

CHAPTER 6. REGULATIONS

A system of regulations that supports the recommendations proposed by a CFHMP is a critical component of effective flood hazard management. The CFHMP recommendations may include engineered projects to protect existing developments, as well as regulatory programs affecting land use, shoreline management, resource management, and floodplain management. The need for engineered projects to prevent or mitigate flood hazards can often be eliminated if complementary and forward-looking regulatory programs are initiated before extensive development occurs. A general public understanding of existing regulations can help prevent the waste of time and money on projects that will never be permitted.

This chapter provides an overview of existing federal, state, and local regulatory and permitting requirements that relate to flood hazard management, surface water management, water quality, and wetlands protection.

SUMMARY OF EXISTING REGULATIONS

Many laws that address flood hazard management directly or indirectly have been enacted at the federal, state, and local levels. Table 6-1 lists these laws in the categories of flood hazard management, endangered species, planning policy, sensitive areas, stormwater management, environmental and water quality, Table 6-2 provides further details on each of the laws cited.

Many federal laws are implemented at the state and local levels. For example, the federal Clean Water Act regulates stormwater discharge, but the EPA has delegated the responsibility of administering the program to the State of Washington. The National Flood Insurance Program, which offers affordable flood insurance to private property owners, is a national program administered by FEMA, but requires cities and counties to adopt floodplain regulations. The Endangered Species Act may be implemented by states, as was the case with the protection of Bald Eagles in the State of Washington, but the majority of the regulatory programs, especially for salmonids, remain at the federal level.

With the exception of the National Flood Insurance Program, the laws most relevant to flood hazard management originate at the state level. Most of these begin with state legislation that enables local governments to adopt regulations promoting public health, safety, and general welfare. Environmental laws that affect flood hazard management through habitat, shoreline, and other critical-area protection measures also exist at the state level, but enforcement is increasingly becoming the responsibility of local governments. State growth management requirements contain additional recommendations regarding land use and development near wetlands and in frequently flooded areas, with regulatory implementation largely in the hands of local jurisdictions.

TABLE 6-1. SURFACE WATER MANAGEMENT REGULATIONS/POLICIES IN YAKIMA COUNTY			
Category	Federal	State	Yakima County
Land Use	<ul style="list-style-type: none"> • National Flood Insurance Act • Flood Disaster Protection Act • Executive Order 11988 • Endangered Species Act 	<ul style="list-style-type: none"> • Floodplain Management Program (RCW 86.12, 86.16, 86.26) 	<ul style="list-style-type: none"> • Flood Hazard Ordinance (currently part of Yakima County's Critical Areas Ordinance) • Critical Areas Ordinance • Zoning Ordinance
Facilities and Building Standards	-----	<ul style="list-style-type: none"> • Hydraulic Code (HPA) 	<ul style="list-style-type: none"> • Flood Hazard Ordinance • Building Code
Planning and Policy	<ul style="list-style-type: none"> • Endangered Species Act 	<ul style="list-style-type: none"> • Growth Management Act (GMA) • Flood Control by Counties 	<ul style="list-style-type: none"> • Comprehensive Plan and SEPA/GMA Integration • Critical Areas Ordinance
Facilities	<ul style="list-style-type: none"> • Endangered Species Act 	<ul style="list-style-type: none"> • Hydraulic Code (HPA) 	<ul style="list-style-type: none"> • Zoning Ordinance
Water Quality	<ul style="list-style-type: none"> • Clean Water Act, Sections 401 and 402 	<ul style="list-style-type: none"> • Water Pollution Control Act (WQ Cert or Mod) • State program for NPDES (cities < 100,000) 	-----
Fisheries and Wildlife Habitat	<ul style="list-style-type: none"> • Endangered Species Act 	<ul style="list-style-type: none"> • Hydraulic Code 	-----
General Environmental	<ul style="list-style-type: none"> • National Environmental Policy Act (NEPA) 	<ul style="list-style-type: none"> • State Environmental Policy Act (SEPA) 	<ul style="list-style-type: none"> • SEPA Ordinance • Comprehensive Plan and SEPA/GMA Integration
Stream Corridors	<ul style="list-style-type: none"> • Clean Water Act, Sec. 404 • River and Harbor Act • Endangered Species Act 	<ul style="list-style-type: none"> • Shoreline Management Act • Hydraulic Code (HPA) 	<ul style="list-style-type: none"> • Shoreline Master Program (part of Yakima County's CAO) • Critical Areas Ordinance
Wetlands	<ul style="list-style-type: none"> • Clean Water Act, Section 404 (dredge and fill) • Executive Order 11990 • River and Harbor Act 	<ul style="list-style-type: none"> • Shoreline Management Act • Executive Order 90-04 	<ul style="list-style-type: none"> • Critical Areas Ordinance

