

Shorelands & Environmental Assistance (SEA) Program

Planning Directors Conference, Chelan, Sept 7-10, 2021

This update summarizes new policy bills and budget provisos relating to Ecology's Shorelands and Environmental Assistance Program, together with updates on guidance documents, and other programs of interest to planning directors. For questions about bills, contact Ecology's Tim Gates, tim.gates@ecy.wa.gov, (360) 701-5847. For information about grants and other programs, see contact information below.

SEA Program policy bills (2021 Legislature)

Salmon recovery permitting pilot (E2SHB 1382)

[Engrossed Second Substitute House Bill 1382](#) creates a habitat recovery pilot program under the Washington Department of Fish and Wildlife (WDFW) Hydraulic Code (RCW 77.55). The bill creates a process based on an existing expedited permit review under [RCW 77.55.181](#). Like the existing streamlined process, applicants do not need any other local or state permits, except those needed to meet federal requirements, such as consistency with the National Flood Insurance Program (NFIP). The bill exempts pilot projects from environmental review under the State Environmental Policy Act (SEPA).

The bill establishes criteria for projects to be included in the pilot program. A project must benefit habitat and be included on one of 13 categories of federal, state and tribal restoration programs, including several overseen by Ecology or Ecology offices, including the Floodplains by Design Program, Office of Columbia River and Office of Chehalis Basin. Applicants must complete archaeological review before applying for expedited review.

Under the pilot, applications for expedited review must document consistency with local, state, and federal flood risk reduction requirements. If there are no objections from local governments or state agencies as described below, projects must be reviewed by WDFW within 25 to 45 days from receiving a complete application.

County and city role: The application process includes a 25-day review window for local governments within whose geographical jurisdiction the project will be located, to determine if the project is not eligible for expedited review because it does not meet applicable flood risk reduction requirements, raises other public health and safety concerns.



Restoration projects funded by programs such as Floodplains by Design may benefit from expedited environmental review under a 4-year pilot project. Photo courtesy TNC

Local governments, state agencies, or potentially affected tribes may alternatively request applications be put on hold and invoke review by a Multi-Agency Permitting Team. The team would include local governments, WDFW, Ecology, the Recreation and Conservation Office, Governor's Salmon Recovery Office, and others. Once a MAP Team has been convened, it may either exclude the project from expedited review, or lift the hold and make a decision within the remainder of the 45 days from when a complete application was submitted.

WDFW is lead agency on the bill. Early actions will include developing an online application for the pilot, providing guidance for applicants, and building the multi-agency permit team.

Fish passage permitting (SSB 5381)

[Substitute Senate Bill 5381](#) amends several statutes to clarify and improve the permit process for fish passage projects such as culvert repairs and replacements.



SSB 5381 clarifies the permit process for fish passage projects. Photo: WSDOT improved culvert on Swauk Creek, I-97

forest practices hydraulic projects to the Department of Natural Resources. It also clarifies that public projects for the primary purpose of fish passage improvement or barrier removal do not need to obtain Substantial Development Permits.

The clarifications to the Shoreline Management Act apply whether or not they are included in a local SMP. Ecology will clarify shoreline permit rules ([WAC 173-27](#)) to match statutory changes as part of future housekeeping amendments. These amendments will also be added to Ecology's [periodic review checklist](#).

The bill amends Washington Department of Fish and Wildlife's fish habitat enhancement law ([RCW 77.55.181](#)) to clarify that Washington State Department of Transportation (WSDOT) culvert removal projects, even the portions of a larger road project, are eligible for expedited review. The bill also clarifies that projects that benefit from expedited review are still obligated to meet any requirements of the National Flood Insurance Program.

The bill amends the Shoreline Management Act ([RCW 90.58.147](#)) to reflect recent changes to WDFW's law, which now delegates approval for

Floating On-Water Residences (ESSB 6027)

The Shoreline Management Act (SMA) includes special provisions for Floating On-Water Residences (FOWRs) that existed on July 1, 2014 by classifying them as legal conforming uses and guaranteeing that they can be maintained, repaired, remodeled, or replaced ([RCW 90.58.270](#)).

[Engrossed Substitute Senate Bill 6027](#) amends the definition of FOWRs to include vessels. The bill requires a substantial development permit when either replacing or remodeling a floating on-water residence if the size of the existing residence is materially exceeded.

