



Confronting Washington State's Overlapping Regulatory Structures

A joint research series from the Washington Roundtable and Washington Research Council

THE THRIVE WASHINGTON PROJECT

The Great Recession dramatically changed fiscal conditions in Washington state, possibly forever. The impact of falling revenues and structural budget deficits has elicited a near universal call for a transformative shift in state government. This research series—developed by the Washington Roundtable and Washington Research Council—will provide actionable state policy recommendations that, if enacted, will preserve essential services, lay a foundation for sustainable economic growth and create an environment in which Washingtonians can thrive.

In states across America policymakers are overhauling regulatory regimes to boost economic activity. In Florida, Nevada, New Mexico, Tennessee, Colorado, Kansas and Ohio, governors from both parties have used executive orders or legislative recommendations to freeze, restructure, or streamline regulations. The federal government is pursuing a similar effort. In January, President Barack Obama issued an executive order mandating that federal agencies adopt rules “only upon a reasoned determination that its benefits justify its costs.”

Driving each of these regulatory reform initiatives is the mounting concern about persistent joblessness as the recession limps into recovery. Elected executives leading these efforts believe that removing regulatory barriers to investment and development will spur job creation.

In his Wall Street Journal op-ed, the president wrote, “Sometimes ... rules have gotten out of balance, placing unreasonable burdens on business—burdens that have stifled innovation and have had a chilling effect on growth and jobs.”

Eliminating redundant, inconsistent and unnecessary regulation without sacrificing safety and quality of life has long been the goal of regulatory reform advocates. Washington businesses recognize that the pristine environment of the Pacific Northwest is an important reason why entrepreneurs and workers want to come and stay here. It

is important, therefore, to find regulatory reforms that will streamline or simplify processes while protecting environmental quality.

We’ve seen reform efforts before, including a high-profile regulatory reform task force created by Governor Mike Lowry followed by the Washington Competitiveness Councils of Governors Gary Locke and Chris Gregoire. Similar processes have been undertaken across the nation, celebrated in the “reinventing government” initiatives of the 1990s. Yet thousands of new rules continued to be crafted each year by regulatory agencies—rules that often overlap, conflict, and confuse. Businesses are left with a tangle of multiple and contradictory regulations, all of which have real-world costs.

According to a recent report by the Small Business Administration (SBA), regulatory compliance costs small businesses (those with fewer than 500 employees) approximately \$10,585 per employee annually. That is 36 percent more than compliance costs for larger corporations nationwide. These costs impede businesses’ ability to invest in equipment or new employees.

The SBA has commissioned three studies in the past 15 years; all of which demonstrate that regulatory costs impose a significant business cost burden. Thomas Hopkins’ 1995 study estimated annual federal regulatory costs to be \$777 billion. Mark Crain and Hopkins revisited the study six years later and revised their estimate to \$876 billion. More

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—President Barack Obama

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recently, Crain’s 2005 research estimated the annual costs to be in excess of \$1 trillion (in 2001 dollars). Such high costs should produce commensurate benefits. However, as the president observed, too often that’s not the case.

A recent U.S. Chamber of Commerce report on employment and labor regulation found that regulatory reform—including workers’ compensation and unemployment insurance policy—could lead to “a one-time boost of approximately 746,000 net new jobs nationwide. Moreover, the rate of new business formation would increase by over 12 percent, resulting in the creation of more than 50,000 new firms nationally each year.”

Labor and employment regulations tend to be standardized within a state, simplifying the quantitative analysis. Another Thrive Washington paper examines employment cost drivers, including workers’ compensation and unemployment insurance costs.

In this report, we focus primarily on environmental and land use regulation. Some of the issues and recommendations discussed also have bearing on the energy industry. We want to emphasize, however, that the state’s energy sector faces additional layers of complex and unique regulation that are not addressed here and merit a more detailed investigation.

Our approach echoes that of the first Washington Competitiveness Council (WCC), which stated, “Washington’s environmental regulations are important to the environment and the health of citizens. [We do] not seek to weaken Washington’s environmental safeguards.”

A decade after that 2001 effort, we find that too little has changed. Then, the WCC concluded, “Washington’s current environmental regulatory system is a tangled structure that evolved in piecemeal fashion, resulting in an uncoordinated and inefficient regulatory regime.”

