control permit applications. Further, members of the public can request a public hearing on an application.

For most permits, the discharge limits in the permit are based on three sets of standards. First, the State Water Pollution Control Act requires that discharges be treated with all known and reasonable methods. At a minimum, this requires that federal technology-based treatment standards be met. Second, discharges must not result in a violation of state water quality criteria and standards. This may result in requirements for higher levels of treatment. The water quality standards can never authorize a level lower than required by the first standard. Third, if the water body into which the effluent will be discharged has a better water quality than the state water quality standards require, Ecology will usually set the permit requirements high enough to prevent degradation of the receiving body's water quality. Where a discharge involves toxic materials, Ecology will condition the permit to require control of toxic discharges.

To enforce the permit standards, operators must report on whether they are following the permit requirements. Ecology can conduct reasonable inspections and issue penalties for violations. Persons who violate the Water Pollution Control Act and cause natural resource damages are liable for those damages. Dischargers of petroleum products, in particular, are strictly liable for damages that result from unpermitted discharges, including damages from oil spills. Liability extends to public and private property, personal injuries, and any plant and animal life harmed. The discharger must clean up the spill and indemnify the state for clean up costs incurred. Permits and penalties can be appealed to the Washington State Pollution Control Hearings Board.

The state nonpoint program governs non-permitted discharges. The nonpoint program includes agricultural operations, forestry, recreation, and urban sources of pollution such as roads and onsite sewer systems. The program is based on several voluntary approaches with, in some cases, financial incentives. In cases of direct environmental impact, enforcement against pollution nonpoint sources is accomplished through the discharge prohibition in the state water pollution law, the substantive requirements of SEPA, the SMA, and the GMA.

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| WAC 173-40 | Pollution disclosure |
| WAC 173-80 | Referendum 39 Grant Funds |
| WAC 173-95 | A Uses and limitations of the Centennial Clean Water Fund |
| WAC 173-98 | Uses and limitations of the Water pollution Control State Revolving Fund |
| WAC 173-100 | Ground Water Management Areas and Programs |
| WAC 173-200 | Water quality standards for ground waters of the state of Washington |
| WAC 173-201A | Water quality standards for surface waters of the state of Washington |
| WAC 173-202 | Washington Forest Practices Rules and Regulations to Protect Water Quality |
| WAC 173-204 | Sediment Management Standards |
| WAC 173-205 | Whole effluent toxicity testing and limits |

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| WAC 173-208 | Grant authority sewerage systems |
| WAC 173-216 | Permits to Discharge Commercial and Industrial Wastes |
| WAC 173-218 | Underground Injection Control Program |
| WAC 173-220 | NPDES Permit System |
| WAC 173-221 | Discharge Standards and Effluent Limitations for Domestic Wastewater Facilities |
| WAC 173-221 | A Wastewater Discharge Standards and Effluent Limitations |
| WAC 173-224 | Wastewater discharge permit fees |
| WAC 173-225 | Federal Water Pollution Control Act |
| WAC 173-226 | Waste Discharge General Permit Program |
| WAC 173-230 | Certification of Operators of Wastewater Treatment Plants |
| WAC 173-240 | Submission of Plans and Reports for Construction of Wastewater Facilities |
| WAC 173-245 | Combined Sewer Overflows |
| WAC 173-255 | Limitations on Use Referendum 26 Grant Funds for Water Pollution Abatement |
| WAC 173-270 | Puget Sound Highway Runoff Program |
| WAC 372-36 | Columbia Basin Irrigation Area—sewage and waste |
| WAC 372-52 | Water District Requests for Approvals and Certifications of Necessity to Operate Sewer Districts |
| WAC 372-68 | Water Pollution Control Abatement Plans for Sewer Drainage Basins |

5. CLEAN AIR ACT - Chapter 70.94 RCW

Like the water pollution control program, Washington has integrated federal and state laws into a comprehensive system to protect and improve air quality. The Coastal Zone Management Act incorporates the requirements of the federal Clean Air Act, into Washington's Coastal Zone Management Program. The EPA has delegated administration of many portions of the federal Clean Air Act to Ecology. To protect the state's air quality and to implement federal law, Washington adopted the Washington Clean Air Act. Its requirements are also enforceable policies of Washington's CZM Program. The Washington Clean Air Act exceeds the federal law in certain respects.