TABLE 6-2.
OVERVIEW OF MAJOR FEDERAL, STATE, AND LOCAL SURFACE WATER MANAGEMENT REGULATIONS

Regulation	Implementing Agency	Purpose	Jurisdiction	Required Approval, Permit, or Plan	Applicability to Flood Hazard Management
FEDERAL					
National Flood Insurance Act	FEMA	Offers affordable flood insurance to communities that adopt approved floodplain management regulations	Floodplains of the U.S.	Flood Insurance Study and approval letter from FEMA	Participation in NFIP requires minimum floodplain management regulations
Flood Disaster Protection Act	FEMA	Provides incentive to communities to join the NFIP by increasing amounts of flood insurance available and providing penalties for communities and individuals that do not join the NFIP and are subsequently flooded	Floodplains of the U.S.	Approval by FEMA	Requires purchase of flood insurance for funding by federally backed lending institutions for purchase of property in floodplains
Clean Water Act, Section 401	State agencies empowered by EPA (i.e., Ecology)	Ensures that federally permitted activities comply with the Clean Water Act, state water quality laws, discharge limitations, and other state regulations	Waters of the U.S.	Water Quality Certification or Modification	Structural measures affecting surface water will require Water Quality Certification or Modification
Clean Water Act, Section 402	State agencies empowered by EPA (i.e., Ecology)	Establishes permit requirements for stormwater discharges under National Pollution Discharge Elimination System Program (NPDES)	Discharges associated with industrial and construction activities and municipal (county and cities) storm sewer systems	General Permits	MS4s and construction activities disturbing more than 1 acre of soil with direct discharge to receiving waters or to storm drainage system
Clean Water Act, Section 404	USACE	Regulates the discharge of dredged or fill material or excavation in rivers, streams, and wetlands	Waters of the U.S., including wetlands	Individual or Nationwide Permits	Dredging or filling in wetlands or rivers will require permit
River and Harbor Act, Section 10	USACE	Preserves the navigability of the nation's waterways	U.S. navigable waters.	Section 10 permit	Regulates activities within the Ordinary High Water Mark (OHWM) on navigable waters

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Regulation	Implementing Agency	Purpose	Jurisdiction	Required Approval, Permit, or Plan	Applicability to Flood Hazard Management
FEDERAL					
ESA, Section 7	USFWS, NOAA	Ensures that federally permitted or funded projects provide protection for species listed as threatened or endangered	All of United States and Territories	Biological Evaluation (BE) or Biological Assessment (BA) with formal consultation and possibly EIS	Activities and work in river channel or adjacent wetlands, or that may effect those habitats, requires review of impacts and identification of mitigative measures
ESA, Section 9	USFWS, NOAA	Broad protection to prevent "take" of listed species	All of United States and Territories	Biological Evaluation (BE) or Biological Assessment (BA) with formal consultation and possibly EIS	Activities and work in river channel or adjacent wetlands, or that may effect those habitats, requires review of impacts and identification of mitigative measures
National Environmental Policy Act	Varies (usually the federal agency issuing the permit or the action)	Requires full disclosure of potential impacts associated with proposed actions and mitigative measures	All federal actions	Environmental Assessment or EIS	Applies to any action which may adversely impact the environment
Executive Order 11988	Federal Agencies	Protects floodplains from development by federal agencies	Federal projects	None	Enhances existing floodplain management regulations
Executive Order 11990	Federal Agencies	Protects wetlands and evaluates impacts of proposed actions on wetlands	Federal projects, federally funded activities, or other activities licensed or regulated by fed agencies	None	Enhances existing wetland protection regulations
STATE					