The bill requires when a residence is either replaced, or remodeled to add more than 120 square feet to the living space, it must include on-board gray-water containment or a waste-water connection that disposes of the gray water to a waste-water disposal system.

The bill also amends the Aquatic Lands Act managed by the Department of Natural Resources to classify FOWRs as water-dependent uses. Under DNRs law, water-dependent uses pay lower lease rates than non-water-dependent uses.

A small number of local governments have Floating On-Water Residences in their jurisdiction. Ecology will amend FOWR provisions in shoreline master program guidelines to match the statutory changes as part of future housekeeping amendments. Existing rules related to FOWRs simply add statutory language directly into rule without additional elaboration. These amendments will be added to Ecology's [periodic review checklist](#).

Seabed mining (SSB 5145)

[Substitute Senate Bill 5145](#) amends both the Shoreline Management Act (SMA) and Department of Natural Resources (DNR) leasing laws to prohibit seabed mining of hard minerals on aquatic lands.

The banned hard minerals are not currently known to exist in commercially-viable quantities in Washington waters. The bill amends an original section of the SMA from 1971 that prohibits surface drilling for oil or gas ([RCW 90.58.160](#)). This bill applies to all marine waters.



Floating On-Water Residence on Lake Union. Photo: Seattle

Dredged material disposal (SHB 1193)

[Substitute House Bill 1193](#) clarifies that actions taken on the Columbia River by the U.S. Army Corps of Engineers (Corps) to maintain and improve federal navigation channels are exempt from shoreline permitting if project plans have undergone national and state environmental policy review and the Corps applied for Section 401 water quality certifications under the federal Clean Water Act.

The bill addresses a legal question that arose over whether ports, in their role as non-federal sponsors, need to obtain shoreline permits on behalf of the Corps when a federal project takes place on port-owned property. The bill clarifies that if a project is undertaken by the Corps and is addressed in a federal plan, no shoreline permits are needed.

Amendments to local Shoreline Master Programs are not necessary to implement the clarifications to the permit process described in the bill.



Dredging near Longview. Photo: Port of Longview

Low Carbon Clean Energy Project Siting Improvement Study



Ecology is directed to work with other agencies to recommend improvements to permitting for clean energy facilities. Photo: Department of Commerce

Ecology is working in partnership with Commerce on a study to develop reports as directed in Section 28 of the [Clean Fuels Standards bill \(HB 1091\)](#). The study will be used to develop recommendations for improvements to the permit processes for clean energy facilities (industrial energy projects that contribute to achieving greenhouse gas emissions limits).

Ecology is directed to provide increased clarity on areas that may be suitable for siting projects; provide guidance to improve project proposals; and recommend any additional studies.

Ecology will consult with tribes and engage with local governments, business and industry, ports, environmental justice groups, and environmental and labor organizations. Input and feedback for the study will be gathered through an advisory board made up of representative stakeholders and tribal representatives; through tribal consultation, information sessions and forums; from an interagency policy team; and from input submitted [online](#). Information is available on the [study's webpage](#) and via an [email distribution list](#).

An interim progress report with initial recommendations is due December 1, 2021, and a final report is due December 1, 2022. Contact: Diane Butorac at dbut461@ecy.wa.gov, or (360) 407-6573.

Budget items, provisos and grants

Floodplains by Design capital budget funding

The 2021-23 Capital budget included \$50.9 million to fund eight [Floodplains by Design](#) (FbD) projects designed to reduce flood risk, protect and restore salmon habitat, and support other public benefits such as agriculture and recreation.

Sponsors are King, Pierce, Snohomish, Stevens and Whatcom counties, the city of Kent, the Walla Walla Conservation District, and the Jamestown S’Klallam Tribe.

To date, \$165 million in state FbD funds have reconnected more than 7000 acres of floodplains, protected 59 communities from flooding, and restored more than 50 miles of natural river processes. Contact: Scott McKinney, smck461@ecy.wa.gov, (360) 918-3428.



