

2015

# Complete Permit Application Guidance

For projects applying for  
Aquatic Resources Permits



Prepared by:  
WSDOT Environmental Services Office



**Washington State  
Department of Transportation**

This page intentionally left blank.

# TABLE OF CONTENTS

---

<b>ACRONYMS</b> .....	<b>III</b>
<b>CHAPTER 1 INTRODUCTION</b> .....	<b>1-1</b>
1.1 Why should I use this guidance?.....	1-1
1.2 Which permits does this guidance apply to? .....	1-1
1.3 How can I use this guidance? .....	1-2
1.4 How is this guidance organized?.....	1-2
1.5 What on-line resources are available? .....	1-3
<b>CHAPTER 2 WDFW HYDRAULIC PROJECT APPROVAL</b> .....	<b>2-1</b>
2.1 What is required for a complete HPA application? .....	2-1
2.2 How much time should I allow for HPA permit processing? .....	2-9
2.3 What if I want to appeal the HPA permit decision? .....	2-9
<b>CHAPTER 3 DEPARTMENT OF THE ARMY NATIONWIDE AND INDIVIDUAL PERMITS</b> .....	<b>3-1</b>
3.1 What is required for a complete Nationwide Permit application? .....	3-1
3.2 What is required for a complete Individual Permit application? .....	3-5
3.3 How much time should I allow for Nationwide or Individual Permit processing? .....	3-8
3.4 What if I want to appeal the Nationwide or Individual Permit decision?.....	3-8
<b>CHAPTER 4 ECOLOGY SECTION 401 PERMIT AND COASTAL ZONE MANAGEMENT ACT (CZMA) CONSISTENCY DETERMINATION</b> .....	<b>4-1</b>
4.1 What is required for a complete Section 401 application?.....	4-2
4.2 What is required for a complete Coastal Zone Management Act (CZMA) application?.....	4-5
4.3 How much time should I allow for Section 401 or CZMA permit processing? .....	4-6
4.4 What if I want to appeal the Section 401 or CZMA permit decision?.....	4-6

This page intentionally left blank.

# ACRONYMS

---

	<b>A</b>		
APPS	Aquatic Protection Permitting System		
	<b>B</b>		
BA	Biological Assessment	NEPA	National Environmental Policy Act
BMPs	Best Management Practices	NHPA	National Historic Preservation Act
	<b>C</b>	NMFS	National Marine Fisheries Service
CEC	Chronic Environmental Deficiency	NWP	Nationwide Permit
CFR	Code of Federal Regulations		
Corps	U.S. Army Corps of Engineers	OHW	Ordinary High Water Mark
CZM	Coastal Zone Management	ORA	Office of Regulatory Assistance
CZMA	Coastal Zone Management Act		
CZMP	Coastal Zone Management Program	PCHB	Pollution Control Hearings Board
	<b>D</b>	PCN	Pre Construction Notification
DCE	Documented Categorical Exclusion		
DNR	Department of Natural Resources	RCW	Revised Code of Washington
DNS	Determination of Non-Significance		
	<b>E</b>	SEPA	State Environmental Policy Act
Ecology	Washington Department of Ecology	SPCC	Spill Plan Control and Countermeasures
ECS	Environmental Classification Summary		
EPA	Environmental Protection Agency	TDA	Threshold Discharge Area
ESA	Endangered Species Act	TESC	Temporary Erosion and Sediment Control
	<b>F</b>		
FHWA	Federal Highway Administration	USFWS	US Fish and Wildlife Service
FONSI	Finding of No Significant Impact		
	<b>H</b>		
HB	Habitat Biologist	WAC	Washington Administrative Code
HEC	Hydraulic Engineering Circular	WDFW	Washington State Department of Fish and Wildlife
HPA	Hydraulic Project Approval		
HRM	Highway Runoff Manual		
	<b>J</b>		
JARPA	Joint Aquatic Resource Permit Application		
	<b>L</b>		
LOV	Letter of Verification		
	<b>M</b>		
MAP Team	Multi-Agency Permitting Team		
MOA	Memorandum of Agreement		
MHHW	Mean Higher High Water		
MHW	Mean High Water		
MSA	Magnuson-Stevens Fishery Conservation and Management Act		

This page intentionally left blank.

# Chapter 1 Introduction

---

*WSDOT can reduce permitting delays by developing a complete permit application package. The Joint Aquatic Resource Permit Application (JARPA) is a single permit application for development activities in or along aquatic environments. Multiple regulatory agencies (Federal, State, and Local) worked together to create one application that people can use to apply for more than one permit at a time. Some agencies have other types of permit application forms.*

## 1.1 Why should I use this guidance?

As a permit applicant, you need to understand what information is required when submitting a JARPA to the regulatory agencies. Each agency has different needs and requirements, depending on the permit you are seeking and the activities you are proposing. Once the agencies notify you that your permit application package is complete, a “regulatory review clock” starts. WSDOT can reduce permit process timelines and increase permitting predictability by getting these **regulatory review clocks** started upon initial application submittal. This guidance is for WSDOT and therefore it references documents, processes, and protocols specific to WSDOT.

If you adhere to this guidance, it will improve your likelihood of having a complete application, which in turn should reduce permitting delays and surprises associated with incomplete permit submittals.

## 1.2 Which permits does this guidance apply to?

This guidance focuses on permits needed for highway safety and mobility construction projects. This includes:

- Hydraulic Project Approval (HPA) permits obtained from the Washington State Department of Fish and Wildlife (WDFW)

---

### What does a permit application package consist of?

- [Application form](#)
  - Permit drawings
  - Supporting documents
- 

---

### What does the term “regulatory review clock” mean?

This is the time an agency has to review a permit application package and issue a decision to WSDOT. The clock starts as soon as a regulatory agency determines the application is complete and ends when the agency issues a permit decision.

---

- Nationwide and Individual Permits obtained from the U.S. Army Corps of Engineers (Corps); and
- Section 401 Water Quality Certifications and Coastal Zone Management Act (CZMA) Consistency Determinations obtained from the Washington State Department of Ecology (Ecology).

This guidance does not address Department of Natural Resources (DNR) Aquatic Use Authorizations. U.S Coast Guard Section 9 permits.

### **1.3 How can I use this guidance?**

Permit applicants for WSDOT projects should consider this guidance early in the design stage prior to the permit package submittal. It is important that permit applicants coordinate with the regulatory staff (who will be reviewing the permit application package for completeness) before it is submitted to discuss and confirm specific information needs. You can use this guidance to develop permitting schedules and timelines. You can also use the guidance to perform internal quality assurance and quality control checks just before submitting a permit application package to the agencies. The [Complete Permit Application Drawing Guidance](#) provides specific permit drawing requirements and a reviewer's form. You should consider this guidance when developing a scope of work for consultants hired to help obtain permits.

### **1.4 How is this guidance organized?**

This document has a chapter devoted to each regulatory agency responsible for issuing the major permits. Chapters 2 through 4 address the following questions for each permit:

- What is required for a complete application? – Defines the minimum information that must be included with the permit application package to begin the regulatory review clock.
- What is required for a permit decision? – Lists the information agencies need to make a final permit decision.
- How much time should I allow for permit processing? – Provides the time WSDOT can expect to receive a permit from the agencies.
- What if I want to appeal the permit decision? – Provides the specific procedures WSDOT can follow if an appeal is desired and lists timeframes associated with filing an appeal.