TABLE 6-2.
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Regulation	Implementing Agency	Purpose	Jurisdiction	Required Approval, Permit, or Plan	Applicability to Flood Hazard Management
Senate Bill 5411 (ESSB 5411); Flood Control by Counties (RCW 86.12)	Counties	RCW 86.12 gives county governments the power to levy taxes, exercise eminent domain, and take action to control/prevent flood damage. ESSB 5411 provides a greatly expanded role for counties in formulating and adopting drainage basin plans to address flooding and land use regs	All drainage basins located wholly or partially within the County	Comprehensive Flood Hazard Management Plan	Allows for development of CFHMPs
Floodplain Management Program (RCW 86.16)	Ecology	Reduces flood damages and protects human health and safety. Department oversees local implementation of floodplain regulations required for participation in the NFIP	All floodplains within the state	State approval of floodplain management programs and regulations	Provides eligibility for national flood insurance and for state matching funds to construct flood control facilities
State Participation in Flood Control Maintenance (RCW 86.26)	Ecology	Assists local jurisdictions in comprehensive planning and flood control maintenance efforts	All flood hazard management activities of local jurisdictions as approved by Ecology	FCAAP grant application, approved CFHMP for maintenance grants	FCAAP funds available for preparation of CFHMPs, flood control maintenance projects, and emergency flood control projects
GMA (RCW 36.70A)	CTED	Requires comprehensive plans to include surface water considerations and facilities (quantity and quality) Requires designation and regulation of critical areas, including wetlands and frequently flooded areas	Selected high-growth counties (including Yakima County) and their cities All Washington counties and cities.	Comprehensive Plan Critical areas and resource lands designation	Requires adoption of development regulations and comprehensive plans Requires adoption of ordinances regulating development in designated areas
Executive Order 90-04, Protection of Wetlands / Model Wetlands Protection Ordinance	Ecology	Provides guidance to local governments to achieve no net loss of wetland functions and values	State wetlands buffers	None	Provides voluntary technical assistance to the local jurisdiction to regulate activities that affect wetlands

TABLE 6-2.
OVERVIEW OF MAJOR FEDERAL, STATE, AND LOCAL SURFACE WATER MANAGEMENT REGULATIONS

Regulation	Implementing Agency	Purpose	Jurisdiction	Required Approval, Permit, or Plan	Applicability to Flood Hazard Management
STATE (cont.)					
Shoreline Management Act (RCW 90.58)	Ecology; local jurisdictions when state approved	Manages uses of the shorelines of the state for protection of public interests and natural environment	All shorelines of the state (including all marine waters, lakes > 20 acres reservoirs, streams and rivers >20 cfs mean annual flow, and associated wetlands)	State or state-approved local shoreline permit	Applies to activities within the Yakima and Naches Rivers, adjacent lands within 200 ft of the floodway or within the 100-year floodplain, (whichever is less) and all associated wetlands
Water Pollution Control Act	Ecology	Empowers the state to develop, maintain, and administer the federal statutes and programs required by the federal Clean Water Act	All receiving waters of the state	Water Quality Certification or Modification	Regulates activities that violate state water quality standards as per the Clean Water Act
Forest Practice Act (RCW 76.09)	Department of Natural Resources and Forest Practices Board	Regulates forest practices on state and private lands to minimize damage to public resources	Riparian and wetland areas located within designated Riparian & Wetland Management Zones	Notification or application based on practices classification	Ensure that watersheds are managed responsibly to limit their contribution to increased flooding
SEPA (RCW 43.21C)	Varies (usually the local agency issuing the permit); circulation to state and federal agencies for review	Requires full disclosure of the likely significant adverse impacts associated with a proposed action and identification of mitigative measures	All proposed actions that require permits	Environmental Checklist or EIS	Requires environmental review of any project with potential adverse environmental impacts
LOCAL - YAK CO					
Flood Hazard Ordinance (Title 16A, Chapter 5)	Yakima County Public Services, Building and Planning Divisions	Restricts development and requires special standards for development in areas of special flood hazard as identified in the Flood Insurance Study	Yakima County areas identified in Flood Insurance Rate Maps	County approval	Restricts inappropriate land use or channel alterations in flood hazard areas that increase hazard in other areas
Critical Areas Ordinance (Title 16A)	Yakima County Planning Division	Enacts provisions of GMA for preserving critical areas at local level, integrating Shoreline Master Program and Flood Hazard Ordinance.	Designated critical areas and shorelines of the state within unincorporated Yakima County.	Critical Area development authorization	May be more restrictive than provisions of Flood Hazard Ordinance if development lies within an identified critical area.

