

## Chapter 2 Definitions

1. Archaeologist- Interesting definition. Very intense. Only Indiana Jones could qualify. The WA State Dept. of Archaeology and Historical Preservation uses the National Park Service standards for archaeologists embodied in 36 CFR Part 61, which are less onerous than this new definition. Also, the state office maintains a list of qualified archaeologists that a developer could hire as a consultant. Why not just defer to the state office requirements? If we use this definition, then the state list would be of little value. Replace with : Archaeologist is a person listed on the Washington State Dept. of Archaeology and Historical Preservation list of qualified archaeologists.
2. Beds of navigable waters – Delete because not used in SMP.
3. Bioengineering – Delete “biostabilization” because not used in SMP.
4. Boat lifts often have a canopy as a manufacturer’s option.
5. Certificate of occupancy or use – Delete because not used in SMP.
6. Chemicals – did you intend to exclude any naturally occurring elements or compounds, e.g., chlorine, fluorine, salt, etc., from your definition? Replace with: Chemicals mean any human produced element or compound.
7. Condominium – Delete because not used in SMP.
8. Contaminant – Includes the term radiological. This term usually means pertaining to the science of radiology, which is a medical field using radiation for diagnosis and treatment. There are no radiological “substances.” Suggest substitution of the word “radioactive.”
9. Cumulative impacts – delete the phrase “reasonably foreseeable future development actions.” Very slippery slope here – who’s reason, what criteria will be used to foresee the future? A government regulation which gives too broad interpretive powers to government officers are usually found to be “void for vagueness” by the courts because they give too broad discretion without direction.
10. Dedicate – Delete because not used in SMP.
11. Deepwater habitat – Delete because not used in SMP.
12. Director – Delete because not used in SMP.
13. Dredge material disposal – Delete because not used in SMP.
14. Ecosystem processes – Delete “ecosystem-wide processes” because not used in SMP.
15. Estuary – Delete because not used in SMP.
16. Exotic – Delete because not used in SMP.
17. Fair Market Value – Delete because not used in SMP except in quote from RCW 90.58.030, page 2-14.
18. Fish Habitat – Is already defined by WAC 222-16-031 ( and a host of other WACs/RCWs) as "**Fish habitat**" means habitat, which is used by fish at any life stage at any time of the year including potential habitat likely to be used by fish, which could be recovered by restoration or management and includes off-channel habitat.” Why make a new definition that is more strictly defined than the rest of the state?

19. Function assessment – requires a “qualified consultant.” What requirements will be used to determine if a consultant is “qualified?” Delete because this is not used in the SMP.
20. Groin – Delete because not used in SMP.
21. Infiltration – Delete because not used in SMP.
22. Instream resources – delete because not used in SMP.
23. Junk Vehicle – Delete because not used in SMP.
24. Liberal Construction – who is the Shoreline Administrator.
25. Monitoring – generally, monitoring only means “to observe a situation for any changes which may occur over time.” This definition focuses on analysis, understanding, and documenting. Perhaps a better term might be used?
26. Navigable Waters – navigable waters of the United States, as defined in 33 CFR 329, are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce while the waterway is in its ordinary condition. Also, the Clean Water Act use the term "navigable waters," "navigable waters of the United States" and "navigability." These terms are dependent on judicial interpretation and are somewhat more flexible currently, in light of a U.S. Supreme Court decision on two joined cases: "*Carabell v. United States*" and "*Rapanos vs. United States*". The definition in the SMP is incorrect, legally and does not recognize the current “flexibility” due to the court’s interpretations.
27. Private sign – compare to JCC sign ordinance. Also this definition applies to signs on residences, not property? Delete – it is not used in the SMP.
28. Proponent – why exclude other advocates? Replace and/or with”,” and add “or any other advocate” after applicant.
29. Public Interest - There are different views on how many members of the public must benefit from an action before it can be declared to be in the public interest: at one extreme, an action has to benefit every single member of society in order to be truly in the public interest; at the other extreme, any action can be in the public interest as long as it benefits some of the population and harms none.
  - a. Another thing is that actions deemed to be in the public interest might lead to perverse incentives and moral hazards. A recent example is the damaging effect of biofuels on the World food market.
  - b. The public interest is often contrasted with the private or individual interest, under the assumption that what is good for society may not be good for a given individual and vice versa. This definition allows us to "hold constant" private interests in order to determine those interests that are unique to the public. Stephen Krasner, a political scientist used a similar methodology in his book *Defending the National Interest*. Krasner identifies cases in which no corporate interest is found in US foreign policy in order to identify and analyze a national interest.
  - c. However, society is composed of individuals, and the public interest must be calculated with regard to the interests of its members. There is wide-ranging debate about whether the public interest requires or destroys the idea of human rights, about the degree to which the ends of society are the ends of its individual members, and the degree to which people should be

able to fulfill their own ambitions even against the public interest. The public interest is a crucial, if ill-defined, concept in much political philosophy.

- d. It is also possible that in some cases advancing the public interest will hurt certain private interests. This risks the "tyranny of the majority" in any democracy, since minorities' interests may be overridden. On the other hand, we are all a minority in some capacity - thus, protection of minority rights arguably becomes part of the public interest.\
  - e. Replace definition with: "Public interest means the "general welfare." Reason : all of the uses in the document permit commercial uses or variances, or the like. One example is "That the public interest suffers no substantial detrimental effect."
- 30. Qualified Professional – no field is specified. Does this mean that consultants that are chemists, business analysts, archaeologists, etc, are required to have a degree in biology?
  - 31. Recreation – Delete – inappropriate to define when it is used so inconsistently in the SMP.
  - 32. Repair and maintenance (page 2-42) has a different definition than Maintenance and repair (page 2-30) ??
  - 33. Rills – Delete – not used in the SMP
  - 34. Riparian zones – Delete "zone" and "corridor" because they are not used in the SMP. Add: "Riparian zones dissipate stream energy. The meandering curves of a river, combined with vegetation and root systems, dissipate stream energy, which results in less soil erosion and a reduction in flood damage. Sediment is trapped, reducing suspended solids to create less turbid water, replenish soils, and build stream banks. Pollutants are filtered surface runoff which enhances water quality via biofiltration."
  - 35. Shorelines of the state – Delete because 1) its incorrect, and , 2) its only used where quoting the SMA ( where it is accurately defined:
    - a. (c) "Shorelines of the state" are the total of all "shorelines" and "shorelines of statewide significance" within the state;
      - (d) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;
      - (e) "Shorelines of statewide significance" means the following shorelines of the state:...
36. Short plat- Delete because not used in SMP.
37. Substantially degrade- Delete because not used in SMP.
38. Tombolo – Delete because not used in SMP.

39. Water Quality – Delete “ flow or amount and related”. I’ve looked at WA state, US EPA, USGS, and US DA and flow is not an element of water quality. Water quality is the physical, chemical, biological, etc. characteristics of **water in relationship to a set of standards**. In the United States, Water Quality Standards are created by state agencies for different types of water bodies and water body locations per desired uses. The primary uses considered for such characterization are parameters which relate to drinking water, safety of human contact, and for health of ecosystems. The methods of hydrometry are used to quantify water characteristics.
40. Windthrow – Delete because not used in SMP.