## 1.5 What on-line resources are available?

You will notice a number of hyperlinks embedded within this document. Readers are encouraged to use the [online version](#) so they can easily access the linked information and ensure they're using the most recent version of this guidance. The following web-sites provide additional resources and permitting guidance:

- [WSDOT's Federal, State, and Local Permitting Pages](#)
- [Office of Regulatory Innovation and Assistance \(ORIA\) JARPA Form and guidance](#)
- [WDFW's Hydraulic Project Approval Page](#)
- [Environmental Regulatory Handbook for Washington State](#)
- [WSDOT's Liaison Program](#)

This page intentionally left blank.

# Chapter 2 WDFW Hydraulic Project Approval

*A Hydraulic Project Approval (HPA) is a WDFW permit required by [Chapter 77.55](#) of the Revised Code of Washington (RCW) for hydraulic projects in or over state waters. Additional information about project activities that trigger HPAs and the permitting process is available on the [WDFW website](#) and the [WSDOT Permitting](#) webpages. The Department of Natural Resources (DNR) uses their [Forest Practices Application](#) process for permitting forest practices-related hydraulic work (RCW 76.09). See the [WSDOT Permitting](#) webpage for more information about DNR's process.*

*WSDOT and WDFW have agreed on HPA application and review procedures through a [Memorandum of Agreement \(MOA\) Concerning Administration of Hydraulic Project Approvals for Transportation Activities and Implementation of the Fish Passage Retrofit Program and Implementation of the Chronic Environmental Deficiency \(CED\) Program](#). The following guidance describes the information required by WDFW when WSDOT applies for HPAs.*

## 2.1 What is required for a complete HPA application?

For an HPA, permit applicants can fill out an application in the [Aquatic Protection Permitting System](#) (APPS). WDFW strongly recommends using APPS to submit permit applications. APPS enables you to convert the APPS application into a [Joint Aquatic Resources Permit Application \(JARPA\)](#). However, WDFW will still accept the most current version of the [JARPA](#) completed and submitted outside APPS ([WAC 220-660-050](#)). In officially declared emergencies, WSDOT may apply for an HPA verbally or in writing. There are five kinds of HPAs that WSDOT typically applies for: Standard, Chronic Danger, Expedited, Imminent Danger and Emergency. Each type of permit and related



---

### What is a Hydraulic project?

Hydraulic project means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state ([RCW 77.55.011](#) (11)).

---

### Do I need a permit for over water work?

Yes. "An HPA is required for all construction or repair/replacement of any structure that crosses a stream, river, or other water body regardless of the location of the proposed work relative to the OHWL of state waters." ([WAC 220-660-190](#)). If your project is a Forest Practices Hydraulic Project ([WAC 222-16-010](#)), see [WAC 220-660-060](#) for review requirements.

---

**Should I submit a JARPA or use APPS?**

[APPS](#) is only used for processing WDFW HPAs, but can be used to create a JARPA if you need permits from other agencies. APPS includes less than 50% of the JARPA questions. See the [APPS Question and Answer](#) document for more information.

---

**Where do I find information about General HPAs?**

WDFW issues General HPAs for routine WSDOT highway and ferry maintenance activities. Some General HPAs may apply to construction projects. Information is available on the [General Permit](#) webpage.

---

**Which statute defines submittal requirements for a Standard HPA?**

RCW 77.55.021(2) specifies the requirements for a complete application for a standard HPA

---

**How do I demonstrate SEPA compliance?**

Your project SEPA compliance can take one of six forms:

- Signed Environmental Classification Summary or letter with exemption under RCW or WAC;
  - Determination of Non-Significance (DNS) ;
  - Mitigated DNS;
  - Finding of No Significant Impact (FONSI);
  - Final Environmental Impact Statement; or
  - Notice of Adoption of a NEPA (National Environmental Policy Act) action (RCW Chapter 43.21C).
- 

procedures are described in the following sub-chapters.

### 2.1.1 Application for Standard HPA

A complete application for a Standard HPA needs to include information derived from the project design, construction methods, and proposed mitigation. This information is required so that the WDFW [Habitat Biologist \(HB\)](#) can assess project impacts and address mitigation needs based on a thorough understanding of the project design.

When applying for a Standard HPA, WSDOT permit applicants need to include in written format, the following information:

1. A set of complete drawings for the project in general (WSDOT's [Complete Permit Application Drawing Guidance](#) provides information about WDFW requirements);
2. Complete plans and specifications for those parts of the project to be constructed within the ordinary high water line in freshwater and the mean higher high water line in saltwater (see sub-chapters 2.1.5 and 2.1.6);
3. Complete plans and specifications for construction or installation of mitigation features for identified project impacts to fish life and fish habitat (see sub-chapters 2.1.5 and 2.1.6);
4. Discussion of construction techniques which will or may be used;
5. Monitoring and reporting schedule for mitigation, or experimental techniques if required (see sub-chapter 2.1.5, *Monitoring and Contingency Correction Plan* for details);
6. Alternative and contingency plans should experimental techniques prove unsuccessful;
7. Proof of compliance with the State Environmental Policy Act (SEPA); and
8. Proposed timeline for project progress and completion (see sub-chapter 2.1.5, *Construction Timing* for details).
9. The application fee for an HPA is \$150. Some modifications made to an existing permit will require the \$150 application fee, while others do not. If your permit was issued prior to 7/10/12 or falls under the criteria listed in the HPA for a minor modification, you are not subject to the application fee.

## 2.1.2 Application for Chronic Danger HPA

A complete, written application that contains all the elements identified for a standard HPA is required for a Chronic Danger HPA. However, if the project is for the restoration of an eroded or unstable streambank employing the principle of bioengineering as provided in RCW 77.55.021 (15) (b), the project is not subject to SEPA review, Chapter 43.21C RCW. Instead, the project is subject to the review process established in RCW 77.55.181(3) as if it were a Fish Habitat Enhancement Project (FHEP) (see call out box on page 2-9). In those cases, the applicant must submit a permit application or JARPA simultaneously to WDFW and the local government. Be sure to check with the local jurisdiction to determine which application form they prefer.

WDFW must issue an HPA, upon request, for work necessary to abate the chronic danger by removing any obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish resources, or protecting property, including any mitigation that may be required.

## 2.1.3 Application for Imminent Danger and Expedited HPA

RCW 77.55.021 (14) and (16) specify the requirements for a complete application for an Imminent Danger and Expedited HPA. If either the county legislative authority or WDFW declares that an imminent danger exists, WSDOT may apply for and WDFW must issue an Imminent Danger HPA. If neither the county legislative authority nor WDFW had declared that an imminent threat exists but normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment, WDFW may issue an Expedited HPA, including any mitigation that may be required. In either case, a complete, written application that contains all the elements identified for a Standard HPA is required for an Imminent Danger or Expedited HPA. Imminent danger and expedited projects are not required to comply with SEPA. Imminent Danger and Expedited HPAs are valid for up to 60 days after WDFW issues the permit.