TABLE 6-2.
OVERVIEW OF MAJOR FEDERAL, STATE, AND LOCAL SURFACE WATER MANAGEMENT REGULATIONS

Regulation	Implementing Agency	Purpose	Jurisdiction	Required Approval, Permit, or Plan	Applicability to Flood Hazard Management
Comprehensive Plan (Plan 2015)	Yakima County Planning Commission	Guides orderly future growth and development of county land use, circulation, and other elements of interest to the community	Yakima County unincorporated areas	None	Promotes preservation of natural drainage corridors, cost-effective measures to control flooding, and limits floodway developments
Yakima Urban Area Zoning Ordinance (Title 15A)	Yakima County	Implements the growth management policies of the Comp Plan by prescribing use and density requirements for land development	Unincorporated portions of the Yakima urban area	Building permits Class 1, 2, 3 zoning review	Flood hazard overlay district reinforces flood regulations
LOCAL - Cities					
Floodplain Development Permits	Cities	Local governments participating in the NFIP are required to review proposed development and filling and/or grading projects to determine if they are in identified floodplains on FEMA maps	The mapped 100-year floodplains within each local jurisdiction	Development permit required if within mapped floodplain	Proposed projects are reviewed and conditions imposed on any permits issued to reduce the potential for damage from floodwaters
Zoning Ordinances	Cities	Implements the growth management policies of the local government's Comprehensive Plan by prescribing use and density requirements for land development	Applicable to all land uses within the city limits of each jurisdiction	Building permits Class 1, 2, 3 zoning review	Minimize damage due to flooding. Yakima has floodplain overlay district for special flood hazard areas. Yakima & Union Gap have Greenway Overlay Districts
Critical Areas Ordinance / Regulations	Cities	Enact provisions of GMA for preserving critical areas at local level through implementation of local government's Comprehensive Plan	Designated critical areas of the state within each local jurisdiction	Critical areas development permit	Imposes development regs that preclude land uses or development that are incompatible w/critical areas

COUNTY REGULATORY TOOLS FOR FLOOD HAZARD MANAGEMENT

Yakima County’s regulatory programs are primarily a result of the Growth Management Act. The County has developed a Comprehensive Plan and has adopted Critical Areas and Flood Hazard Ordinances.

The Comprehensive Plan is updated annually, and major amendments required by the Growth Management Act are currently required every seven years. The latest version, Plan 2015 is scheduled for adoption in 2007. These changes should also be reviewed for consistency with this CFHMP, and recommended changes to regulations contained in this CFHMP proposed for inclusion in these updates. The following are the primary regulations and programs pertaining to flood hazard management in Yakima County: The Flood Hazard Ordinance was updated in 2005 and the Critical Areas ordinance will be completed in 2007.

- National Flood Insurance Program (NFIP)** – Determines floodplain boundaries, floodways, and flood hazard areas associated with the 100-year flood through a Flood Insurance Study and Flood Insurance Rate Map (FIRM). The NFIP provides federally-subsidized flood insurance to all property owners in exchange for the County's adoption of a local flood hazard ordinance that meets minimum standards. Yakima County and the three cities are currently enrolled in the NFIP, Table 6-3 displays dates of entry into the NFIP.

TABLE 6-3 YAKIMA COUNTY INVOLVEMENT IN THE NATIONAL FLOOD INSURANCE PROGRAM		
Community	Community Number	Date of current FIRM
Yakima County	530217	March 2, 1998
Selah	530226	March 2, 1998
Union Gap	530229	March 2, 1998
Yakima	530311	March 2, 1998

- Endangered Species Act (ESA)** - Any actions that could effect the habitat of listed species, or result in “take” of listed species is regulated by the ESA. The listed species in Yakima County which have the greatest potential effect are Mid-Columbia Steelhead and Bull Trout, as changes to the riverine or floodplain environment due to development or flood hazard reduction projects can be effected by ESA regulations. Section 7 of the ESA requires “consultation” for federal projects, which include projects which receive federal funding, or are regulated by federal programs such as the Corps of Engineers regulatory program or Clean Water Act programs.
- Yakima County Critical Areas Ordinance** – Establishes development regulations for designated critical areas within Yakima County, satisfying requirements of the GMA. Yakima County's current ordinance designates 20 *stream corridors* --

defined as a collection of inter-dependent shoreline and wetland features associated with stream systems. The CAO is currently under revision, and the following flood-related requirements are contained in County Code since 2005.