It is that “tangled structure” that frustrates interstate comparisons of environmental regulation. Beyond the statutes, regulation

often rests on subjective determinations, the regulator’s approach to problem solving (the WCC sought “a culture change,” and involves a complex interplay among federal-state-local governments. Our analysis takes a “case study” approach, highlighting opportunities for substantive reform).

Clearly, there is room for improvement. Although the U.S. Chamber’s research focused on employment regulation, one finding from its report resonates with our review of environmental and land use regulation: “Many of Washington’s ... laws differ from federal requirements and impose additional burdens on employers.”

Gov. Gregoire has taken steps to address the problem in Washington. Last November, she signed Executive Order No. 10-06, instructing state agencies to suspend “non-critical” rule development and adoption for the year 2011. If history is a guide, it will take more than an executive order to effectively reform Washington’s regulatory environment. Governors Locke, Lowry and Ray issued similar executive orders, yet the proliferation of rules and regulations continued unabated.

Due to the magnitude of the problem, structural reform is required. In this Thrive Washington report, we recommend ways to rationalize regulation and avoid regulatory overreach.

Overlapping Regulatory Schemes

Washington businesses must navigate a large number of regulations, many of which are issued by separate and independent agencies. Often, the rules overlap, conflict, or apply inconsistent standards. Consider the following:

- **State and Federal Regulatory Overlap:** Washington businesses often face federal rules and state rules that regulate the same behavior, but with different standards.
- **Multiple State Agencies with Overlapping Regulations:** Washington developers are often required to get permits from multiple agencies with overlapping jurisdictions.

- **State and County Regulatory Overlap:** Washington businesses and developers often find themselves caught between state and county rules that are inconsistent or require permission from both levels of government.
- **Multiple State Laws with Overlapping Regulations:** At times, the Washington State Legislature passes laws that govern the same regulatory environment. This adds confusion and makes compliance difficult.

Case Study: Excessive State Regulations Hurt Inland Empire Paper

In 2000-01, the state became concerned about the amount of phosphorous flowing into Spokane waterways. In response, Spokane County moved forward with a plan to build a new water treatment plant designed to capture excess phosphorous. DOE balked at the plan and refused to issue the necessary permits. Without a treatment plant, Spokane County had to find other ways to reduce the total maximum daily load (TMDL) of phosphorous entering the water. By 2004, Spokane spent \$125 million to upgrade the existing water treatment plant and reduced emissions to 195 pounds a day. The DOE required a reduction to five pounds a day—a goal DOE concedes is unattainable under current technology.

Caught up in the phosphorous reduction mania was Inland Empire Paper, one of Spokane’s largest employers. With more than 130 employees, IEP contributes more than \$300 million annually to the local economy. The company spent \$9 million as a proactive effort to meet the TMDL standards that went far beyond what the EPA requires.

EPA regulations require water quality in lakes and reservoirs to have six milligrams per liter of dissolved oxygen only at a depth up to eight meters to protect fish. The DOE has a higher standard, requiring eight milligrams per liter of dissolved oxygen at all depths (or 0.2 milligrams per liter change from pristine conditions). Asked to justify the higher standard, DOE has yet to produce scientific documentation. IEP estimates it will need to spend another \$10 million in an attempt to comply with the higher standard, putting the company at a competitive disadvantage with other paper mills around the country.

RECOMMENDATION: DOE should adopt EPA regulatory standards. If the department develops standards that exceed EPA requirements, those standards should be accompanied by assessment procedures to determine if the increased regulation

State and Federal Regulatory Overlap

Most federal environmental statutes allow the Environmental Protection Agency (EPA) to delegate its enforcement procedures to state agencies. Delegation is contingent upon a state’s demonstration of legal authority, sufficient resources, and implementation of a regulatory program equal to or more stringent than EPA rules. With program delegation, the EPA provides grant money but retains some oversight authority.

In Washington state, the Department of Ecology (DOE) has routinely sought and received permission to enforce most Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act programs. With many environmental programs, the DOE has rejected the EPA regulation or permit standards and created a different, more complex, and more stringent state version. Washington environmental laws generally do not demand a standard higher than the federal government rules, but rather it is the DOE’s discretionary rule-making authority, which takes place outside the oversight of the state legislature, that imposes additional burdens. A few examples are cited in the accompanying table on page 4.