## 2.1.4 Application for Emergency HPA

When WDFW, the county legislative authority, or the governor declares an emergency, WSDOT may request an Emergency HPA verbally or in writing. RCW 77.55.021 (12) specifies the requirements for a complete application for an Emergency HPA. If WDFW, the county legislative authority, or the governor declares an emergency, WDFW must issue immediately, upon request, a verbal approval for a stream crossing, or work to

---

### What is a Chronic Danger?

A condition that may be declared by the county legislative authority in which any property, except for property located on a marine shoreline, has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway.

---

### What is an Imminent Danger?

An imminent danger means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

---

### What is considered an Emergency?

Emergency means an immediate threat to life, the public, property, or of environmental degradation (RCW 77.55.011(7)). Only WDFW, the county legislative authority, or the governor may declare and continue an emergency (RCW 77.55.021 (12a)).

---

### When can I start the work?

Neither WSDOT's application for HPA nor WDFW's acknowledgment of receipt of an application constitutes approval by WDFW of the proposed project. Work on any hydraulic project shall not occur until WSDOT receives an electronic or hard copy of the signed HPA for Standard, Chronic Danger, and Expedited HPAs, or verbal or written approval for Emergency HPAs.

---

remove any obstructions, repair existing structures, restore streambanks, protect fish life, or protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written HPA prior to commencing work. Provisions of the Emergency HPA must be communicated to WSDOT by WDFW at the time of approval and in writing within thirty days. WSDOT is then required to comply with these HPA provisions. As with Expedited projects, Emergency HPAs are not required to comply with SEPA, but may require mitigation.

WDFW does not require the applicant to pay the \$150 fee for Emergency HPAs until the written permit is issued. This is the only permit application that can be sent to the WDFW region office.

### **2.1.5 Required information for all projects**

Permit applicants should address the following components in their application to increase the likelihood of acceptance by WDFW. WSDOT and WDFW staff encourage early coordination with HBs to discuss avoidance and minimization measures along with needed information to process the HPA application. WDFW will likely declare your application incomplete and request you supply the missing information if these components are not included in the application package. This may result in increased project costs due to a delay issuing the HPA.

#### Construction Timing

Provide an accurate construction schedule that includes the ad date, construction start and completion dates. If your project will be constructed in phases or stages, complete that section of the APPS application or use [JARPA Attachment D](#) to provide start and end dates for each phase. The schedule must demonstrate that the proposed project will occur at times when vulnerable fish life stages can be protected. Review the Endangered Species Act (ESA) documents prepared for your project to check for any federal commitments pertaining to construction timing and fish and ensure these are consistent with your proposed schedule. HPAs always include work timing limitations (allowable work windows) to protect vulnerable stages of fish life, such as spawning, incubation, and early rearing. These work windows will vary depending on the work location, type of work to be conducted, and the fish species present at the work location. It may be necessary to construct portions of a project in consecutive years if the allowable work window does not provide enough time to complete the project in one season.

---

#### **How do I know which in-water work windows will apply to my project?**

Determine the waters of the state that could be affected by your project and contact your local WDFW Habitat Biologist (HB) early during the design stage so he or she can provide you with information on allowable work windows. This information is also available in the WDFW document, [Times When Spawning or Incubation Salmonids are Least Likely to Be Within Washington State Freshwaters](#). Work windows can be adjusted by the HB. Saltwater work window information is available in [WAC 220-660-330](#).

---

WDFW established [freshwater work windows](#) to protect fish life during mining operations. These windows are often used as a starting point for the HB to decide the work windows applicable to your project. Please click on the links on page 2-4 for a list of specific work times by state water. HBs can adjust these work times based on specific locations and activities proposed. Therefore, it is critical you contact the HB early in the design process to discuss allowable work windows.

### Hydrology and Stream Reach Assessment

Constructing or repairing in-water structures may affect stream hydrology or tideland ecology. So that WDFW can fully assess the impacts of the proposed project, additional information is required. If your project involves in-water structures (such as bridges, culverts, bank protections) or stream channel changes or realignments you should include hydrologic or tidal data for the project site. Hydraulic and scour calculations, and stream reach assessments should be included (see sub-chapter 2.1.6 for additional guidance).

### Water Quality Protection

You need to identify the methods proposed to maintain water quality during project construction. These include, but may not be limited to, temporary erosion and sediment control of stormwater and construction runoff, water pollution control, grading or landscaping strategies, and permanent slope and bank stabilization methods.

### Riparian Area and Vegetation Protection and Restoration

WSDOT hydraulic projects frequently involve the use of heavy equipment that may damage riparian areas and vegetation. It is important that WSDOT protect these resources from project impacts to the greatest extent possible. WSDOT must restore areas damaged by construction upon project completion. Applications should specify the methods proposed to protect and restore riparian areas and vegetation.

### Isolation of Fish from Work Area

When proposed work activities in state waters pose potential harm to fish life, applications need to include project plans for removing and [excluding fish](#) from work areas. In the application drawings and supplemental information, describe and show temporary water bypasses, pipes, culverts, flumes, pumps, screens, cofferdams, deflectors, or other methods to remove and exclude fish from the work area. You must ensure your permit application demonstrates compliance with the in-water work area isolation requirements outlined in [WAC 220-660-120](#)

---

#### **Does WSDOT have a JARPA template for stand-alone fish passage projects?**

Yes, WSDOT HQ environmental office developed a template that identifies what information needs to be included in the JARPA. An electronic copy can be obtained from the [Permitting SharePoint Site](#) (for internal WSDOT staff) or by contacting HQ Environmental Services Office (for external staff).

---

---

#### **Where can I find WSDOT protocols established to maintain water quality?**

Permit applicants for WSDOT projects should reference the WSDOT [Temporary Erosion and Sediment Control Manual](#) regarding best management practices for maintaining water quality. Applications should also reference [Division 8 of the WSDOT Standard Specifications](#).

---

---

**Where can I obtain information regarding pile driving and sound pressure?**

Use the information from the Biological Assessment (BA) prepared for your project because it must assess potential impacts associated with pile driving.

---

**What if WSDOT determines pile driving activities may generate sound pressures that are above disturbance level thresholds?**

The BA often includes an [Underwater Noise Monitoring Plan](#) as an appendix. WSDOT does not usually need to submit the entire Biological Assessment (BA) to WDFW, but you should provide the Underwater Noise Monitoring Plan to WDFW with your application.

---

**What is WDFW's mitigation sequence?**

The mitigation sequence is the successive steps that WDFW and the applicant must consider and implement to protect fish life when constructing or performing work. These steps must be considered and implemented in the order listed:

- 1) Avoid the impact.
- 2) Minimize unavoidable impacts.
- 3) Rectify the impact by repairing, rehabilitating, or restoring the affected environment.
- 4) Reduce or eliminate the impact over time.
- 5) Compensate for unmitigated impacts.
- 6) Monitor this impact and make corrective measures.

See [WAC 220-660-030](#) (102) for the specific language.