Yakima County Code

- All new construction and any improvements or additions to an existing floodproofed structure that would extend beyond the existing floodproofing shall have the lowest habitable floor elevated to a height equal to or greater than the base flood elevation.
 - Structures within 100 feet of the floodway, or the ordinary high water mark if no floodway has been established, shall be elevated to a height equal to or greater than the base flood elevation using zero-rise methods such as piers, posts, columns, or other methods, unless it can be demonstrated that nonzero-rise construction methods will not impede the movement of floodwater or displace a significant volume of water.
 - The size and spacing of any support devices used to achieve elevation shall penetrate to bearing soil, be sufficiently anchored to withstand hydrostatic and hydrodynamic pressures, and provide adequate support with a minimum obstruction to water movement.
 - Structures placed upon any support devices used to achieve elevation shall be designed to withstand the effects of hydrostatic and hydrodynamic pressures, the effects of buoyancy, and wind loads.
 - New construction and substantial improvements to existing structures that are necessarily subject to flood damage shall be constructed with materials that are resistant to flood damage.
 - All electrical and mechanical equipment or facilities subject to floodwater damage shall be located above the flood hazard elevation or otherwise designed to prevent water from entering or accumulating within the components during flood conditions.
 - Except where otherwise authorized, all new construction and substantial improvements to existing structures shall require certification by a registered professional engineer, architect, or surveyor that the design and construction are in accordance with adopted floodproofing standards.
- **Yakima County Open Space Tax Program**—Defines floodplains as a high-priority open space resource. The Tax Program reclassifies land as open space through the approval of the Planning Commission and County Commission. Once reclassified, assessed value of the property usually falls, resulting in reduced property taxes to the landowner.
 - **Yakima County Shoreline Master Program**—Implements requirements of Washington's Shoreline Management Act at the local level. Yakima County defines shoreline jurisdictions as follows (Yakima County 1981):
 - Where the floodway has been established by a flood hazard study prepared by the FEMA's Federal Insurance Administration, shorelines jurisdiction

- shall be the floodway plus 200 feet, measured on a horizontal plane, or the 100-year floodplain, whichever is less.
- Where the 100-year floodplain has been identified by a flood hazard study prepared by the COE but no floodway has been identified, shorelines jurisdiction shall be the 100-year floodplain boundary or 200 feet, measured in a horizontal plane, from the ordinary high water mark, whichever is greater.
 - Where there are no detailed floodplain or floodway studies from either the Federal Insurance Administration or the COE, shorelines jurisdiction shall be 200 feet, measured on a horizontal plane, from the ordinary high water mark.
 - Under no circumstances shall shorelines jurisdiction be less than 200 feet, measured on a horizontal plane, from the ordinary high water mark.
 - Additionally, all wetlands within the 100-year floodplain are included. Within the shoreline jurisdiction, developers who propose *substantial development* (total cost equal to or greater than \$2,500 or that materially interferes with public use of the shoreline or water) must obtain a substantial development permit evaluated by Ecology and the County.
- **Yakima County Flood Hazard Ordinance**—Required for participation in NFIP by setting minimum standards and regulations for development in Flood Hazard Areas. Floodplain boundaries are defined in the 1998 Flood Insurance Study for Yakima County. However, if the Flood Hazard Area identified on the FIRM also lies within a stream corridor identified in the CAO, the development regulations associated with the CAO apply. Yakima County Flood Hazard Ordinance is currently part of the County’s CAO.
 - **Yakima County Zoning Ordinance**—Implements land use recommendations from the comprehensive plan for areas within the unincorporated County. The Yakima County Critical Areas Ordinance and Zoning Ordinance are complementary. The CAO states that the regulation that is most restrictive shall apply to potential development. Existing County zoning outside the Yakima urban area does not include a Floodplain Overlay District that would reinforce requirements of the flood hazard ordinance.