State standards that go beyond the federal standards impose serious costs stemming from the additional need for data collection, internal legal reviews, litigation defense and implementation.

Recommendation:

DOE should adopt EPA regulatory standards. If the department develops standards that exceed EPA requirements, those standards should be accompanied by assessment procedures to determine if the increased regulation achieves increased environmental benefits. If the higher standards do not prove to be effective, they should be abandoned.

achieves increased environmental benefits. If the higher standards do not prove to be effective, they should be abandoned.

The Washington State Legislature attempted to enforce such an approach when it passed the Regulatory Reform Act of 1995. The 1995 law requires state regulations conform to federal regulations (with a few exceptions) and adopt the “least burdensome”

approach to regulation. As is often the case, laws on the books already address this fundamental problem in our state. To assure compliance, lawmakers and the governor must remain vigilant and exercise administrative and regulatory oversight.

While the Regulatory Reform Act pertains to new regulations, Washington would benefit from a review of previously adopted

WHEN STATE REGULATIONS EXCEED FEDERAL STANDARDS

Program	EPA	DOE	Key Differences
Wastewater Permit for Industrial Stormwater Dischargers	Multi-Sector General Industrial Stormwater NPDES Permit (2008)	Industrial Stormwater General NPDES Permit (2010)	Many states rely on the EPA permit. Washington, however, has chosen to develop a unique and more expensive permit for over 1,200 permittees (environmental consultant support, active stormwater treatment). Many hundreds of small businesses will be impacted. The EPA permit is less aggressive and would almost certainly not require active stormwater treatment (or the high capital and operating costs associated with it).
Hazardous Waste	Hazardous Waste Regulation (40 CFR 261-273)	Dangerous Waste Regulation (WAC 173-303)	Both programs have common waste designation protocols based on waste characteristics (ignitable, corrosive, reactive, and toxic leachability), and various listed industry wastes and discarded chemical products. Washington’s regulation adds two other expansive criteria based on biological toxicity and persistence which expand the universe of highly regulated Dangerous Waste. The impact is that more solid wastes are classified as Dangerous Waste and must be treated or disposed of at much greater expense.
Hazardous Air Pollutants	National Emission Standards for Hazardous Air Pollutants for designated industries (major sources) and Area Sources (minor sources) (40 CFR 63)	Controls for New Sources of Toxic Air Pollutants (WAC 173-460)	EPA’s programs for controlling hazardous air pollutants address 188 pollutants; Washington’s regulation identifies over 400 toxic air pollutants and requires modeling assessment of ambient impacts from new source emissions and provision for Best Available Control Technology.
Sediment Quality	EPA has no regulation separately addressing sediment quality.	Sediment Management Standards (WAC 173-204)	Washington’s regulation includes sediment quality standards for 47 chemical compounds and biological assessment criteria for marine waters; and narrative standards for estuarine and fresh waters. The SMS regulation is responsible for expensive investigations and remedial cleanups.

regulations to ensure they also meet the federal conformity and “least burdensome” requirements.

Multiple State Agencies with Overlapping Regulations

In addition to facing conflicting federal and state regulations, businesses in Washington must navigate conflicting and overlapping state agencies and jurisdictions. With the Department of Natural Resources (DNR), Washington Department of Fish and Wildlife (DFW) and Department of Ecology all engaged in environmental regulation, many businesses working on a single project find themselves needing multiple permits from different agencies.

The natural resource industry provides multiple examples. This industry supports thousands of jobs and millions of dollars in state tax revenue. It is also an industry struggling to compete in the increasingly competitive global economy. The added cost of complying with duplicative or inconsistent regulations puts these companies at a competitive disadvantage, threatening the jobs and tax revenue they produce.

Harvesting timber in Washington is a complicated process. A landowner must procure both a forest practices permit (FPA) and, often, an accompanying hydraulic project approval permit (HPA). Under our current system, the permits are issued by separate state agencies. DNR issues FPAs and DFW oversees the HPAs.

The process is further complicated by the fact that DNR has multiple “consultation requirements” with other agencies. For example, to issue an FPA, the agency must consult with Ecology, Fish and Wildlife, Archeology and Historic Preservation and sometimes the Parks Department, as well as local governments and tribes. The requirements that DNR address and review forest practice rules, issue decisions on forest practice notification and applications, perform field oversight

of rule implementation, monitor forest practice compliance and perform adaptive management often lead to the creation of Interdisciplinary Teams (IDTs). These teams extend the regulatory process, adding to employer uncertainty and increasing costs.

