

## 2022 Legislature: Ecology SEA Program bills

The 2022 Legislature adopted several bills and budget items relating to Ecology's Shorelands and Environmental Assistance Program. Bills amend the Growth Management Act (GMA), the State Environmental Policy Act (SEPA). The Legislature did not pass any bills amending the Shoreline Management Act (SMA). Questions? Call Tim Gates, [tim.gates@ecy.wa.gov](mailto:tim.gates@ecy.wa.gov), (360) 701-5847.

### GMA periodic update schedule (E2SHB 1241)

[Engrossed Second Substitute House Bill 1241](#) amends the Growth Management Act schedule for updating comprehensive plans from an 8-year schedule to a 10-year schedule. This change aligns GMA planning deadlines with the availability of decennial US Census data. The bill also requires larger counties to prepare an implementation progress report at the five-year mark describing the progress they have made in implementing their comprehensive plan. The bill also grants an extra 6 months for communities with a 2024 deadline to comply with the GMA update (from June 30 to Dec 31, 2024).

The Legislature also adopted [Substitute House Bill 1717](#), which clarifies procedures for tribal participation in GMA planning.

#### Implementation Notes

Commerce will incorporate the new periodic update schedule and tribal participation processes into GMA rules. Contact [Commerce Growth Management Services](#). A related bill ([HB 1978](#)) that would have changed the 8-year SMA periodic review schedule to synchronize with the 10-year GMA deadlines did not pass. Ecology expects a technical amendment to the SMA in a future session.

### Housing construction in cities (SSB 5818)

[Substitute House Bill 5818](#) amends the GMA and SEPA to help address the state's housing crisis:

- Amends a 2019 GMA statute ([RCW 36.70A.600](#)) that encourages cities to take specific actions that expand housing supply. City actions to adopt these measures were precluded from appeal under SEPA, provided the city took these actions by April 2023. This bill makes this "safe harbor" incentive permanent by removing the sunset clause.
- Amends the GMA housing element ([RCW 36.70A.070](#)) and SEPA (RCW 43.21C.495) to preclude SEPA appeals on the adoption of development regulations and other non-project actions that increase housing capacity, increase housing affordability, and mitigate displacement.
- Amends SEPA ([RCW 43.21C.501](#)) to preclude appeals of residential development projects based on either aesthetics or light and glare, if the project is subject to design review. "Design review" is defined as a formally adopted process by which projects are reviewed by a city for compliance with design standards.



- Requires Ecology rulemaking to update SEPA categorical exemptions in [WAC 197-11-800\(1\)](#) to increase the upper limits of optional flexible exemption thresholds for housing developments, including increasing the upper limit for multifamily homes from 60 units to 200 units. Ecology is directed to add a procedural requirement to ensure impacts to the environment and the state transportation network are addressed when exemption thresholds are raised.
- Creates a new section in SEPA to clarify that an applicant whose project qualifies as categorically exempt does not need to file a SEPA checklist if other information is available to establish that a project qualifies for an exemption.

### Implementation notes

The safe harbor provisions that preclude SEPA appeals of various actions apply on the effective date of the bill. There is no associated rule-making. As directed by the bill, Ecology will update SEPA rules for categorical exemptions at WAC 197-11-800 by Dec 31, 2022 using [expedited rule making](#). Ecology will also remove parking from the SEPA checklist as directed by the 2020 Legislature in [ESHB 2343](#). Contact Ecology's Sarah Cassal at [salu461@ecy.wa.gov](mailto:salu461@ecy.wa.gov), (360) 688-6374.

## Aerial imaging study (ESHB 1629)

[Engrossed Substitute House Bill 1629](#) requires Commerce and the Office of the Chief Information Office to prepare a study of aerial imagery use by state, local and tribal governments and report to the Legislature by June 1, 2023. The study will:

- assess how aerial imagery technology is used, how the technology is accessed, the types of imagery used or needed, and frequency imagery is used or needed;
- determine minimum resolution needed for the majority of users statewide;
- estimate current statewide expenditures on aerial imagery, and estimate the cost of a statewide aerial imagery program once per biennium;
- quantify the economies of scale between individual flights by different entities compared to a single statewide flight;
- determine cost sharing mechanisms for acquiring and managing aerial imagery; and
- make recommendations on current sources of imagery, including how to improve its collection and steps needed to create a statewide collection and distribution system.

### Implementation notes

Ecology will participate in the Commerce aerial imagery study and will identify opportunities to both increase access to aerial imagery and save money, with a focus on state and local needs for SMA and GMA planning and implementation.