---

for freshwater. If your project will require a temporary stream diversion, be sure to include General Special Provision 7-06.SA1.FR7 in the contract. This ensures the contractor understands what is expected of them to protect fish life and water quality. It also ensures that WSDOT is allowed to review their diversion plan and provide comments before the contractor begins work in the water.

**Staging and Job Site Access**

Applications need to include plans for proposed timing, installation, operation, and removal of construction site access and staging in, adjacent to, or over state waters. This includes temporary fill and excavation, roads, work platforms, and other methods. Application drawings should show temporary construction site access and staging areas, as well as plans to protect and restore vegetation. See [WAC 220-660-120](#) for freshwater and [WAC 220-660-360](#) for saltwater work.

**Noise Abatement**

If a proposed project involves pile driving, blasting, or other activity that may result in high sound pressure waves, applications need to include a thorough justification for their use. Blasting is not usually an approved method of working in state waters that contain fish, so applications that include blasting should include blasting only if no alternative method is feasible. Applications involving pile driving should include the following information:

- Number of piles proposed and type and size of material (steel H-pile, precast concrete, wood timber, etc.);
- Type (impact or vibratory) and size of proposed driving mechanism;
- Anticipated frequency and duration of sound pressure;
- Measures proposed to minimize impacts of sound pressures (such as use of a vibratory instead of impact hammer, air bubble curtains, fewer piles, smaller diameter piles, bored shafts, and use of wood rather than steel);
- Proposed pile or blasting locations in and near the water;
- Depth of water, both at and near the work location; and
- Bottom substrate composition.

## Mitigation of Unavoidable Impacts

In some cases, proposed projects will have impacts to fish life that WSDOT cannot avoid. WDFW can permit those projects provided appropriate compensatory mitigation is included. Applicants should include a detailed discussion of unavoidable project impacts and proposed compensatory mitigation, including location and extent of the mitigation, and timeline for its implementation. The [MOA between WSDOT and WDFW](#) and [WAC 220-660-080](#) provides mitigation guidance. Work with your [WDFW HB](#) to discuss mitigation requirements for your project.

## Monitoring and Contingency Correction Plan

Applications should include a plan for monitoring, reporting, and if necessary, correcting fish passage barriers and fish habitat mitigation features. Monitoring and correction of deficient fish passage barriers are required for the life of the project. Monitoring and correction of deficient fish habitat mitigation features are required for a minimum of three years after project completion. If correction of fish habitat mitigation features is necessary to address deficiencies, additional monitoring should occur for a minimum of three years after the corrections are completed. Monitoring reports should be submitted annually to WDFW. Correction work in state waters may require revision of the original HPA (or a new HPA) and other permits.

### **2.1.6 Additional information required for specific types of work**

In addition to the information required for all projects outlined above, WDFW also has specific information needs unique to the type of proposed work. HPAs are required for work in, over, and near state waters, such as bridge construction, bank protection, culvert replacement, and channel realignment. Specific application guidance for the most common types of projects is provided below. For project types not listed, WSDOT should provide written descriptions and drawings to fully describe the work and all related impacts and mitigation.

#### Bridges

Ensure your permit application demonstrates compliance with WDFW's [Water Crossing Design Guidelines](#) chapter on Bridge Design Guidelines for Habitat Protection and technical provisions outlined in [WAC 220-660-190](#). FHWA guidance documents are available on their Hydraulics Engineering webpage (see [HEC 18, 20, and 23](#)).

---

#### **What is WDFW's mitigation sequence?**

The mitigation sequence is the successive steps that WDFW and the applicant must consider and implement to protect fish life when constructing or performing work. These steps must be considered and implemented in the order listed:

- 1) Avoid the impact.
- 2) Minimize unavoidable impacts.
- 3) Rectify the impact by repairing, rehabilitating, or restoring the affected environment.
- 4) Reduce or eliminate the impact over time.
- 5) Compensate for unmitigated impacts.
- 6) Monitor this impact and make corrective measures.

See [WAC 220-660-030](#) (102) for the specific language.

---

#### **How are baseline conditions defined for compensatory mitigation?**

The environmental baseline is habitat conditions at the time the HPA application is submitted. See [WAC 220-660-080](#) (4) f for more information.

---

---

**Can I request a draft HPA?**

Yes, WSDOT can request a draft HPA from the WDFW HB. This allows WSDOT to review the HPA provisions before they are finalized and discuss concerns with WDFW.

---

**Helpful Hint**

- Indicate where the bankful width was measured.
  - Include the pebble count for channel changes to show how the proposed streambed material was determined.
- 

**Doesn't the Corps also want specific information for projects involving bank stabilization?**

Yes. The Corps now requires applicants seeking Nationwide or Individual Permits to provide specific information for new or maintenance bank stabilization activities. A detailed list of the information required is provided in Chapter 3 of this guidance document. See items "a through g" as listed on page 3-3 and page 3-4.

---

**Helpful Hint**

It is important to explain in the permit application what led to the decision to move a stream channel or protect a streambank. WDFW needs to know the alternatives considered and the logic of the proposed design solution.

---

**Culverts**

While applications for culvert projects typically should include hydraulic and scour calculations, applications for stream simulation culvert designs consistent with the [Water Crossing Design Guidelines](#) do not need to include those calculations. To have the best chance of approval, proposed culvert projects should minimize the length and maximize the width of the culvert, and countersink it below the elevation of the streambed. You must ensure your permit application demonstrates compliance with the water crossing structures requirements and technical provisions outlined in [WAC 220-660-190](#).

**Bank Protection**

Applicants should demonstrate that WSDOT has considered relocating the highway or other structures out of the floodplain for bank protection projects where there are reoccurring issues. Applicants should describe the extent the project incorporates techniques that mimic natural processes, and how WSDOT considered design guidelines including the [Integrated Streambank Protection Guidelines](#) and [Stream Habitat Restoration Guidelines](#) when selecting the proposed bank protection. The applicant should describe the risk associated with the alternatives and the proposed approach. You must ensure your permit application demonstrates compliance with the bank protection requirements and technical provisions outlined in [WAC 220-660-130](#) for freshwater and [WAC 220-660-370](#) for saltwater.

WSDOT issued Instructional Letter 4076 [Large Woody Material Structures in Water Bodies](#) that provides additional technical guidance. Coordinate closely with your WDFW HB before you submit the permit application to ensure they will be able to permit your design.

**Channel Changes**

Applications for channel change projects should describe the extent the projects use techniques that mimic natural processes, why it is necessary to change the stream channel, how design guidelines including the [Integrated Streambank Protection Guidelines](#) and [Stream Habitat Restoration Guidelines](#) have been used to select the proposed bank protection, and the risk of the proposed approaches and alternatives. You must ensure your permit application demonstrates compliance with the channel change/realignment requirements and technical provisions outlined in [WAC 220-660-210](#).

## 2.2 How much time should I allow for HPA permit processing?

In accordance with [RCW 77.55.021](#), WDFW must approve or deny an application for a standard HPA within 45 days of receiving a complete, written application. If WDFW receives an incomplete application, the HB must notify WSDOT in writing, within 10 working days of receipt of that application, why the application is incomplete and what information is needed to make it complete. See the table below for HPA processing times by type of HPA.