It is not just forestry companies that get entangled in Washington’s agency overlap. As was noted in an earlier Thrive Washington paper, any work on the Puget Sound requires multiple agency and county cooperation, which is not always forthcoming. Increasing the efficiency of regulation by streamlining processes can and should be accomplished to preserve important environmental protections. Inefficiency and duplication advance no meaningful objectives.

Case Study: Eight Years to Build a Dock

Any work requiring an operating permit, private or public, conducted within the Puget Sound is subject to the jurisdiction of three independent executive agencies. The Department of Ecology (DOE) governs the water within the Puget Sound, the Department of Natural Resources (DNR) governs the land under the water and the Department of Fish and Wildlife (DFW) governs the fish in the water.

In order to do work within the Sound, one may need a permit from Ecology, a lease from Natural Resources and another permit from Fish and Wildlife. To further complicate matters, each agency is subject to a different process of accountability. The DOE director is appointed by and reports to the governor. The Commissioner of Public Lands is independently elected by the citizens. The DFW director is appointed by the governor, but answers to the Fish and Wildlife Commission.

The problem of overlapping jurisdictions exposed itself in 2002 when Glacier Northwest, a mining company on Maury Island, wanted to build a dock for its operations. The company was required to get permits from King County, DFW, DOE, the Army Corps of Engineers, and a lease from DNR. After expending considerable

Washington would benefit from a review of previously adopted regulations to ensure they also meet the federal conformity and “least burdensome” requirements.

Recommendation:

Streamline the permitting process by giving a single agency the authority over particular permitting procedures.

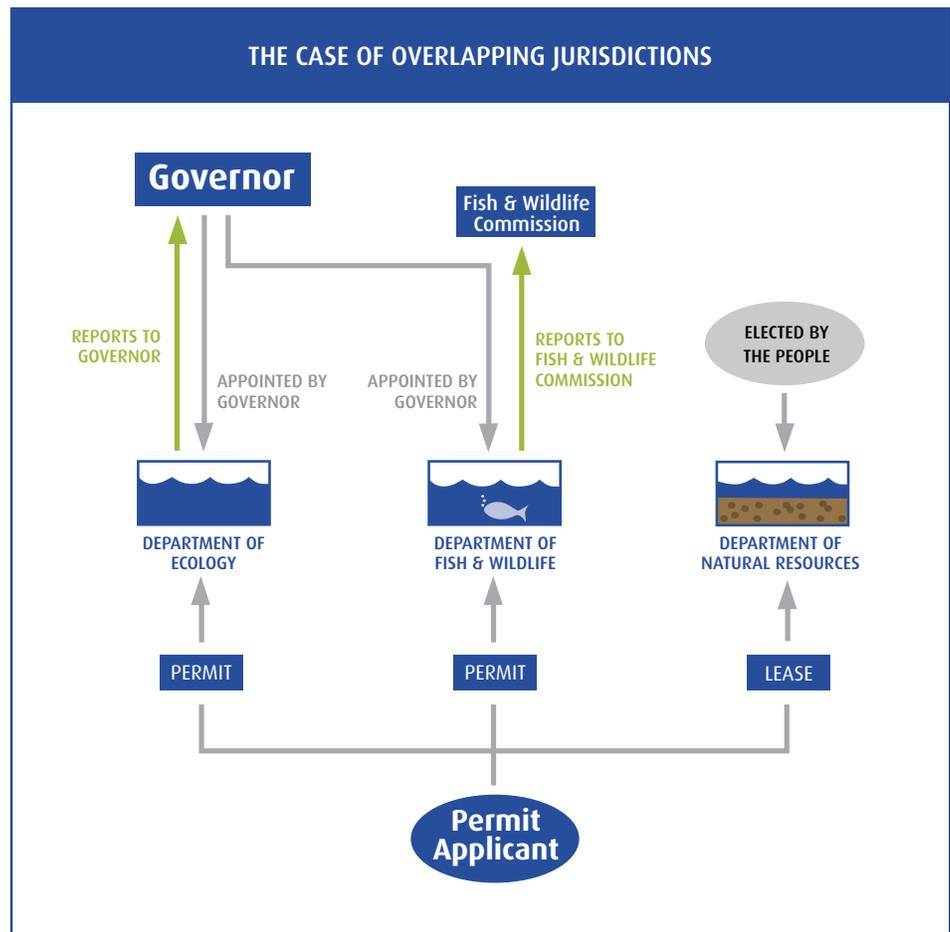
time and money acquiring the leases, the company was rebuffed when King County refused to issue a permit, preventing DNR from issuing a lease (which it was willing to do). Glacier Northwest had to sue King County in front of yet another independent government board—the State Shoreline Hearings Board—to get its permit, which allowed DNR to eventually issue the lease.