Under the federal Clean Air Act, EPA adopts uniform federal standards. Ecology adopts state standards that cannot be less stringent than the federal standards. Washington has seven local air pollution control authorities that can set air pollution standards that are more stringent than Ecology's. There are also a number of counties where there is no local authority, so the air regulation in these areas is conducted by Ecology staff. The regulation of certain major industries (pulp and paper mills, aluminum mills and the Hanford Reservation) in the state is reserved for Ecology. The regulation of sources on Indian lands in the state is reserved to EPA unless the tribes set up their own regulatory bodies.

The local authorities issue source permits and enforce Ecology and local standards. Ecology can enforce its standards and, under certain circumstances, the local standards.

Air operating permits are required for the larger regulated sources. These include sources that emit more than 100 tons per year (tpy), sources that emit less in some nonattainment areas, sources that must comply with toxics regulations, sources that must comply with new source performance standards, and power plants that must comply with the federal acid rain requirements. Nonattainment areas are parts of the state, which do not meet one or more ambient air standards. These air-operating permits place the burden of compliance squarely on the source with extensive self-reporting requirements.

In addition, the local authorities and Ecology staff must approve certain new sources and changes to existing sources before construction begins. Regulated new sources file a notice of construction. Certain new and existing sources must also register with the local authority or Ecology if an air-operating permit is not required.

The local authorities and Ecology can assess penalties. Penalties can be appealed to the Washington State Pollution Control Hearings Board.

For areas that meet ambient air quality standards (called attainment areas), new sources must obtain a prevention of significant deterioration permit from Ecology. These permits limit certain significant pollutants to a maximum allowable increase to prevent deterioration of air quality.

Ecology requires public notices for each permit and takes public comment. The emission limits in the various permits are based on technology standards and emission standards. Technology standards specify the type of pollution control technology that must be used. Emission standards limit the allowable rates of release for some substances for certain sources. After approval, the permit holder must report on whether the source is meeting the permit standards.

The Washington Clean Air Act requires counties with populations of more than 250,000 to prepare and implement commute trip reduction plans to reduce transportation related air pollution. Cities within those counties that have major employers must prepare and implement commute trip reduction plans. Major employers are organizations that employ more than 100 persons for at least six months. Major employers also must prepare and carry out commuter trip reduction programs, which implement the county or city plan.

Over one half of the air pollution in Washington can be attributed to mobile sources, cars and trucks. In certain areas, where there have been problems with automobile related air pollution, cars are required to be tested for emissions on a biannual basis. If the auto fails to pass the test the owner must repair the car, up to a certain dollar amount. Usually this minor repair will allow the car to pass the test. This program keeps the cars in the affected areas emitting less than if the program were not in place.

Washington also has programs in place to reduce emissions from sources that are large in number and spread over a wide area. An example of this type of

source includes smoke from fireplaces and other indoor wood burning devices. There are standards for new wood burning devices, standards for the density of smoke from these fires and educational programs to encourage compliance. Ecology and the local authorities have also written rules and devised other strategies to reduce and eliminate smoke from the agricultural practice of burning a field after harvest to clear for the next planting season. Ecology and the local authorities have also undertaken strategies to reduce wind blown dust from farmer fields in the dry central and eastern parts of the state.

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| WAC 173-400 | General Regulations for Air Pollution Sources |
| WAC 173-401 | Operating permit regulation |
| WAC 173-405 | Kraft Pulping Mills |
| WAC 173-406 | Acid rain regulation |
| WAC 173-410 | Sulfite Pulping Mills |
| WAC 173-415 | Primary Aluminum Plants |
| WAC 173-420 | Conformity of transportation activities to air quality implementation plans |
| WAC 173-421 | Motor Vehicle Emission Control System |
| WAC 173-422 | Emission Inspection |
| WAC 173-425 | Outdoor Burning |
| WAC 173-430 | Agricultural burning |
| WAC 173-433 | Solid Fuel Burning Device Standards |
| WAC 173-434 | Solid Waste Incinerator Standards |
| WAC 173-435 | Emergency episode plan |
| WAC 173-450 | Establishing Requirements for the Receipt of Financial Aid |
| WAC 173-460 | Controls for new sources of toxic air pollution |
| WAC 173-470 | Ambient Air Quality Standards for Particulate Matter |
| WAC 173-474 | Ambient Air Quality Standards for Sulfur Oxides |
| WAC 173-480 | Ambient Air Quality Standards and Emissions Limits for Radionuclides |
| WAC 173-481 | Ambient Air Quality and Environmental Standards for Fluorides |
| WAC 173-490 | Emissions Standards and Controls for Sources Emitting Volatile Organic Compounds |
| WAC 173-491 | Emissions Standards and Controls for Sources Emitting Gasoline Vapors |
| WAC 173-492 | Motor Fuel Specifications for Oxygenated Gasoline |
| WAC 173-495 | Weather Modification |

6. WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL - Chapter 80.50 RCW

The Energy Facility Site Evaluation Council serves as a one-stop, state-local permitting system for large thermal energy facilities, oil refineries, and petroleum

and natural gas pipelines. EFSEC is composed of representatives from affected state agencies and a representative of all cities and counties within whose boundaries the facility would be constructed. After applying the substantive requirements of applicable state and local laws and regulations, EFSEC conducts public hearings as a part of its deliberations. Certain facilities may qualify for an expedited permitting process. At the request of an applicant, EFSEC can conduct a preliminary study of any potential site to determine whether it may be suitable for an energy facility. EFSEC must coordinate these activities with federal agencies.

EFSEC makes a recommendation to the Governor whether to approve or deny the application, which may also include proposed conditions on the project. The Governor decides whether to approve the project. This decision can be reviewed by the superior court in a single, consolidated appeal. EFSEC can levy penalties for violations of an approved application and any conditions. In addition, EFSEC can revoke an approval.

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| WAC 463-06 | General - Organization - Public Records |
| WAC 463-10 | Definitions |
| WAC 463-14 | Policy and Interpretation |
| WAC 463-18 | Procedure - Regular and Special Council Meetings |
| WAC 463-22 | Procedure and Guidance - Potential Site Studies |
| WAC 463-26 | Procedure- Initial Public Hearing and Public Information Meeting |
| WAC 463-28 | Procedure - State Preemption |
| WAC 463-30 | Procedure - Contested Case Hearings |
| WAC 463-34 | Procedure - Rule Making Declaratory Rulings |
| WAC 463-36 | Procedure—Amending or Terminating a Site Certification Agreement |
| WAC 463-38 | Regulations for Compliance with NPDES Permit Program Sources |
| WAC 463-39 | General and Operating Permit Regulations for Air Pollution Sources |
| WAC 463-40 | Dangerous Wastes |
| WAC 463-42 | Procedure- Guidelines - Applications for Site Certification Processing |
| WAC 463-43 | Procedure - Applications for Expedited Processing |
| WAC 463-47 | SEPA Rules |
| WAC 463-50 | Independent Consultants - Guidelines |
| WAC 463-54 | Certification Compliance Determination and Enforcement |
| WAC 463-58 | Fees or Charges for Independent Consultant Study, Regular and Expedited Application Processing, Determining Compliance and Potential Site Study |

Appendix E -

List of Federal Activities, Licences, and Permits Subject to Federal Consistency Review

The following is the list of federally related activities, licenses, and permits subject to federal consistency requirements in Washington State under the U.S. Coastal Zone Management Act of 1972. The Department of Ecology will review these activities for consistency with the Washington State Coastal Program:

A. FEDERAL ACTIVITIES AND DEVELOPMENTS

1. Resource use and development plans (e.g., Regional Economic Development Plan by the Pacific Northwest Regional Commission).
2. Planning, construction, modification, or removal of public works, facilities, or other structures (e.g., Corps dredging projects).
3. Acquisition, utilization, or disposal of land or water resources (e.g., purchase of a refuge by the Fish and Wildlife Service).
4. Federal agency activities requiring a federal license or permit from another federal agency.
5. Regulation or guidelines affecting the priority, siting, placement, design, or permissibility of uses.
6. Operation or conduct of new or existing uses when such operation would result in physical changes in the coastal zone such as air and water pollution, covering of water surface, removal of vegetation or new construction (e.g., timber harvest and related activities on federal forest lands).
7. Federal assistance to entities other than state or local governments, such as Indian tribes and individuals proposing activities in the coastal zone.
8. DOI pre-lease sale activities for OCS exploration and development.