Type of HPA	How long does it take?	Need Proof of SEPA?
Standard	Up to 45 days after submitting a complete application.	Yes
Emergency	Verbal or written approval from WDFW is required to proceed.	Exempt
Imminent danger	Up to 15 days after submitting a complete application.	Exempt
Expedited	Up to 15 days after submitting a complete application.	Exempt
Chronic danger	Up to 45 days after submitting a complete application.	Exempt
Streamlined processing for Fish Habitat Enhancement projects	Up to 45 days after submitting a complete application.	Exempt

## 2.3 What if I want to appeal the HPA permit decision?

If the HPA is issued with provisions unacceptable to WSDOT or the HPA is denied, WSDOT may appeal WDFW’s decision within 30 days of the HPA issuance or denial. Please refer to Section 10 of the [MOA between WDFW and WSDOT](#) as it provides specific details for conflict resolution. [WAC 220-660-460](#) describes the informal appeal process, while [WAC 220-660-470](#) describes the formal appeal process.

---

### Is there a fee to obtain an HPA?

Yes, WDFW requires a \$150 fee, unless the project qualifies for an exemption. Typical exemptions for WSDOT projects include:

- Project is a modification of an existing HPA originally applied for before 7/10/12.
  - Forest Practices Hydraulic Projects ([WAC 222-16-025](#)).
  - Specialized Fish Passage Projects (Culvert Injunction)
- 

### What is a Fish Habitat Enhancement Project (FHEP)?

FHEP is a streamlined permit and approval process ([RCW 77.55.181](#)) for projects that remove human-made or caused fish passage barriers (must be listed in WSDOT’s environmental retrofit program), restoration of an eroded or unstable stream bank, or placement of woody debris or instream structures that benefit naturally reproducing fish stocks. The sole purpose of the project must be for fish habitat enhancement ([WAC 220-660-050\(3\)\(b\)\(i\)](#)). Applicants using this process are strongly encouraged to coordinate with the WDFW HB and local governments early in the process.

To apply for FHEP, applicants must fill out a JARPA and an FHEP form (see ORIA JARPA website). Submit the application to both WDFW and the local government.

WDFW provides local governments fifteen days to submit comments regarding environmental impacts. Within forty five days, WDFW will either approve or deny the project or make a determination that the review under FHEP is not appropriate.

Projects meeting the criteria for FHEP review that are approved by WDFW are not subject to the requirements of the State Environmental Policy Act, nor are they required to obtain local approvals or pay local permitting fees. See [RCW 77.55.181](#) for more information about this process.

This page intentionally left blank.

# Chapter 3 Department of the Army Nationwide and Individual Permits

---

*Title 33 of the Code of Federal Regulations, Parts 325.1(d) and 325.3(a) list the required contents for Department of the Army permits. WSDOT and the [Seattle District](#) of the U.S. Army Corps of Engineers (Corps) have worked together to define submittal requirements. This guidance will help you prepare a complete application for most Nationwide and Individual Permits.*



## 3.1 What is required for a complete Nationwide Permit (NWP) application?

The Corps requires all permit applicants to submit the most recent version of the [JARPA](#) when applying for a Nationwide Permit. In order to be considered complete, the Corps also requires detailed information that is specific to the permit WSDOT is applying for.

WSDOT, in the recent past, has only used 13 of the 50 available [Nationwide Permits](#). Those Nationwide Permits include: 3, 5, 6, 12, 13, 14, 15, 18, 23, 27, 33, 43 and 45. As a result, only those particular Nationwide Permit requirements for a complete application are discussed below for instances where a Pre-Construction Notification (PCN) is submitted.

For Nationwide Permit applications to be considered complete, the permit application package must contain the information identified in sub-chapters 3.1.1 and 3.1.2 below:

### 3.1.1 Information required for all Nationwide Permits

1. JARPA completely filled out and signed;
2. JARPA drawings;
3. Detailed description of the proposed activity (use JARPA form);

---

#### What is a Nationwide Permit?

Nationwide permit refers to a type of general permit which authorizes activities on a nationwide basis unless specifically limited (33 CFR 330.2). The Corps published a [User's Guide](#) for Nationwide Permits in Washington State.

---

#### If I completely fill out a JARPA form, does it satisfy all the requirements for a Nationwide Permit?

No, completely filling out a JARPA form typically satisfies items 1 through 3 in sub-chapter 3.1.1. For projects that will impact wetlands or other surface waters, a delineation report will be required. For projects that will impact jurisdictional ditches, a jurisdictional ditch memo will be required (see item 4).

---

---

**What is a special aquatic site?**

Special aquatic sites include wetlands, mudflats, vegetated shallows, coral reefs, riffle and pool complexes, and sanctuaries and refuges as defined in 40 CFR 230.40 through 230.45

---

---

**What's the difference between a conceptual mitigation plan and a draft mitigation plan?**

Ecology, the Corps, and EPA worked together to create [Joint Guidance](#) for developing wetland mitigation plans. This document defines minimum requirements, provides helpful outlines, and includes a site selection checklist you can use to determine if your site is appropriate for compensatory mitigation.

---

---

**What is federal lead agency?**

For every proposed action subject to NEPA (or SEPA with the need for a federal permit) one federal agency must serve as the lead agency. A "lead agency" is the federal agency with primary responsibility for complying with NEPA and other federal regulations /requirements.

---

4. Delineation of wetlands and/or any other special aquatic site (e.g., mudflats, riffle and pool complexes, or vegetated shallows), Ordinary High Water Mark (OHWM) for lakes and streams, Mean Higher High Water (MHHW) Mark for fills in tidal waters, Mean High Water (MHW) Mark for structures/work in tidal waters, and jurisdictional ditches;
5. If greater than 0.10 acre of permanent wetland impact, submit a statement of how mitigation requirements will be satisfied, conceptual mitigation plan, or draft mitigation plan (please refer to [Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans, March 2006 \(Joint Guidance\)](#)); and
6. If the project involves installing, replacing, or modifying crossings of waters of the United States, such as culverts, include:
  - a. Need for the crossing.
  - b. Crossing design criteria and design methodology.
  - c. Rationale behind using the specific design method for the crossing. (Justification if you are not using the stream simulation method to design the proposed watercourse crossing).

This information is also needed for Individual Permits with new, replaced, or modified culverts, but is not required for a complete application. See Section 3.2.2, Information required for a final decision on Individual Permits.

If the Corps is a federal lead include:

7. List of Federally-listed endangered or threatened species or designated critical habitat (No Effect Letter or Biological Assessment); and
8. Cultural Resource Study (to determine if an eligible or potentially eligible resource would be impacted).

Note: The Corps shall ensure compliance with NEPA, ESA and Magnuson Stevens Fishery Conservation and Management Act (MSA) and Section 106 of the National Historic Preservation Act (NHPA) for all projects, regardless of whether they are the federal lead. However, when FHWA is the federal lead, the submittal of the items under 7 and 8 does not affect whether the application is determined complete, but the information still must be submitted to the Corps.

### **3.1.2 Additional information required for specific Nationwide Permits**

Below are specific Nationwide Permit requirements in addition to the requirements for all Nationwide Permits listed above in sub-chapter 3.1.1.