Yakima Co. used FbD grants to implement a floodplain strategy that reduces hazards and restores habitat while protecting agricultural infrastructure and improving access. Photo: TNC

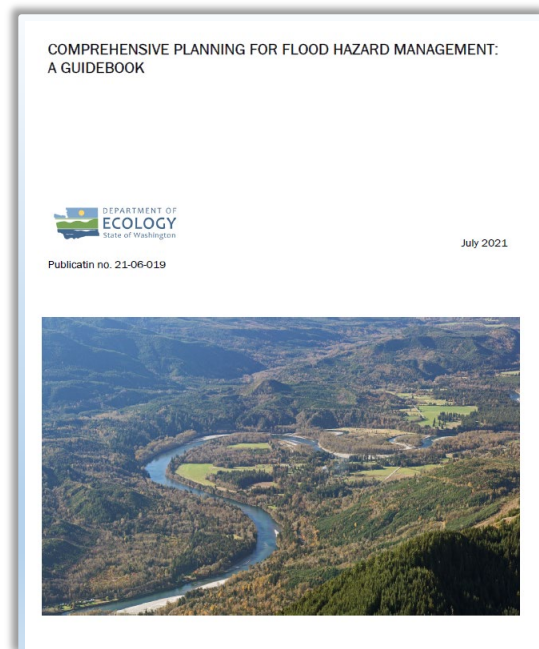
Flood Control Account Assistance Program local grants restored

Almost 37 years ago, the Legislature established the state Flood Control Assistance Account Program (FCAAP) to help local and tribal governments plan for and reduce their flood risks. After a 12-year funding absence, state lawmakers restored on-going FCAAP funding to Ecology’s two-year budget.

Grants for local communities can be used to write or update local Comprehensive Flood Hazard Management Plans that help communities:

- Develop or update strategies and projects to reduce flood risks while restoring salmon habitat, protecting agricultural lands, and providing other benefits.
- Raise community awareness about local flood hazards.
- Better assess local flood and climate risks.
- Identify resilient building strategies.

Funding guidelines prioritize grants that help underserved communities and economically disadvantaged areas. While there is no maximum award amount, we anticipate grant amounts to individual communities will not exceed \$250,000. Applications opened Aug. 3 and are due by Sept. 30, 2021. Contact: Scott McKinney, smck461@ecy.wa.gov, (360) 918-3428.



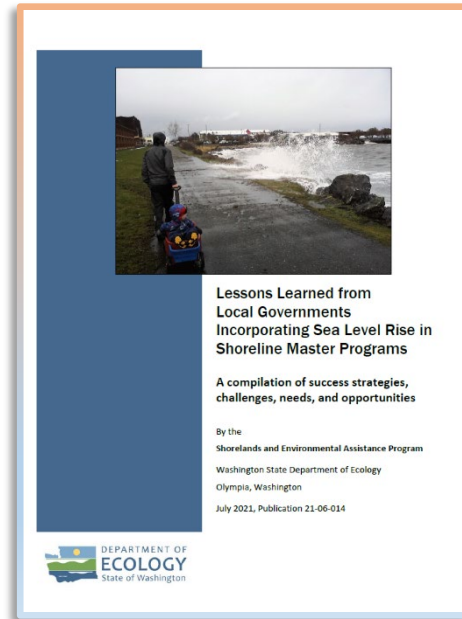
[Ecology updated 30-year-old guidance on local flood hazard management plans in July 2021.](#)

Commerce climate change guidance

The Legislature adopted a [budget proviso \[Sec. 129\(126\)\]](#) directing Commerce to work with other agencies to publish several climate change guidance document identifying actions counties and cities may take in comprehensive plans and development regulations that can **reduce greenhouse gas emissions** and **reduce per capita vehicle miles traveled** to help meet [state reduction targets](#).

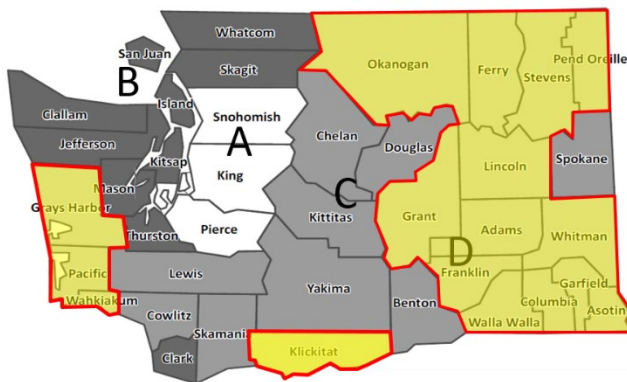
Commerce is also directed to develop a **model climate change and resiliency element** that may be used by counties, cities, and multi-county planning regions for developing climate change and resiliency plans that identify and address natural hazards created or aggravated by climate change, including [sea level rise](#), landslides, flooding, drought, wildfires, etc. The guidance is due June 30, 2023.