As stated above, the Yakima County Critical Areas Ordinance is currently under revision; the Shoreline Master Program is also being revised concurrently. The County-wide Planning Policy Committee has agreed that this update should form the basis for both the Critical Areas Ordinance and the Shoreline Master Program for the Cities of Yakima County as well. Accordingly, the Yakima County Public Services Planning Division is going through an broad public involvement process as a component of these revisions, to include issues specific to cities as well as issues important to Yakima County.

Currently, each of the cities in the planning area has its own environmental regulations. These environmental regulations are briefly outlined below.

City of Yakima

Critical Areas Ordinance

Chapter 15.17 of the City of Yakima Code describes the City's Critical Areas Ordinance. The purpose of the Critical Areas code is to:

- Implement the Yakima urban area comprehensive plan, natural environment element and associated policies;
- Further the public's interest in the conservation and wise use of our lands;
- Preclude land uses and developments that are incompatible with critical areas;
- Protect unique, fragile and valuable elements of the environment including wildlife and its habitat;
- Mitigate unavoidable impacts to environmentally critical areas by regulating alterations in and adjacent to critical areas;
- Prevent cumulative adverse environmental impacts to water availability, water quality, wetlands and streams;
- Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in hazard areas;
- Help maintain a stable tax base by providing for the sound use and development of areas of special hazard so as to minimize future blight areas; and
- Ensure that those who occupy the areas of special hazard assume responsibilities for their actions.

City of Union Gap

Critical Areas Regulations

The Union Gap critical areas development regulations provide limitations on the development of: geologically hazardous areas, wetlands, and stream corridors (UGC 17.19). Limitations in geologically hazardous areas include areas with steep slopes and erosion hazards, and provide buffers around these areas. Limitations around wetlands and stream corridors avoid the following activities in wetlands or streams or their buffers:

- Removing, excavation, disturbing, or dredging soil, sand, gravel, minerals, organic matter, or materials of any kind;
- Dumping, discharging, or filling with any material;
- Draining, flooding, or disturbing the water level or water table;
- Driving of piling or placing obstructions;
- Constructing, reconstructing, demolishing, or altering the size of any structure or infrastructure;
- Destroying or altering vegetation through clearing, harvesting, shading, or planting vegetation that would alter the character of a wetland or stream; or,

- Activities that result in detrimental changes in water temperature, physical, or chemical characteristics of wetland or stream water sources, including quantity and pollutants.

Greenway Overlay Zone

The Yakima greenway master plan was adopted to preserve, maintain and, enhance the Yakima River as a natural resource for all citizens to enjoy. The Union Gap greenway overlay zone (UGC 17.21) has the following goals toward implementing the plan:

- Make the greenway more attractive and accessible to the public;
- Assure development conserves riparian shoreline vegetation and controls erosion;
- Implement the shoreline master program and the Yakima greenway master plan;
- Limit development to activities which are particularly dependent on a location in the greenway;
- Preserve, protect, and restore the fragile natural resources and culturally significant features along the greenway;
- Increase public access to publicly-owned areas of the greenway where increased use is appropriate;
- Protect public and private properties from adverse effects of improper development in hazardous shoreline and critical areas;
- Give preference to uses creating long-term over short-term benefits.

City of Selah

Flood Hazard Prevention Ordinance

Development in flood hazard areas is contained in Selah Municipal Code, Chapter 11.19.

Located within areas of special flood hazard established in Section 11.19.030(b) of this chapter are areas designated as floodways. Floodways are an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- (a) Encroachments, including fill, new construction, substantial improvements and other development, are prohibited unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) If Section 11.19.070(a) is satisfied, all new construction, and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 11.19.060, 11.19.065 and 11.19.070 of this chapter.

- (c) Construction or reconstruction of residential structures is prohibited within designated floodways, except for:
 - (1) Repairs, reconstruction, or improvements to a structure which do not increase the ground floor areas; and
 - (2) Repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the market value of the structure either:
 - (A) Before the repair, reconstruction, or repair is started, or
 - (B) If the structure has been damaged, and is being restored, before the damage occurred.

Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historical places may be excluded from the fifty percent. (Ord. 1597, 2003; Ord. 1377 § 73, 1998; Ord. 943, 1989; Ord. 886 § 1 (part), 1987.)