#### *Nationwide Permit 3, Maintenance*

Where maintenance dredging is proposed (as it would be authorized under Nationwide Permit 3), the pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals.

#### *Nationwide Permit 12, Utility Line Activities*

Drawings and/or a description of the measures that will be used to prevent permanent drainage of adjacent areas by the backfilled trench and/or along the buried utility line.

*Nationwide Permit 13, Bank Stabilization*, and where WSDOT proposes new or maintenance bank stabilization activities under any other Nationwide Permit.

- a. Need for the work, including the cause of the erosion and the threat posed to structures, infrastructure, and/or public safety. The notification must also include a justification for the need to place fill or structures waterward of the line of the Corps' jurisdiction (typically, the ordinary high water mark or mean higher high water mark).
- b. Current and expected post-project sediment movement and deposition patterns in and near the project area. In tidal waters, describe the location and size of the nearest bluff sediment sources (feeder bluffs) to the project area and current and expected post-project nearshore drift patterns in the project area.
- c. Current and expected post-project habitat conditions, including the presence of fish, wildlife and plant species, submerged aquatic vegetation, spawning habitat, and special aquatic sites (e.g., vegetated shallows, riffle and pool complexes, or mudflats) in the project area.
- d. In rivers and streams, an assessment of the likely impact of the proposed work on upstream, downstream and cross-stream properties (at a minimum the area assessed should extend from the nearest upstream bend to the nearest downstream bend of the watercourse). Discuss the methodology used for determining effects. The Corps reserves the right to request an increase in the reach assessment area to fully address the relevant ecological

reach and associated habitat.

- e. For new bank stabilization activities in rivers and streams, describe the type and length of existing bank stabilization within 300 feet up and downstream of the project area. In tidal areas, describe the type and length of existing bank stabilization within 300 feet along the shoreline on both sides of the project area.
- f. Demonstrate the proposed project incorporates the least environmentally damaging practicable bank protection methods. These methods include, but are not limited to, the use of bioengineering, biotechnical design, root wads, large woody material, native plantings, and beach nourishment in certain circumstances. If rock must be used due to site erosion conditions, explain how the bank stabilization structure incorporates elements beneficial to fish. If the Corps determines you have not incorporated the least environmentally damaging practicable bank protection methods and/or have not fully compensated for impacts to aquatic resources, you must submit a compensatory mitigation plan to compensate for impacts to aquatic resources.
- g. A planting plan using native riparian plant species unless the applicant demonstrates a planting plan is not appropriate or not practicable.

Typically this information is included in the Biological Assessment prepared for your project. This information is also needed for Individual Permits with new bank stabilization activities, but is not required for a complete application. See Section 3.2.2, Information required for a final decision on Individual Permits.

#### *Nationwide Permit 23, Categorical Exclusions*

A Documented Categorical Exclusion (DCE) form (an Environmental Classification Summary (ECS) form also works) signed by the FHWA with the categorical exclusion type/action listed.

#### *Nationwide Permit 27, Aquatic Habitat Restoration, Establishment, and Enhancement Activities*

If the project involves work that would result in any loss of waters of the U.S. in a special aquatic site (e.g., mudflat, wetland, or riffle and pool complex), the notification must explain why the loss is necessary and show how it would be fully offset by the beneficial impacts of the project. The notification must describe

pre-project site conditions (including photographs), general wetland and other aquatic functions the site provides, and proposed maintenance and monitoring plans.

*Nationwide Permit 33, Temporary Construction, Access, and Dewatering* and other Nationwide Permits where temporary impacts are proposed

A restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions.

*Nationwide Permit 43, Stormwater Management Facilities*

The pre-construction notification must include a maintenance plan if periodic maintenance dredging is proposed.

*Nationwide Permit 45, Repair of Uplands Damaged by Discrete Events*

The pre-construction notification must be submitted within 12 months of the date of the damage and should include documentation, such as a recent topographic survey or photographs to justify the extent of the proposed restoration.

### **3.2 What is required for a complete Individual Permit application?**

The Corps requires all permit applicants to submit the most recent version of the [JARPA](#) when applying for an Individual Permit. In order to be considered complete, the Corps also requires detailed information that is specific to the permit WSDOT is applying for.

For Individual Permit applications to be considered complete and to issue a Public Notice, the permit application package must contain the information identified in sub-chapter 3.2.1 below:

#### **3.2.1 Information required for all Individual Permits**

The Corps requires the following information for an application to be considered complete and to issue a Public Notice:

1. JARPA completely filled out and signed;
2. JARPA drawings;
3. Detailed description of proposed activity (use the JARPA form);
4. Names and addresses of adjoining property owners (use the JARPA form);
5. Location and dimensions of adjacent structures (note: a scaled

---

**If I completely fill out a JARPA form, does it satisfy all the requirements for an Individual Permit?**

No, completely filling out a JARPA form typically satisfies items 1 through 8 in sub-chapter 3.2.1, though a mitigation plan to fully satisfy item 8 may be required. For projects that will impact wetlands or other waterbodies, a delineation report will be required. For projects that will impact jurisdictional ditches, a jurisdictional ditch memo will be required. These reports satisfy the requirements in item 9.

---

drawing showing the resource and proposed structures will satisfy this requirement except in Section 10 waters where proposed structures may affect navigation. In Section 10 waters, the proposed structure will need to have the exact dimensions shown and the distance to adjoining property structures (e.g., docks and piers) called out.);

6. List of authorizations required by other federal, interstate, state, regional, or local agencies for the work (for example, water quality certifications, shoreline permits, or U.S. Coast Guard permits), including all approvals received or denials already made (use the JARPA form);
7. If dredging is planned, the application must include a description of the type, composition, and quantity of the material to be dredged, the method of dredging, and the site and plans for disposal of the material;
8. A complete list of avoidance, minimization, and compensatory mitigation efforts;
9. Delineation of wetlands and/or any other special aquatic sites, OHWM, and jurisdictional ditches;
10. Coastal Zone Management Act (CZMA) Consistency Determination form (filled out and signed); and

If the Corps is a federal lead include:

11. List of Federally-listed endangered or threatened species or designated critical habitat (No Effect Letter or Biological Assessment); and
12. Cultural Resource Study (to determine if an eligible or potentially eligible resource would be impacted).

Note: The Corps shall ensure compliance with NEPA, ESA, and Section 106 of the National Historic Preservation Act (NHPA) for all projects, regardless of whether they are the federal lead. However, when FHWA is the federal lead, the submittal of the items under 11 and 12 does not affect whether the application is determined complete, but the information still must be submitted to the Corps.

