

The following changes are recommended to clarify provisions for implementation, as consistent with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III):

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions; strikethrough = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	Cover Page	<p>Note: This Clallam County Shoreline Master Program (SMP) is intended to updates and replaces: (1) the 1976 SMP (last amended 1992); and (2) Clallam County Code (CCC) Chapter 35.01 SMP administrative standards under Title 35 CCC, Shorelines. The County is in has <u>completed</u> the process of for a comprehensive updateing of the SMP for consistency with the Washington State Shoreline Management Act (SMA), RCW 90.58, and state shoreline master program guidelines (WAC 173-26, WAC 173-27). The County and the Washington State Department of Ecology share joint authority and responsibility for the update and administration of the SMP (RCW 90.58.050). <u>Updates All amendments</u> to the County’s SMP require approval by Ecology to be effective. Per RCW 90.58.090, this SMP will be submitted to Ecology for state review and approval and additional public review. ...</p>	<p>As written, this language is out of sync for the final status of the SMP.</p> <p>Ecology recommends text revisions to update wording for the final approved SMP.</p>
2.	General	<p>...the <u>most current, accurate, complete, available and applicable</u> best available science...</p>	<p>Global Change - ‘Best available science’ (BAS) is a term/convention derived from the Growth Management Act (GMA). Under SMA, WAC 173-26-201(2.a) requires use of the “most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern”.</p> <p>Ecology recommends the County consider scrubbing the document to replace “best available” with the SMA terminology (i.e. “most current, accurate, complete available information”) or similar, including, but not limited to, the following locations: Chapter 1.2; 1.8(3); 1.12(2); 2.2(3); 3.2.4(14); 7.14(10.a); and 10.3.2(2).</p>
CHAPTER 1 INTRODUCTION & OVERVIEW			
3.	1.1 Background Information	<p><i>[second to last paragraph on page 1-3]:</i> ... Following the public hearing, the BOCC held 16 work sessions to consider the Planning Commission recommendation and public comments received and took final action to locally <u>approve</u> adopt the SMP on in October 2018 (Resolution 91-2018-Insert Date of Adoption). The final SMP adopted by the BOCC will be submitted to <u>After</u> the Department of Ecology for state review <u>and conditional approval, the BOCC adopted the final SMP in [[Month Year]] (Ordinance No. [[###-###]]) and subject to additional public review. This SMP is effective as of [[Month Day, Year]], 14 days after Ecology’s notice of final action.</u></p>	<p>As written, this language is out of sync for the final status of the SMP.</p> <p>Ecology recommends text revisions to update wording for the final approved SMP.</p>

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4.	1.4 SMP Update Vision	<p>Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments and <u>including in Washington State. In June of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC).</u> Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.</p>	<p>As related to the Ocean Resources Management Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The <i>Marine Spatial Plan for Washington's Pacific Coast</i> was finalized in June 2018.</p> <p>Ecology recommends text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360.</p> <p>See also related changes in Attachment B Required Changes for SMP 2.3, SMP 3.13 and Chapter 11 Definitions.</p>
5.	1.5 Shoreline Master Program Goals	<p>10. To preserve shorelines for <u>water-dependent and</u> water-related commerce and industry that are essential to the County's economy, and to discourage interference with established water-oriented <u>related</u> use of shorelines.</p>	<p>WAC 173-26-241(3.d) gives first preference to water-dependent commercial use over non-water dependent commercial use, and secondly to other water-oriented commercial use over non-water oriented commercial use. As written, this goal only mentions water-related commercial and industrial use, omitting the more preferred water-dependent uses.</p> <p>Ecology recommends revision to improve accuracy and clarity.</p>
6.	1.7 Exceptions to Applicability	<p>1. This Program shall not apply to:</p> <ul style="list-style-type: none"> a. lands held in trust by the United States for Indian Nations, Tribes, or individuals; b. lands within the boundaries of the Olympic National Park in accordance with RCW 37.08.210, including inter-tidal lands between the ordinary high water mark and extreme low water located within the Park along the Pacific Coast; and c. The exercise of treaty rights, as acknowledged and provided for in RCW 90.58.350, the Shoreline Management Act of 1971. <p><u>2. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:</u></p> <ul style="list-style-type: none"> <u>a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued</u> 	<p>WAC 173-27-044 and -045 identify limited activities that are not subject to local SMP review and permitting or to the SMA (respectively), as different and separate from the activities exempted from substantial development permit requirements per -040. These exceptions are in effect regardless of inclusion in the SMP, but are helpful to note for implementation.</p> <p>Ecology recommends revision to add language that specifically identifies these exceptions to aid both applicants and practitioners.</p> <p>See also Periodic Review Checklist #2017.c. This item also identified by S. Gray Feb '19 email re: PR items.</p>