## Organic materials management (E2SHB 1799)

As part of [Engrossed Second Substitute House Bill 1799](#), a bill that addresses organic materials are handled, the Legislature created the Washington Center for Sustainable Food Management at Ecology, to begin in 2024. Ecology is directed to develop a model ordinance for optional use by counties and cities that provide mechanisms for commercial solid waste collection and disposal that are designed, in part, to establish disincentives for generation of organic waste and disposal of organic materials in landfills. A county or city that adopts the model ordinance will not be required to conduct SEPA review on the ordinance, and local action to adopt the ordinance is precluded from appeal under SEPA.

## Budget items

### Washington Conservation Corps Community Support

The Legislature provided funds to Ecology's Washington Conservation Corps (WCC) program to expand partnerships with organizations operating in under-resourced parts of the state and those that serve overburdened communities and vulnerable populations. The WCC collaborates with organizations to complete environmental restoration and recreation enhancement projects statewide. WCC's current cost-share model requires partners pay 75 percent of costs. However, this model inadvertently limits participation from under-resourced partners. Proviso funds will support five crews to complete projects at a reduced cost to partner entities that advance environmental justice goals.



### Shoreline management compliance and enforcement

The Legislature included new positions in Ecology's budget for staff to improve compliance with local Shoreline Master Programs.

Staff will work with counties and cities to improve local permit review systems, and develop tools and training building on state [guidance](#) and [training webinars](#).

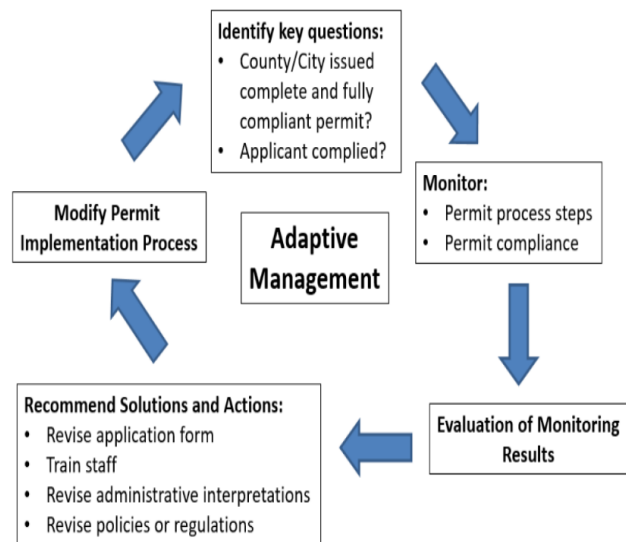
The budget will also fund a new position to improve Ecology's enforcement presence - responding to complaints and taking enforcement action where appropriate.

### Shoreline Aerial Photography

Ecology received funds to update the [Coastal Atlas of shoreline oblique aerial photos](#) of 3,300 miles of marine shorelines and around 1,000 miles of freshwater shorelines. The oblique angle and high resolution of the photos allow coastal managers to identify relatively small changes to the shoreline, such as tree removal, bulkhead construction, or modifications to piers and docks. The unique time series of photos, with images starting in 1976, is used for land-use planning, permitting and compliance, assessing shoreline change over time, restoration planning, and evaluating regulatory effectiveness.

### Channel Migration Zone mapping

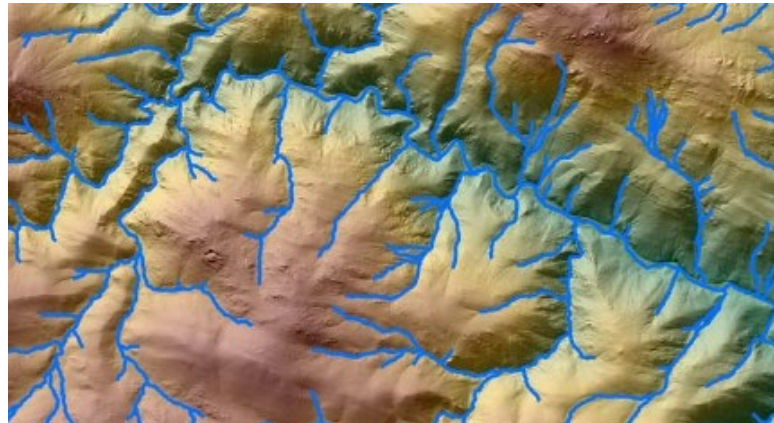
Ecology is directed to develop standardized channel migration zone mapping methodology and to offer support for tribes, counties, and local jurisdictions to refine existing channel migration zone maps with local information.



*Monitoring implementation of local permit process and outcomes is the foundation for an informed approach to adaptively managing regulations to ensure "no net loss" of ecological functions.*

### Improving Hydrography Data

Ecology's budget includes funds to identify the technologies, methodologies, datasets, and resources needed to refine and maintain the accuracy of the national hydrography dataset for Washington in order to better monitor the health of streams, lakes, ponds, and coastlines, and their associated riparian areas. In Washington State, the Office of the Chief Information Officer (OCIO) has established a



[Hydrography Data Standard policy](#) that directs that U.S. Geological Survey (USGS) National Hydrography Dataset (NHD) is the data standard for all hydrography geospatial datasets in Washington, and that Ecology serve as the state steward for the data. State agencies use the NHD for their hydrography data unless they have an approved exemption. The WA-NHD has approximately 250,000 miles of mapped watercourses throughout the state. The proviso funds will allow for systematic improvements to this important dataset.