In addition, the Department may review any of the above activities outside of the coastal zone, but which affect coastal resources. This includes federal activities on all federal lands excluded from the coastal zone including Indian reservations, federal research facilities, federal leaseholds, etc.

B. FEDERAL LICENSES AND PERMITS

1. U.S. Army Corps of Engineers
 - a. *Permits under sections 10 and 11 of the River and Harbor Act of 1899.*

- b. *Permits for discharge of dredged or fill material under section 404 of the Federal Water Pollution Control Act.*
 - c. *Permits for ocean dumping of dredged material under section 103 of the Marine Protection, Research and Sanctuaries Act of 1972.*
 - d. *Approvals of artificial islands and fixed structures on the OCS under section 4(f) of the Outer Continental Shelf Act.*
- 2. Department of Transportation - U.S. Coast Guard
 - a. *Permits establishing the location and clearances for construction of bridges and causeways over navigable waters under the Ports and Waterways Safety Act.*
 - b. *Permits under section 1503 of the Deepwater Port Act of 1974 for the location, ownership, construction, and operation of deepwater ports.*
 - c. *Nominations for anchorages, including layups, under the Ports and Waterways Safety Act.*
- 3. Federal Aviation Administration
Certification for operation of airports.
- 4. Nuclear Regulatory Commission

Licenses for the siting, construction and operation of nuclear power plants; the production, transfer, import and export of fissionable materials; and the disposal of radioactive waste.

- 5. Federal Energy Regulatory Commission
 - a. *Permits for the construction and operation of interstate gas pipelines and storage facilities under section 717 (f) of the Natural Gas Act.*
 - b. *Permits for the construction and operation of power facilities and transmission lines required under section 4 (e) of the Federal Power Act.*
 - c. *Permits for the abandonment of natural gas pipeline facilities under section 717 (f) of Natural Gas Act.*
- 6. Economic Regulatory Administration permits which are required to develop facilities for the import and export of petroleum products, which are mainly for LNG facilities.
- 7. Environmental Protection Agency
 - a. *Permits for ocean dumping of material (except dredged material) under the Ocean Dumping Act.*
 - b. *NPDES permits issued under the Federal Water Pollution Control Act unless NPDES administration remains delegated to the state.*

- c. Waivers from compliance, allowing an extension of the time for meeting the national primary and secondary ambient air quality standards, under the Clean Air Act.*
 - d. Exemptions for stationary sources under the Clean Air Act.*
 - e. Waivers from compliance from secondary treatment requirements under the Federal Water Pollution Control Act.*
- 8. Office of Coastal Zone Management
 - Certification that all activities in marine sanctuaries are consistent with the Marine Protection, Research and Sanctuaries Act of 1972.*
- 9. National Marine Fisheries Service
 - Permits for the taking or importing of marine animals except for walruses, sea otters and polar bears under the Marine Mammal Protection Act of 1972.*
- 10. Bureau of Land Management
 - a. Approvals for rights of way for oil and natural gas pipelines and pumping plant sites.*
 - b. All federal land leases with the exception of leases issued pursuant to the Outer Continental Shelf Lands Act.*
 - c. Approvals for OCS pipeline rights of way.*
- 11. U.S. Department of the Interior, Minerals Management Service
 - a. Permits for geological and geophysical exploration in the OCS approved under Section 1340(a) of the OCSLA (43 USC 1340)*
 - b. Plans for exploration, development and productions of the OCS which describe in detail federal licenses and permits and which affect the coastal zone.*
 - c. Permits and licenses for offshore drilling, mining, and development.*
- 12. U.S. Fish and Wildlife Service
 - a. Permits for taking or importing sea otters, walruses, and polar bears under the Marine Mammal Protection Act.*

For more information on requirements relative to federal consistency with state programs under the U.S. Coastal Zone Management Act of 1972, contact the Department of Ecology, Shoreland and Environmental Assistance Program (360) 407-6527.

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Northwest Indian Fisheries Commission *Comprehensive Tribal Fisheries Management*

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Puget Sound Water Quality Action Team *Puget Sound/Georgia Basin Shared Waters Program* 1999

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