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		<p><u>pursuant to RCW 70.105D, or to the Department of Ecology when it conducts a remedial action under chapter 70.105D RCW.</u></p> <p><u>b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.</u></p> <p><u>c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.</u></p> <p><u>d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.</u></p> <p><u>e. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.</u></p>	
7.	1.10 Authority	<p>3. Consistent with RCW 90.58.080 the County will conduct a periodic review of this Program and, if necessary, revise this Program to assure:</p> <p>a. That the Program complies with applicable law and guidelines in effect at the time of the review, including the Shoreline Management Act, Chapter 90.58 RCW; State Master Program Approval/Amendment Procedures and Master Program Guidelines, Chapter 173-26 WAC; and Shoreline Management Permit and Enforcement Procedures, Chapter 173-27 WAC.</p> <p>b. Continued consistency of this Program with the Clallam County Comprehensive Plan and development regulations adopted under the Washington State Growth Management Act (GMA), RCW 36.70A, as applicable.</p> <p><u>c. That the Program reflects any changes in local circumstance, new information or improved data.</u></p> <p>4. The County shall convene a citizen review panel to assist in the periodic review process and shall report the findings to the public at-large.</p>	<p>WAC 173-26-090 describes the minimum scope of review, and requires revision as needed, for three categories including ‘changing local circumstance, new information or improved data’ and the two presented as written.</p> <p>Ecology recommends text revisions to add the third required category for clarity.</p>
8.	1.12 Limitations and Disclaimer	<p>1. The degree of environmental protection required by this Program is considered reasonable for regulatory purposes. This Program does not imply that lands outside of shoreline jurisdiction do not provide beneficial functions, nor does it imply that any lands within or outside of shoreline jurisdiction will be free from hazards. This Program shall not create liability on the part of Clallam County, any officer, <u>public official</u>, or employee thereof, for any damages that result from reliance on this Program, <u>providing assistance</u></p>	<p>Clarifying edit suggested by County staff to reflect that the Administrator of this Program is a publically elected official, and that Section 8.2.5 requires the County to provide "assistance."</p> <p>Ecology supports the change.</p>

