





## **From Paper to Shovel: Getting Through The Permitting Process**

*“ . . . commonly required permits and tips for making the process easier ”*

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## What Are Permits?

1. Authorizations or approvals that allow [i.e., “permit”] development or activity.
2. Entrusted to government in order to protect air, land, and water resources, as well as the public interest.
3. Required after certain thresholds met.
4. Intended to ensure compliance with local, state, and/or federal environmental:
  - Statutes;
  - Regulations;
  - Policies;
  - Plans;
  - Standards;
  - Rules;
  - BMPs (Best Management Practices); and
  - Court decisions.
5. Can contain requirements for:
  - Monitoring;
  - Sampling;
  - Reporting;
  - Impact mitigation;
  - Studies;
  - Compliance; and
  - Fee payments.
6. Can be preceded by:
  - Applications;
  - Engineering reports;
  - Environmental reviews and studies;
  - Modeling;
  - Mitigation plans; and
  - Public notice, workshops and/or hearings.
7. Often caught between competing demands for environmental protection, economic development and opportunity, and public input and perspective.
8. Are appealable.
9. Are enforceable.
10. Afford permittee legal coverage/protection.

# What Permits Are Commonly Required

## Local Permits

1. **Shoreline Permit.**
  - Required for activity valued at \$5,000 or more in 100-year floodplain, or within 200 feet of state shoreline ordinary high water mark [e.g., dumping, drilling, dredging, filling, placement or alteration of structures, and interference with public use and access].
  - Intended to provide public involvement in the permit process, to foster appropriate uses/protection of state shorelines, and to document activities over time.
  
2. **Floodplain Development Permit.**
  - Required for work [e.g., development, filling, and grading] in identified floodplain areas participating in the National Flood Insurance Program.
  - Intended to reduce the potential for damage from floodwater.
  
3. **Air Notice of Construction (New Source Review).** [Local Air Authority, or Ecology.]
  - Required for construction/modification of facilities that will release contaminants into the air in order to prevent air quality impacts.
  - Intended to protect environmental and human health.
  
4. **Water System Construction and Operation Approval.** [Local or State Health Department.]
  - Required for any system with two or more connections that provide water for human consumption/domestic use in order to assure safe/reliable drinking water.
  - Intended to protect human and public health.
  
5. **On-Site Sewage Disposal System Permit.**
  - Required for on-site disposal of domestic wastewater, i.e., sewage.
    - Local Health Department for flows up to 3,500 gallons/day;
    - State Health Department for flows of 3,500-14,500 gallons/day; or
    - State Department of Ecology for flows above 14,500 gallons/day.
  - Intended to ensure proper treatment/disposal of sewage for businesses and residences outside sewared areas.

## *State Permits*

6. **Hydraulic Project Approval.** [DFW.]
  - Required for activities that “use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state.”
  - Intended to ensure protection of fish/shellfish at all stages of development.
  
7. **Construction Activities Stormwater Permit.** [Ecology.]
  - Required for any soil disturbing activity [e.g., clearing, grading, excavating, and/or demolition] that will disturb 1 or more acres, and discharge into surface waters or storm drainage systems. [*Note: Currently, this permit is optional for sites less than 5 acres in size and required for sites larger than 5 acres.*]
  - Intended to reduce or eliminate stormwater pollution and other impacts (e.g., erosion) to surface waters from construction sites.
  
8. **Aquatic Use Authorization.** [DNR.]
  - Required for use of state-owned aquatic lands [e.g., marinas, docks, shellfish/aquaculture leases, geoduck harvest sales, dredge disposal, bridge, utility, and outfall easements, and sand and gravel removal].
  - Intended to ensure long-term ecosystem and economic viability of state aquatic lands.
  
9. **Wastewater Discharge Permit.** [Ecology.]
  - Required for any activity or facility with a potential to discharge pollutants to surface and ground water, sewerage systems, and storm drains.
  - Intended to prevent impacts to surface and groundwater.
  
10. **Section 401 Approval (State Water Quality Certification).** [Ecology.]
  - Required for projects requiring a federal license or permit to conduct any activity that might result in a discharge of dredge or fill material into waters or wetlands of the state, or for excavation in water or wetlands of the state.
  - Intended to ensure protection of water quality in waters of the state.
  
11. **Water Right Permit.** [Ecology.]
  - Required for surface water diversions/ground water withdrawals of 5,000+ gal./day.
  - Intended to ensure:
    - water is put to beneficial use (not wasted);
    - water is available;
    - new water right does not impair existing right, and
    - appropriation is not detrimental to the public interest.

## *Federal Permits*

12. **Section 10 Permit (Work In Navigable Waters).** [U.S. Army Corps of Engineers.]
  - Required for work in or affecting navigable waters/wetlands of the U.S. [e.g., floats, piers, docks, wharves, breakwaters, jetties, boat ramps, dredging, excavation, pilings, buoys, and overhead power lines].
  - Intended to prevent obstruction of navigable waters of the U.S.
  
13. **Section 404 Permit (Discharge of Dredge/Fill Material).** [U.S. Army Corps of Engineers.]
  - Required for activities that require dredging or placement of fill in wetlands or other waters of the state.
  - Intended to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

## *Other Processes, Permits, Approvals*

14. **Consistency with Local Zoning.**
  - Local comprehensive plans, development regulations, and critical areas ordinances.
  - Local Shoreline Master Programs.
  