Land and Resource Use Policy

The City of Selah 2005 Urban Growth Area Comprehensive Plan is the primary policy guidance for land and resource use regulation with the city of Selah. This general policy document driven by the 1990 Washington State Growth Management Act addresses flood-related issues in *Chapter VI. Natural Environment Element*, and more specifically it provides general guidance in the section *Frequently Flooded Areas*. Floodplains designated within the Selah Urban Growth Area are identical to the 100-year floodplain designations on the Federal Emergency Management Agency (FEMA) flood maps. Within the northeastern arm of the Urban Growth Area, floodplains surround the Yakima River. Additional floodplains exist adjacent to the Naches and Yakima Rivers in the southern and southeastern sections of the urban growth area.

Land and Resource Use Regulation

The Selah 2005 Urban Growth Area Comprehensive Plan in combination with The Yakima County Non-Regulatory Critical Areas Ordinance Non-Regulatory Critical Areas Ordinance, which is in process of being updated, will be the basis for a new Shorelines Management Plan and Critical Area Ordinance to be adopted and implemented in 2007 or 2008. Selah will adopt and utilize those portions of the Yakima County Critical Areas Ordinance that are applicable.

NPDES Phase II Municipal Stormwater Permits

In March of 2003, the County and the cities of Yakima, Union Gap, and Selah each individually submitted a notice of intent to apply for federal coverage under the NPDES Phase II municipal stormwater permit. The final permit was issued by Ecology in February of 2007. These permits may add additional Best Management Practices (BMPs) or maintenance requirements above current standards. The City of Selah has developed a draft stormwater management plan and is currently updating the existing plan to meet DOE permit requirements. The County and the cities of Yakima and Union Gap have developed a draft regional stormwater management program to meet NPDES Phase II permit requirements; approval of the program is pending.

PERMITTING REQUIREMENTS

Many of the regulatory programs summarized in Tables 6-1 and 6-2 contain permit requirements. A project may require one or more permits, depending on its nature and location. Table 6-4 shows permits required for projects of various types and in various locations. At least five permits are typically required for in-stream, shoreline, floodplain, and river engineering projects. The table also indicates that State Environmental Policy Act (SEPA) review is generally required for all the listed types of projects. SEPA review may consist of completing a checklist or an environmental impact statement (EIS) if the project is expected to have significant impact.

Many permit requirements depend on the project location in relation to the river, shoreline jurisdiction, and floodplain boundary. Only work in and adjacent to the rivers would require a COE 404 permit.

Some permits are issued following acquisition of other permits. Figure 6-1 illustrates permit timing relationships. The WSDOT right-of-way permit process, required whenever work is proposed within a state right-of-way, is listed first because it can have the longest processing time. The COE and Shorelines permit processes require procurement of most other required permits and approvals before issuance. SEPA compliance may be accomplished by preparing an environmental checklist, but if an EIS is found to be necessary, this can substantially delay procurement of all permits that require completion of the SEPA process.