### **3.2.2 Information required for a final decision on Individual Permits**

In order for the Corps to make a final permit decision on an Individual Permit, WSDOT must submit the following information:

1. Corps approved Final Mitigation Plan (please refer to the [Joint Guidance](#) for what information needs to be included in a final mitigation plan);
2. Demonstration of compliance with ESA and MSA (Biological Opinion and/or concurrence letter);
3. Demonstration of compliance with Section 106 (e.g., Section 106 concurrence letter, and/or a Memorandum of Agreement/Understanding);
4. Wild and Scenic River concurrence from the Federal agency with direct management responsibility (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, USFWS) – if applicable;
5. Section 404(b)(1) Alternatives Analysis;
6. Section 401 Water Quality Certification from Ecology, Environmental Protection Agency, or the Tribes;
7. Coastal Zone Management Act (CZMA) Consistency Determination from Ecology;
8. Federal flood control projects operated and maintained by non-federal sponsors project modification approval – if applicable;
9. If the project involves installing, replacing, or modifying crossings of waters of the United States, such as culverts, include:
  - a. Need for the crossing
  - b. Crossing design criteria and design methodology.
  - c. Rationale behind using the specific design method for the crossing. (Justification if you are not using the stream simulation method to design the proposed watercourse crossing).
10. If the project involves new or maintenance bank stabilization activities you must include information to address items “a through g” as listed on page 3-3 and page 3-4 of this guidance document.

Depending on a project and its location the Corps may ask for one or more of the following:

11. Traffic Analysis;
12. Floodplain Analysis;
13. Hydraulic Study; or
14. Stream Survey.

---

**How do I demonstrate ESA compliance?**

Include a No Effect Letter, Concurrence letters or a Biological Opinion from USFWS and/or NMFS. Include FHWA’s (or lead agency’s) response to NMFS regarding any Essential Fish Habitat conservation recommendations.

---

---

**What is a Section 404(b)(1) Alternatives Analysis?**

Unless exempt, all projects involving fill in waters of the U.S. (that do not qualify for a Nationwide Permit) are required to evaluate “practicable alternatives” that would have less impact on the aquatic ecosystem. You can find guidance for preparing an [Alternatives Analysis](#) at the Corps web site.

---

### 3.3 How much time should I allow for Nationwide or Individual Permit processing?

Processing time for a Corps Individual Permit can range from 4 to 24 months depending on the complexity of the impacts on aquatic resources, endangered species, archaeological or tribal concerns and workload. Nationally, the Corps has set a goal to process Individual Permits within 120 days of receiving a complete application. Please keep in mind that the information listed in items 1 through 10 under Section 3.2.2 must be completed/provided before the Corps can issue an Individual Permit. The Corps typically will provide WSDOT with a Nationwide Permit decision letter within 45 days of receiving a complete application. Risks to meeting the 45 day timeline for Nationwide Permits include:

- Waiting on the federal flood control projects operated and maintained by non-federal sponsors
- Project modification approval; and/or
- The Corps is the federal lead and ESA, MSA, or Section 106 of the NHPA has not been completed.

### 3.4 What if I want to appeal the Nationwide or Individual Permit decision?

Individual Permits can only be appealed by the applicant. The Corps division engineer must receive the appeal within 60 days of the permit issuance date. The Corps website has additional information regarding the [administrative appeal process](#).

---

**Is there a fee to obtain Individual and Nationwide Permits?**

No, there are no permit fees associated with these permits.

---

# Chapter 4 Ecology Section 401 Certification and Coastal Zone Management Act (CZMA) Consistency Determination

---

*Applicants seeking a Section 404 permit from the Corps may be required to obtain a Section 401 Water Quality Certification from Ecology. Issuance of a certification means that Ecology anticipates that the applicant's project will comply with state water quality standards and other aquatic resource protection requirements under Ecology's authority. The 401 Certification can cover both the construction and operation of the proposed project. Conditions of the 401 Certification become conditions of the Federal permit or license. If an applicant needs a Section 404 Individual Permit from the Corps, then they will also need a Section 401 Individual Water Quality Certification from Ecology. Procedurally, Ecology issues the Section 401 Individual Certification before the Corps can issue the Section 404 Individual Permit.*



*If an applicant needs a Section 404 [Nationwide Permit](#) (NWP) from the Corps, then Ecology may need to issue a Section 401 decision. The Section 401 decision could be an Individual Permit or a Letter of Verification (LOV), depending on the type of NWP and proposed project impacts. Procedurally, Ecology issues the Section 401 Individual Certification or LOV after the Corps issues the NWP. Issuance of a LOV means WSDOT will demonstrate compliance by adhering to the State of Washington Water Quality Standards.*

## 4.1 What is required for a complete Section 401 application?

WSDOT shall use the most recent version of the [Joint Aquatic Resources Permit Application \(JARPA\)](#) to apply for an Ecology Section 401 Water Quality Certification.

### 4.1.1 Information required for Section 401 applications

Ecology starts review of an application or application package the day Ecology receives a signed JARPA with the Section 401 Water Quality Certification box checked. Ecology will start reviewing the application regardless of the other materials contained within the application. However, Ecology's Section 401 Certification review time can be shortened significantly if WSDOT submits the information listed below with all JARPA submittals. Additionally, effective coordination between WSDOT and Ecology throughout the permitting process can help reduce permit application review timelines. Ecology will use the information below when reviewing projects for Individual 401 Certifications and LOVs.

The applicant shall submit the following information for an application to be considered complete. Ecology also requires a copy of the documentation submitted to the Corps of Engineers (minus Section 106). If the Corps issues a NWP, a complete application along with a copy of the Corps permit application package and permit is needed to start the regulatory clock. If the Corps issues an individual Section 404 permit, the same information is needed but issuance of the public notice starts the regulatory clock.

1. JARPA completely filled out and signed;
2. JARPA drawings;
3. Signed CZM Consistency Determination form if work is within one of Washington's [15 coastal counties](#);
4. Provide information on activities that will occur in the water, over the water, or on the adjacent shoreline. Discuss the following:
  - a. BMPs that will be used to protect/meet water quality standards;
  - b. BMPs that will be used to minimize impacts to the shoreline and prevent/control erosion;
  - c. BMPs that will be used to prevent/control discharges to waters of the state when working on the shoreline or over water;
  - d. Construction techniques and sequence of work;
  - e. Contingency plans;

---

**Do I need to include specific information for activities that will occur over water, in-water, or on the adjacent shoreline?**

Yes, in order to help Ecology to complete their review of the JARPA and to issue a permit decision, you need to address items 4a through 4i.

---

- f. Concrete – will it be poured on site or precast?
- g. TESC Plans – verify that a TESC plan will be developed;
- h. SPCC Plans – verify that WSDOT will require the contractor to develop a SPCC plan; and
- i. Water Quality Monitoring – verify that monitoring will be conducted and specify the parameters that will be monitored.

If your project will cause wetland impacts:

- 5. Wetland delineation report. Refer to Appendix H of [Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans \(Version 1\), March 2006 \(Joint Guidance\)](#) for the minimum amount of information to include in a wetland delineation report. Additional information such as wetland ratings and a functions analysis also should be included; and
- 6. Wetland mitigation plan (at least at a conceptual level). Refer to page 6 of the [Joint Guidance](#) for which information to include.