15. **SEPA (State Environmental Policy Act).**
  - Agencies are required to consider environmental information [e.g., impacts, alternatives, and mitigation] before committing to courses of action.
  - Intended to ensure cumulative, short- and long-term, and direct and indirect impacts are considered.
  - Process begins at local level with submission of an environmental checklist.
  - Federal counterpart is NEPA.
  
16. **ESA (Endangered Species Act) – Corps, USFWS, and NMFS.**

## Hypothetical Scenario

- ☞ Proposal is to develop a new 25-acre Industrial Park with water supply, wastewater, storm water, power supply, and telecommunications infrastructure. Site is seasonally wet, floods sometimes, and has a small year round stream on one perimeter. What permits might be required?
  
- ☞ On-Line Permit Assistance System -- <http://apps.ecy.wa.gov/opas/>

## Tips For Making The Process Easier

1. Consult the Office of Regulatory Assistance (Environmental Permitting Services). ORA is a “front-door” resource for you.
  - One-Stop Service Center.
  - Regional Regulatory Assistance Leads.
  - Web Assistance Tools (24/7).
  - [www.ora.wa.gov](http://www.ora.wa.gov) or 1-800-917-0043).
  
2. Know your site. Determine the environmental baseline. Ask agencies to identify acceptable information sources. Web is great place to start. If the site includes a creek, stream, river, coastal shoreline or wetland hire an environmental consultant to help you understand the site and special protection that may apply.
  - Natural Resources Information Portal -- [www.swim.wa.gov/](http://www.swim.wa.gov/)
  - Water quality conditions -- [www.ecy.wa.gov/programs/wq/links/impaired\\_wtrs.html](http://www.ecy.wa.gov/programs/wq/links/impaired_wtrs.html)
  - Navigable waters -- [www.nws.usace.army.mil/publicmenu/DOCUMENTS/Navigable\\_waters.pdf](http://www.nws.usace.army.mil/publicmenu/DOCUMENTS/Navigable_waters.pdf)
  - Ecology Environmental Information Management site - [www.ecy.wa.gov/eim/](http://www.ecy.wa.gov/eim/)
  - DFW Priority Habitats and Species information -- [wdfw.wa.gov/hab/phspage.htm](http://wdfw.wa.gov/hab/phspage.htm)
  - And much, much more!
  
3. Know the requirements. Know the players. Act early. Build relationships. ORA can help by facilitating multi-agency meetings that will identify the rules that would apply to your site. Again, the web is a great resource -- [www.ecy.wa.gov/programs/sea/pac/webtools.html](http://www.ecy.wa.gov/programs/sea/pac/webtools.html). If you have a complicated project, consider hiring an environmental consultant. Adding an expert to your team in the early phases will help you understand what laws or limits may apply to your proposed site development. This information may help you revise your plan in a way to reduce impacts and permit requirements.
  
4. Talk to local leaders to identify the community’s needs and interests. Then, look for ways to incorporate your project into the larger community’s needs (e.g., public access, green belts, conservation areas, watershed priorities, trails, etc.). Seek community support and win-win-win outcomes (i.e., win for the project, win for the community, and win for the resource).
  
5. Today’s laws spell out that if a project will harm the environment, the project must compensate for the impact and invest in mitigation. Start thinking about mitigation right away and incorporate mitigation into your project planning and design (as opposed to considering mitigation as an after the fact add-on or consequence of permitting).

6. Prepare and submit clear and complete materials (e.g., reports, applications, mitigation plans, etc.). Ask agencies for examples. Again, consider hiring an environmental consultant to help you. The cost of having a good consultant prepare reports and permit applications can save you time and money in the long run. Incomplete submittals cost time.
  - Provide comprehensive project descriptions (discuss pre-construction, construction, operation, and closure stages).
  - Ensure document agreement (project descriptions, acreages, stages, etc.).
    - Project plans
    - Site photos
    - Wetland delineations/reports/assessments/mitigation plans
    - Fish and wildlife assessments
    - Geological reports
    - Flood analysis/risk reports
    - Erosion and sediment control plans
    - Land use consistency analyses
    - Cultural/historic resource reports/surveys
    - OHWM determination
    - Stream/riparian habitat characterization
    - Drainage features
  - Digital photos are great (“pictures tells a thousand words”).
7. Continually seek and ask regulators and consultants for clarity. This is fair and legitimate. Ask for examples. Ask for greater understanding of when process, procedures, and requirements are fixed or not. Ask for what can occur in parallel and what must be sequential.
8. Be deliberate and purposeful. Follow-through on your commitments. Be proactive. Go the extra yard. Communicate, communicate, communicate . . . early and often.
  - Tells what here, and what’s not here (and when it’s coming).
  - Follow-up with summary e-mails, notes, to do assignments.
  - Send heads-up e-mails and status updates.
9. Ask for courtesy reviews of draft products, joint pre-application conferences, joint site-visits, and early identification of issues and areas of concern (to avoid late-in-the-game surprises). ORA can help.
10. Work to build partnerships and a team (i.e., proponent, consultants, and the resource agencies). ORA can help.