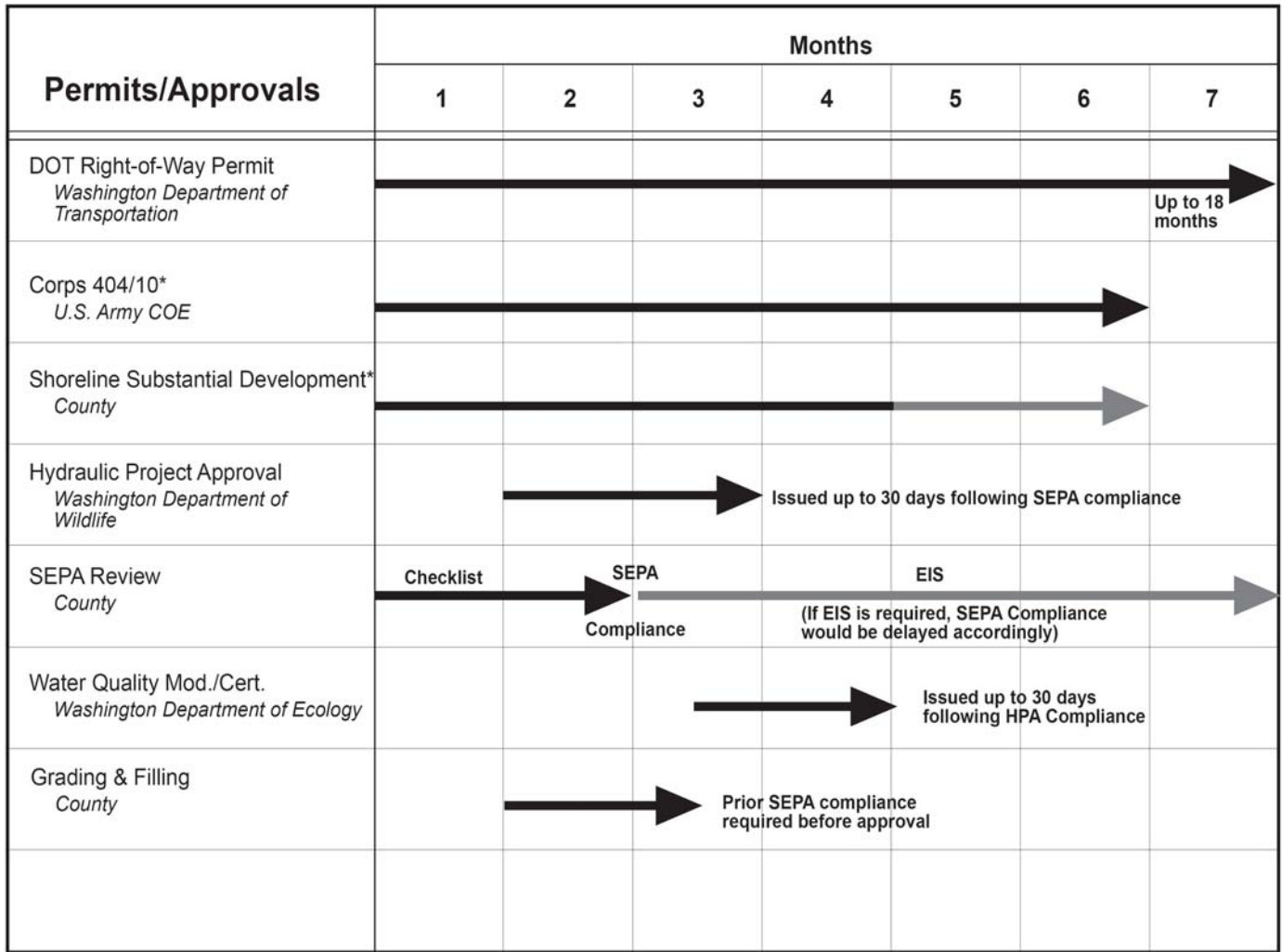
The Hydraulic Project Approval (HPA) application can be submitted before the SEPA process is finished, but it will not be issued until SEPA review has been completed. Ecology will not issue the Water Quality Modification/Certification until the HPA has been issued. The grading and filling permit requires SEPA compliance prior to issuance. Individual processing times may require up to two months for these permits.

SEPA/GMA Integration

Yakima County is developing an integrated SEPA/GMA strategy for its comprehensive plan to reduce overlapping permitting requirements on development. Under the strategy, potential adverse effects of development will be defined as either *system impact* (affecting a system of facilities, services or the natural environment) or *project impact* (affecting a specific development project). A model will be used to determine mitigation measures that may be required. It is unclear at this time how the mitigation model will alter the permitting process for flood-related projects.

TABLE 6-4.
PERMIT REQUIREMENTS FOR FLOOD CONTROL WORK

	Project Location				Type of Work		
	In-Stream Work	Shoreline Work	Floodplain Work	Outside Floodplain	Structural Flood Control	Nonstructural Using Existing Regulation	Nonstructural Using Modified Regulations
DOT ROW Permit (for work in State right-of-way) <i>Washington Department of Transportation</i>		X		X	X		
COE 404/10 and ESA consultation <i>U.S. Army Corps of Engineers</i>	X	X	X	X	X		
Shoreline Substantial Development <i>Yakima County</i>	X	X	X		X		
Hydraulic Project Approval (HPA) <i>Washington Department of Wildlife</i>	X	X	X		X		
SEPA Review <i>Yakima County</i>	X	X	X	X	X	X	X
Water Quality Modification/Certification <i>Washington Department of Ecology</i>	X	X	X		X		
COE 401 (Water Quality Certification) <i>Washington Department of Ecology</i>	X	X	X		X		
Standard Development <i>Yakima County</i>	X	X	X	X	X		



*These are "umbrella" permit processes that require procurement of all other permits before they can be issued.