The disputes continued until 2010. Ultimately, the operation was purchased with \$36 million in state and county tax dollars and will become a King County park this year. The conflicts that arose demonstrate the inefficiencies and uncertainties associated with overlapping and duplicative governance. Not only do inter-

agency battles cost taxpayer money, they divert staff time from other important issues.

RECOMMENDATION: Streamline the permitting process by giving a single agency the authority over particular permitting procedures. For example, if DNR had exclusive authority over forestry permitting and DOE or DFW had exclusive permitting over the Puget Sound, businesses could utilize one-stop shopping and work with a one-agency staff that could provide definitive answers to regulatory questions.

RECOMMENDATION: Regulators should also issue permits that cover time periods



Recommendation:

Regulators should also issue permits that cover time periods commensurate with the life of the proposed project.

commensurate with the life of the proposed project. Often, permits are issued for only two years—a time period far shorter than project timelines. Short-term permits require companies to repeat the same permitting process for the same project, adding costs and staff time without additional environmental benefits.

State and County Regulatory Overlap

Just as federal and state governments create unintentional regulatory overlap, parallel problems arise when county and state governments share regulatory administration. The most common areas of regulatory overlap between state and local governments occur during the Comprehensive Plan process, the State Environmental Protection Act process, and the permitting process.

The SEPA Approval Process

The State Environmental Protection Act (SEPA) requires all but the most insignificant proposals to complete a threshold determination process to assess whether an environmental impact statement (EIS) must be prepared. In most cases, minor development projects—such as the construction of an office, school, commercial or storage building with 60,000 or fewer square feet of gross floor area—are found to have no significant impacts. When that happens, a determination of non-significance (DNS) is made and the developer is not required to prepare an EIS. However, before such a determination can be made, the project applicant must complete a detailed environmental checklist to be reviewed by the county government. If the county determines the proposal does not require an EIS, the county must notify various state agencies, other jurisdictions, tribes, and affected federal agencies of the nature of the project and of its determination that an EIS need not be prepared. All of the contacted governmental agencies must review the DNS.

Recommendation:

The legislature should exempt minor projects from the SEPA process and eliminate the unnecessary compliance costs.

In most instances, no further action is taken—lending credibility to the argument that the DNS process likely wasn't needed in the first place.

The SEPA requirements were adopted in 1971, years prior to the adoption of the Growth Management Act (GMA) and critical area ordinances, the Shoreline Management Act (SMA), stormwater regulations, and a multitude of other regulatory laws to protect the environment. With the adoption of these more recent laws, the EIS and DNS requirements of SEPA are redundant and impose costs without providing any additional environmental protection.

RECOMMENDATION: The legislature should exempt minor projects from the SEPA process and eliminate the unnecessary compliance costs.

Local Permitting Process

As discussed earlier, the federal government often delegates its regulatory authority to the states. In some cases, the state re-delegates that authority to the counties. This has been the case with stormwater permitting in Washington state. The EPA initiated regulation but granted “coverage” authority to the Department of Ecology (DOE). Coverage authority means that if a business has a permit from DOE and they follow the instructions of the permit, that business is shielded from federal environmental lawsuits. In 2010, some stormwater permitting authority was transferred to local jurisdictions. DOE, however, does not have explicit power to transfer “coverage” authority to local jurisdictions. As a result, we face the potential of some county municipal stormwater permits (MS4s) requiring both DOE and the county permit staff to assess the same site review plans and perform the same inspections. In such cases, both agencies could charge permit

fees. Washington now has a system of split jurisdiction with the possibility of both levels of government having partial responsibility and both charging fees.