If your project will add new impervious surface:

- 7. Stormwater plan (at least at a conceptual level) that discusses both water quality and flow control treatments. The stormwater plan should briefly explain how the project will meet the requirements of the Highway Runoff Manual (HRM) and include:
  - a. A table that clearly conveys the area quantities of new, replaced, and existing impervious surface.
  - b. A map or drawing depicting the Threshold Discharge Area (TDA) boundaries.
  - c. A brief description of the water quality/flow control treatment strategies including sizes/volumes of proposed facilities.
- 8. For stormwater components not meeting the HRM, provide documentation that describes the limitations of constructing and operating runoff treatment and flow control facilities within the sub basin and the off-site or watershed-based options for mitigating discharges (see HRM Appendix 2A).

**4.1.2 What does Ecology need to issue an Individual Section 401 public notice?**

The Corps and Ecology are required to issue a public notice for each project that needs an Individual Section 404 permit and Individual Section 401 Water Quality Certification. Typically, and preferably, the Corps will issue a joint public notice covering both

---

**Helpful Hint**

Some of the information required by WDFW in Section 2.1.5 can satisfy Ecology's in-water work informational needs.

---



---

**What if my project will impact isolated wetlands?**

You will need to request an Administrative Order from Ecology. This involves submitting a JARPA package, Jurisdictional Determination Letter from the Corps, and an [Isolated Wetland Information Sheet](#). WSDOT's web site contains helpful information regarding the permitting process for [isolated wetlands](#).

---



---

**Where can I get information for the stormwater plan?**

The stormwater plan information is usually contained in the project hydraulic report. WSDOT does not need to submit the entire hydraulic report, only the information outlined in items 7a, 7b, and 7c.

---

agencies' public notice requirements. However, in some cases Ecology may issue its own public notice prior to the Corps public notice to ensure the 401 Certification timelines are met. Before Ecology will issue its public notice, it needs reasonable certainty of the project's impacts to aquatic resources and how they will be mitigated.

If the Corps issues a Nationwide permit (8, 17, 21, 37, 44, 49, 50, 51 or 52) that requires an Individual 401 Certification **OR** if the project cannot meet the [State 401 Certification General Conditions](#) (see page 95) and thus requires an individual 401 Certification, then Ecology can issue its public notice after it receives a signed JARPA. Ecology will verify that the Corps will be issuing a NWP. Again, Ecology will need reasonable certainty of the project's impacts and how those impacts will be mitigated prior to issuing its public notice.

#### **4.1.3 What does Ecology need to issue the Individual Section 401 Water Quality Certification or LOV?**

In order for Ecology to issue an Individual Section 401 Certification or LOV, WSDOT must submit the following information:

1. A complete application as described above under Section 4.1
2. Documentation that SEPA is complete;
3. For an Individual Section 401 Certification, confirmation from the Corps that they have issued the Section 404 public notice;
4. For an LOV, confirmation that the Corps has issued the NWP;

##### If your project impacts wetlands:

5. Ecology-approved wetland delineation report (one that satisfactorily addresses Ecology's comments provided during permit application review) including correct wetland rating forms, accurate functional analysis, and verified delineations;
6. Ecology-approved final wetland mitigation plan (one that satisfactorily addresses Ecology's comments provided during permit application review). *Appendix C* of the [Joint Guidance](#) provides guidance on what information to include in draft and final mitigation plans. *Appendix J* of the same document includes a site selection checklist to use in determining if a site is appropriate for compensatory mitigation. If mitigation bank credits will be used, refer to the joint agency letter that Ecology sent to WSDOT on November 16, 2007 titled *Use of Mitigation Banking for Future WSDOT Projects*;

##### If your project adds new impervious surface:

7. Ecology-approved stormwater plan (one that addresses Ecology's comments provided during permit application review) that discusses water quality and flow control treatments for the project

and demonstrates how the project meets the requirements of the HRM; and

8. Ecology approval (written or verbal) of any stormwater components not meeting the HRM.

#### 4.2 What is required for a complete Coastal Zone Management Act (CZMA) application?

Under the federal CZMA Ecology must determine that projects in one of the [15 coastal counties](#) that affect Washington's coastal resources are consistent with Washington's *Coastal Zone Management Program* (CZMP). Ecology's "consistency determination process" begins when Ecology receives the applicant's signed [CZMA consistency determination form](#). CZM consistency can also be required for projects that don't need an Individual Section 401 Certification, if there is a federal nexus.

Projects that need an Individual Section 401 Certification or trigger individual 401 review under the Nationwide Permit program must submit a signed CZMA consistency form.

Under the NWP Program, the Corps makes an initial determination that projects under certain NWPs are already consistent with Washington's CZMP, and thus require no further CZMA review from Ecology. Ecology then must agree or disagree with the Corps determination that projects falling under those NWPs are consistent with the CZMP. Thus, Ecology either "concur", "concur with conditions", or "objects" to the Corps' determination made for those types of project. Therefore:

- **NO CZMA consistency form is needed** for NWPs 1, 2, 4, 5, 7, 9, 10, 11, 15, 18, , 20, 22, 25, 28, 30, and 31 because Ecology has concurred with the Corps determination.
- **A CZMA consistency form is required if project occurs within one of the [15 coastal counties](#) and individual 401 review is triggered** for NWPs 3, 6, 12, 13, 14, 16, 19, 23, 27, 29, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 45, 46, and 48. Please refer to the text of the particular Nationwide permit for more information on whether the form is required.
- **A CZMA consistency form MUST be submitted for projects occurring within one of the [15 coastal counties](#)** for NWPs 8, 17, 21, 37, 44, 49, 50, 51, and 52 because Ecology needs to review each project issued under these NWPs to determine if it is consistent with the CZMP.

---

**Is there a fee to obtain a Section 401 Individual Water Quality Certification or CZMA Consistency Determination?**

No, there are no permit fees associated with the Section 401 Certification or CZMA Consistency Determination.

---

#### **4.2.1 What does Ecology need to issue the CZMA Consistency Determination?**

Ecology will issue a “Consistency Determination” for a project once it has determined that the requirements of the applicable enforceable policies of Washington’s CZMP have been met. To make that determination, Ecology needs the following, **where applicable**:

1. Ecology issuance of an Individual Section 401 Water Quality Certification or LOV;
2. Confirmation that all required shoreline permits or exemptions for the project have been obtained; and
3. Confirmation that SEPA is complete.

#### **4.3 How much time should I allow for Section 401 or CZMA permit processing?**

Ecology has up to one year to approve, condition, or deny an application for an Individual 401 Water Quality Certification. However, Ecology’s goal is 90 days. A LOV is usually issued shortly after the Corps NWP is issued, but Ecology has a statutory time frame of 180 days to issue their 401 action after receiving a complete application **and** copy of the Corps NWP.

Upon receipt of a completed CZMA Consistency form, Ecology has 180 days to issue a CZMA Consistency Determination.

#### **4.4 What if I want to appeal the Section 401 or CZMA permit decision?**

If the Individual Section 401 Water Quality Certification is issued with conditions unacceptable to WSDOT or the certification is denied, WSDOT may appeal within 30 days of Ecology’s decision. Appeals shall be made to the Pollution Control Hearings Board (PCHB). PCHB may not hear the case for six or more months.

If the CZMA consistency determination is denied, WSDOT may appeal the decision to the U.S. Secretary of Commerce in accordance with Title 15, Ch IX, Part 930.125 under the Code of Federal Regulations.