

PRIVATE MOORING BUOYS

Source: <http://www.dnr.wa.gov>

April 2004

Q: Can you tell me who oversees private mooring buoys in the Puget Sound and what the process is to place one? How long can they stay? How about on lakes?

A: Private recreational mooring buoys within navigable marine waters, rivers, and lakes are subject to regulatory control by a number of local, state, and federal agencies, each with its own area of jurisdiction and specific concerns. It is also subject to proprietary control by the Washington Department of Natural Resources that acts as land manager for state-owned aquatic lands. The use fee for a mooring buoy license is \$150. Here are descriptions of the different entities who deal with mooring buoys:

Local (city/county) planning departments may require a substantial shoreline development permit (or similar permit), pursuant to the Shoreline Management Act (SMA). The SMA is overseen by the state Department of Ecology. However, implementation and enforcement is typically delegated to local planning and construction departments. The requirement to apply for a shoreline permit may vary from one county or city to the next, depending on whether or not they list private mooring buoys within the regulated activities under their Shoreline Management Master Plan. For the most part, the role of SMA is to preserve the natural physical and aesthetic values of shorelines from unrestricted development. Local Contact for City of Bainbridge Island Planning Department 206.842.2552.

Washington Department of Fish and Wildlife (WDFW) issues Hydraulic Project Approvals (HPAs) for the purposes of protecting fisheries habitat according to the state Hydraulic Code Rules (Chapter 220-110 WAC). For the most part, their role involves reviewing buoy and anchor design, buoy location, and the timing of construction to protect critical fisheries habitat, such as marine plants. Local Contact for Bainbridge Island Randi Thurston 360.895.6123

US Army Corps of Engineers (Corps) oversees construction projects in navigable waters of the United States. Their authority stems from both the Clean Water Act and the Rivers and Harbors Act. They deal with both environmental and navigation issues. Until recently, private recreational mooring buoys were under what is referred to as a "Nationwide Permit" which, in essence, allows project proponents to place mooring buoys without a written permit from the Corps (or notification to the Corps), so long as they follow some general guidelines and acquire all other regulatory permits.

Pre-construction notification to the Corps is required and some form of "consultation" is necessary to document that the project will not result in impacts to endangered species. There are two ways in which this consultation may occur:

- 1) A "programmatic" consultation, in which the project proponent submits a marine vegetation survey for the area within 300 feet of the proposed mooring buoy, indicating that no significant marine vegetation (especially eelgrass) is present.
- 2) A formal consultation with the US Fish and Wildlife Service and the preparation of a biological evaluation.

The latter is the most complicated (and probably cost-prohibitive for most). To be safe, DNR advises contacting the Seattle branch of the US Army Corps of Engineers before placing any buoys. Local contact for Bainbridge Island Randel Perry 206.764-6985

Washington Department of Natural Resources (DNR) acts as the proprietary manager for state-owned aquatic lands. Most buoys placed on beds of navigable water (the aquatic lands deeper than extreme low tide for marine waters or the line of navigability for large lakes and rivers), fall on lands which are almost exclusively state-owned. Tidelands may not be state-owned (many are private). Until very recently, a lease or a land use license was required for private recreational mooring buoys on state-owned aquatic lands. However, during the last session, the legislature allowed certain abutting residential owners to install and maintain mooring buoys on state-owned aquatic lands without charge and without need for a land use license or lease. A key point for qualifying is that the abutting residential owner must have at least 100 feet of waterfront for each buoy. Buoy owners who do not qualify under this bill still must obtain a land use license to lawfully place a mooring buoy on state-owned aquatics. Local Contact Courtney Wasson 360.825.1631

The Process Although not all counties and cities require shoreline permits for mooring buoys, it is probably the best place to start. Many local governments will provide an application form which is referred to as "JARPA" (Joint Aquatic Resources Permit Application). The intent is to provide one application form which can be distributed to the various agencies with jurisdiction over a project in the aquatic environment (local government, DNR, WDFW, etc.). Local Contact for forms: City of Bainbridge Island Planning Department. Available at City website <http://www.ci.bainbridge-isl.wa.us>

DNR aquatic leasing staff can be contacted through seven region offices across the state. To see a list of region offices and phone numbers, go to the webpage: www.dnr.wa.gov/base/regions.html.