Washington addressed a similar problem in the 1960s. Large energy facilities that traversed multiple counties (e.g. power lines) required both state and multiple local permitting. Individual counties could mandate different standards. Projects benefiting the entire state could be derailed by a single county. In response, the legislature created the Energy Facility Site Evaluation Council (EFSEC) in 1970. According to EFSEC:

“The Council was created in 1970 to provide ‘one stop’ licensing for large energy projects. By establishing the Council, the State Legislature centralized the evaluation and oversight of large energy facilities in a single location within state government. The legislature called for ‘balancing’ demand for new energy facilities with the broad interests of the public. As part of the balancing process, protection of environmental quality, safety of energy facilities, and concern for energy availability are all to be taken into account by the Council.”

EFSEC serves as an example of successful regulatory streamlining that should be revisited as Washington confronts new instances of state and county permitting conflicts. Multiple agencies regulating the same process increases costs and regulatory confusion.

RECOMMENDATION: DOE should cede all permitting authority to the local jurisdictions or retain it all.

Multiple State Laws with Overlapping Regulations

In addition to concurrent levels of government (federalism) and intersecting agencies and jurisdictions, regulatory overlap sometimes occurs as a result of

The Energy Facility Site Evaluation Council serves as an example of successful regulatory streamlining that should be revisited as Washington confronts new instances of state and county permitting conflicts.

the legislature adopting multiple laws governing the same regulatory arena. Because legislation develops at different points in time and is shaped by independent legislators and interest groups, it is common for multiple state laws to overlap. One example, the accompanying case study examines seven years of confusion and ambiguity resulting from overlap between the state’s Shoreline Management Plan and Growth Management Act.

Case Study: Clarifying Ambiguities in Shoreline Regulation

In 1971, Washington state adopted the Shoreline Master Plan. The initiative regulated the protection of land within 200 feet of bodies of water. In 1990, the legislature adopted the Growth Management Act, which among other things, mandated critical area ordinances that also protect shorelines. Two laws imposing inconsistent rules on shoreline management led to confusion for county governments and developers.

In 2003, the legislature attempted to clarify the ambiguities in the law by amending both the GMA and the SMA, vesting all authority to govern critical areas with the Shoreline Master Plans. Unfortunately, the bill was ambiguous about the retroactive enforcement and a three-year legal battle ensued between environmental groups, the Western

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Washington Hearings Board, and the City of Anacortes. In the famous Anacortes case, the state Supreme Court tried to resolve the situation, but with a 4-1-4 split decision, the court exacerbated the confusion—so much so the Department of Commerce asked for a rehearing of the case (which was denied).

In the years following the Anacortes case, neither developers nor regulators clearly understood the rules that governed shoreline regulation. Finally, in 2010, Gov. Gregoire signed SHB 1653 integrating shoreline management with the GMA. The bill represented a good-faith effort by all stakeholders to address the needs of farmers and developers who had existing structures within shoreline areas while at the same time clarifying rules that counties must enforce.

The story has a happy ending. It also serves as a warning and lesson to what can go wrong when the state enacts overlapping regulatory procedures.

The SMA/GMA conflict has been resolved; however, similar problems still exist. In 2007, Gov. Gregoire issued Executive Order 07-02 establishing Washington’s Climate Action Team to take the lead on state efforts to control greenhouse gas emissions. The Climate Action Team set a goal of 30 percent reduction in building energy use with 2007 levels as a baseline. The governor then directed the Building Council to amend its energy code to meet those goals.

Two years later, the legislature passed its own law requiring the Building Council to adopt energy codes that achieve a 70 percent reduction in energy use by 2031. The Council is currently trying to implement the two conflicting mandates.

RECOMMENDATION: The Department of Commerce should create a permanent task force that monitors legislative and gubernatorial rulemaking and alerts both institutions when a potential conflict is emerging.

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BUILDING COUNCIL TASKED WITH IMPLEMENTING CONFLICTING MANDATES

2007:

- Gov. Gregoire issues Executive Order establishing Washington’s Climate Action Team to take lead on state efforts to control greenhouse gas emissions.
- Climate Action Team sets goal of 30 percent reduction in building energy use from 2007 baseline.
- Governor directs Building Council to amend its energy code to meet reduction goal.

2009:

- Legislature passes law requiring Building Council to adopt energy codes that achieve 70 percent reduction in energy use by 2031.