Ecology will seek to incorporate guidance for Shoreline Master Programs as part of this effort. Contact: Bobbak Talebi, btal461@ecy.wa.gov, (360) 819-3014.



Ecology's [latest guide](#) summarizes local efforts to address sea level rise in SMPs (July 2021)

Shoreline Master Program periodic reviews



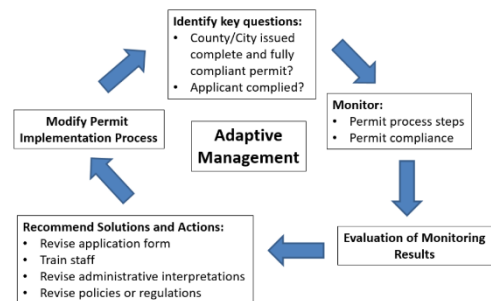
78 jurisdictions will receive grants to review SMPs in 2021.

The 2021-23 operating budget includes ongoing funding of about \$3 million for local [Shoreline Master Program periodic reviews](#).

During the current 2021-23 biennium, 78 jurisdictions are eligible for match-free formula grants totaling \$2.2 million. This cycle includes numerous regional SMPs. About a dozen jurisdictions will use the periodic review funds to finish their delayed comprehensive SMP updates.

Shoreline competitive grants

Because there are fewer total jurisdictions with periodic review deadlines this biennium, Ecology is offering \$800,000 in [competitive grants](#). No match is required. Eligible projects include efforts to improve SMP implementation through permit monitoring and adaptive management; planning for sea level rise, or other local planning priorities. Applications opened Sept 1 and are due by October 14, 2021. Contact: Carolyn Chase, cach461@ecy.wa.gov, (360) 706-4981.



Competitive grants can pay for building SMP implementation feedback systems.

SEPA register on-line portal

Ecology's new [SEPA Register Submittal \(SRS\) online portal](#) allows lead agencies such as local governments to enter their records and documents directly into the SEPA register instead of emailing them to Ecology.

The new portal has many benefits for both lead agencies and Ecology. Lead agencies have more control over the process, and can enter their records on their own schedule.

Lead agencies also have more certainty about the availability of their records. Previously, when they submitted documents, they only knew if they were posted to the register if they checked it themselves. Under the new system, lead agencies receive email notifications so they know exactly when their documents are posted and available to the public.

Lead agencies can link to their SEPA materials for other public distribution and noticing, which should be especially

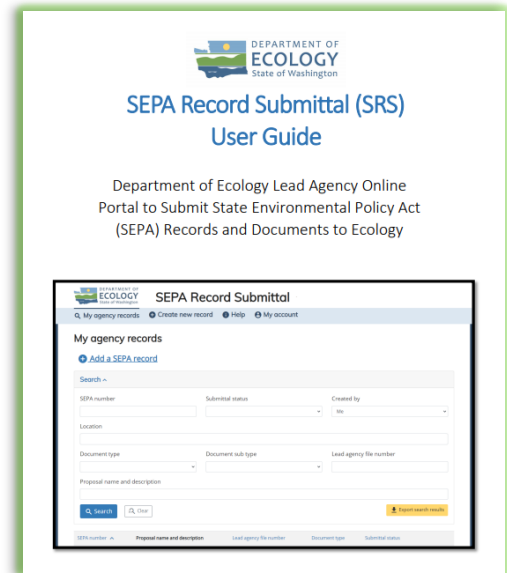


Check out a [15-minute training video](#) on the new SEPA portal.

helpful for smaller jurisdictions without web support. Lead agencies can more easily find records previously submitted by their own agency.

The new system will improve records management and public disclosure, since agencies will no longer have to rely on email as the record management system. Because Ecology staff are spending less time on duplicative data entry and record management tasks, they will now have more time to provide training and technical expertise to lead agencies.

If you have questions, contact sepahelp@ecy.wa.gov or (360) 407-6922.



Ecology's User guide walks lead agencies through the new process of uploading SEPA documents.

Washington Conservation Corps

Ecology's SEA Program includes the Washington Conservation Corps. We have 53 field crews and 14 Individual Placement (IP) positions. AmeriCorps IPs typically serve 11-months within a sponsor organization, including local governments. Typical projects include engaging in environmental research, creating outreach materials, and monitoring and restoration projects. [Visit Ecology's web page for more about AmeriCorps opportunities.](#)



WCC crew working for Bellingham daylighting Padden Creek