### Greenhouse Gas Assessment Rule and Technical Assistance

In response to [Governor's Directive 19.18.2](#), funding was provided to complete rulemaking for assessing greenhouse gas (GHG) emissions from fossil fuel and industrial projects, aka [the GAP Rule](#). The rule will provide methods for assessing and mitigating GHG emissions during SEPA review for large projects using fossil fuels. After rulemaking is complete, funding is provided for implementation guidance as well as ongoing technical assistance for completing the GHG assessment of future projects.

### Provisos addressing flood risk reduction

Several [budget provisos](#) address specific areas of the state where there are urgent needs to address flood risks, including:

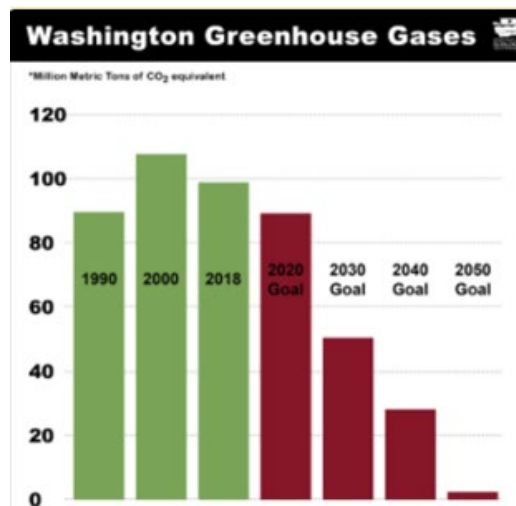
- Grants for Whatcom County to integrate **Nooksack basin floodplain projects** with mutually beneficial water resource and riparian habitat management actions that address climate change and extreme weather events, and support the county's floodplain integrated planning team planning, technical review, local solutions, and project development. Funds are also provided for Ecology to lead facilitation and technical support for the [Nooksack River international task force](#), a long-standing cross-border group focused on developing and evaluating alternatives for managing flooding from the Nooksack River in Whatcom County and British Columbia.
- Funds for [Spirit Lake-Toutle/Cowlitz River Collaborative](#) efforts to reduce flood risk, recover ecosystems, and other activities related to managing sediment and floods in the Spirit Lake-Toutle/Cowlitz river system;
- A grant to the city of Tumwater and a nonprofit organization to study the **Deschutes river floodplain**; and
- Funds for hydrologic analysis of the causes of **flooding on Sprague Lake**, including stream flows between Sprague Lake and Cow Creek during high water events.

## Other agency budget provisos

The Legislature also adopted provisos in other agency budgets with links to Ecology SEA Program work, including:

- Funds for Commerce to evaluate **costs for cities and counties to review and revise comprehensive plans** to ensure compliance with GMA. The evaluation must include costs to complete various types of planning requirements, including meeting the requirements of a new goal and a new comprehensive plan element; updating a critical areas ordinance; updating a shoreline master program; making both major and minor updates to a comprehensive plan element; updating a development regulation; and implementing a new development regulation.

- An existing Commerce proviso that required development of **guidance for addressing climate change** adopted in 2021 was modified to adjust the spending appropriations. Commerce is directed to publish guidelines that provide a set of actions counties and cities may take, under existing statutory authority, through updates to their comprehensive plans and development regulations that have a demonstrated ability to reduce greenhouse gas emissions in order to achieve statewide greenhouse gas emissions reductions. Commerce will also develop a model element with guidance on identifying, designing, and investing in infrastructure that supports community resilience to climate impacts.



- Funds for WDFW to provide technical assistance to local governments to **better integrate salmon recovery plans into GMA comprehensive plans** and Critical Areas Ordinances.
- Funds for WDFW to complete a statewide prioritization of fish passage barriers in collaboration with regional salmon recovery organizations.
- Funds for the Office of Financial Management (OFM) to evaluate the **effectiveness, utilization, and outcomes of the voluntary incentive programs** for landowners and of existing regulatory programs responsible for protecting and restoring areas along streams and rivers toward achieving a science-based standard for a fully functioning riparian ecosystem.
- A proviso included in the 2021 biennial budget directing OFM to prepare a **Net Ecological Gain study** was moved to WDFW's budget. The study will evaluate incorporation of a net ecological gain standard into state land use, development, and environmental laws and rules to achieve a goal of better statewide performance on endangered species recovery and ecological health. WDFW is directed to consult with local governments, state agencies, Indian tribes, and stakeholders with subject matter expertise on environmental, land use, and development laws.