Protecting the Environment while Protecting Jobs

Regulations happen for a reason. They are designed to protect consumers, workers, citizens and the environment. The trick is stopping when new regulations add costs without adding benefits. Economists have long been aware of the “last 10 percent problem.” The last 10 percent problem proposes that reasonable regulations with minimal costs can eliminate 90 percent

Regulations happen for a reason. They are designed to protect consumers, workers, citizens and the environment. The trick is stopping when new regulations add costs without adding benefits.

of most harmful behavior. Agencies and legislatures, however, sometimes respond to constituencies demanding 100 percent elimination. Research shows that eliminating the “last 10 percent” causes almost all the expense. For example, removing 90 percent of PCBs from coolants is relatively inexpensive and eliminates almost all potential harm to humans. Eliminating those last few milligrams, however, is extremely difficult, incredibly expensive and offers no additional safety for humans.

Recent studies in Washington suggest that, at times, our regulations have imposed substantially higher costs than can be justified by measurable environmental or safety benefits. A joint study by the University of Washington and the Department of Ecology in 2010 found that phosphorous discharge limits into the Spokane River might be adding significant costs to some businesses without any noticeable environmental benefits. The study showed that in some cases only 9 percent of the phosphorous discharged had any detrimental environmental effects. In the case of Inland Empire Paper, the company spent \$9 million on upgrades to get discharges down to a negligible 70 parts per billion, but DOE then lowered the limit to 36 parts per billion despite the absence of any study showing that reducing phosphorous from 70 to 36 parts per billion adds any environmental protection.

A 2008 study by University of Washington economist Theo Eicher concludes that Seattle’s extensive land use regulations add approximately \$200,000 to the price of a home. Mandates by the Growth Management Act required the city to restrict where people can build and how much of their land they can build upon. Other regulations address transportation, impact fees, stormwater management fees, critical-areas mitigation and more. The unintended consequences of these regulations, the study concludes, are that poorer and middle class families have a harder time buying a first time home in Seattle.

Further Recommendations

Throughout this paper, we have identified a number of recommendations designed to improve regulatory efficiency and effectiveness without sacrificing important environmental safeguards. Those recommendations include:

- The Department of Ecology (DOE) should adopt EPA regulatory standards. If DOE develops standards that exceed EPA requirements, those standards should be accompanied by assessment procedures to determine if the increased regulation achieves increased environmental benefits. If the higher standards do not prove to be effective, they should be abandoned.
- The legislature should streamline the permitting process by giving a single agency the authority over particular permitting procedures.
- Regulators should issue permits that cover time periods commensurate with the life of the proposed project.
- The legislature should exempt minor projects from the SEPA process and eliminate unnecessary compliance costs.
- DOE should cede all permitting authority to the local jurisdictions or, conversely, retain it all.
- The Department of Commerce should create a permanent task force that monitors legislative and gubernatorial rule making and alerts both institutions when a potential conflict is emerging.

We have also identified a number of additional recommendations that will produce tangible, positive results. Specifically, the governor and legislature should:

- Strictly apply and enforce the Significant Legislative Rule provisions in RCW 34.05.328 and require regulatory agencies to adopt only the “least burdensome rule” which implements expressed legislative intent.

Sensible regulatory reforms will contribute to economic recovery without sacrificing environmental safeguards.

- Allow permit applicants to write the first draft of the permit. Executive agencies would then review, accept, amend, or reject the draft. Such a procedure would speed up the regulatory process without decreasing environmental oversight.
- Adopt an EFSEC-like model when permitting involves overlapping local and state governments. EFSEC was designed to make sure that county governments could not thwart larger, state-level energy siting projects. It is currently used to provide one-stop shopping for many wind farm companies. A similar process that involved county government stakeholders could offer the same benefits to Washington businesses engaged in economic development.
- Require gubernatorial sign off of any significant rule adopted by regulatory

agencies where the governor appoints the director.

Growing Our Way Out of the Great Recession

The Great Recession has forced Washington to take a hard look at the way it does business. Plummeting state revenues coupled with increasing safety net costs have forced the legislature and governor to put all ideas on the table. Analysts from both sides of the political aisle would prefer to grow our way out of this dilemma. Revitalizing Washington's economy is the least painful way to cope with our short-term crisis. These sensible regulatory reforms will contribute to economic recovery without sacrificing environmental safeguards.

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