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		<u>to applicants/proponents as specified under Section 8.2.5,</u> or any administrative decision lawfully made pursuant to the spirit and purpose of this Program.	
CHAPTER 2 SHORELINE ENVIRONMENT DESIGNATIONS			
9.	2. Shoreline Environment Designations	<p>2.1 Basis of the Designations ...</p> <p><u>4. Figure 2-2 shows example photographs representing typical river and marine shorelines that are designated Natural, Resource Conservancy, Shoreline Residential – Conservancy, Shoreline Residential – Intensive, or Marine Waterfront.</u></p> <p>2.4 Natural Designation;</p> <p>1. Criteria: Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural. The Natural designation is applied to shoreline areas landward of the ordinary high water mark...</p>	<p>Global Change - This statement about Figure 2-2 photographs is repeated for each SED at SMP 2.4 – 2.8. Photos of example shoreline reaches do not establish designation criteria; this text is better located elsewhere, stated once as a courtesy for readers.</p> <p>Ecology recommends text revisions to minimize repetition, shown here for 2.4 Natural, and also located at:</p> <p>2.5 Resource Conservancy Designation; 2.6 Shoreline Residential – Conservancy Designation; 2.7 Shoreline Residential – Intensive Designation; and 2.8 Marine Waterfront Designation</p> <p>And we suggest moving the text deleted from 2.4 – 2.8 to SMP 2.1 as a new #4 as shown here.</p>
10.	2.4 Natural Designation	<p>1. Criteria: ...The Natural designation is applied to shoreline areas landward of the ordinary high water mark located outside of County forest lands of long-term commercial significance designated pursuant to RCW 36.70A.170 (see also Section 2.5, Resource Conservancy Designation) <u>and are ecologically intact, unable to support new use or development without significant adverse impacts to ecological functions or risk to human safety, or have particular scientific or educational interest.</u> These shorelines are characterized as also having a preponderance of the following characteristics: ...</p>	<p>Ecology recommends text revisions for clarity, for better consistency with WAC 173-26-211(5.a.iii), and for internal consistency with the Management Policies of 2.4(3).</p>
11.	2.5 Resource Conservancy	<p>1. Criteria: ... The Resource Conservancy designation is applied to shoreline areas landward of the ordinary high water mark located <u>outside a UGA,</u> within or bordering forest lands of long-term commercial significance designated under the Clallam County Comprehensive Plan, Title 31 CCC, pursuant to RCW 36.70A.170, and zoned Commercial Forest (CF), Commercial Forest/Mixed Use 20 (CFM20), and Commercial Forest/Mixed Use 5 (CFM5) on the Clallam County Comprehensive Plan Land Use and Clallam County SMP October 2018 2-7 Zoning Maps. These shorelines are characterized as also having a preponderance of the following characteristics:</p>	<p>This ‘locally tailored’ SED appears to be a primarily timber/forest practices-focused version of the WAC’s Rural Conservancy. There is some internal inconsistency with another SED and, as written, some of the aspects addressed by the WAC version are lacking here (i.e. low intensity/density, historical/cultural) but not covered by any other SED.</p> <p>Ch 11 Definition 109. Low intensity land use means a land use that has limited impact upon the land, resources an adjoining properties in terms of the scale of development, and frequency, amount, or concentration of use. Low intensity uses are</p>

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		<p>a. Typically associated with large, contiguous blocks of forest lands and natural <u>resource</u> areas;</p> <p>b. Dispersed, scattered and/or relatively isolated <u>low-density</u> residential, <u>low-intensity</u> recreational, or other <u>water-oriented</u> developments;</p> <p>c. High percentages of closed-canopy forest, but may include areas of recent timber harvests and related forest practices;</p> <p>d. Minimal constraints to overbank flooding and/or channel migration; or</p> <p>e. Forest fragmentation or conversion of forest cover to other land cover types is minimal;</p> <p><u>f. High recreational value or unique historic or cultural resources; or</u></p> <p><u>g. LAMIRDs with low-intensity water-dependent uses.</u></p> <p>2. Purpose: The purpose of the Resource Conservancy designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, and/or <u>low-intensity</u> outdoor recreational use- while protecting existing ecological functions and processes.</p>	<p>mostly passive uses that do not substantially consume resources or leave noticeable or lasting adverse impacts.</p> <p>1. Criteria – The Shoreline Residential – Conservancy Criteria include areas inside UGAs so it seems this Resource Conservancy would be the counterpart for locations outside UGAs.</p> <p>The Management Policies at 2.5(3) below reflect the WAC language so the Criteria need to match for consistency:</p> <p>a. Natural resource areas are different than natural areas;</p> <p>b. Low density/intensity, water-oriented uses</p> <p>f. Recreational , historic, cultural</p> <p>g. Low intensity water-dependent uses in LAMIRDs</p> <p>Ecology recommends text revisions for clarity and better consistency with WAC 173-26-211(5.b), and internal consistency.</p>																
12.	2.9 Allowed Uses in Each Shoreline Environment Designation	<p>Table 2-2 Non-Residential Uses</p> <table border="1" data-bbox="526 857 1577 1071"> <thead> <tr> <th>Use/Development/Modification</th> <th>Aquatic – Straits¹</th> <th>Aquatic – Pacific Ocean¹</th> <th>Marine Waterfront</th> <th>Shoreline Residential - Intensive</th> <th>Shoreline Residential - Conservancy</th> <th>Resource Conservancy</th> <th>Natural</th> </tr> </thead> <tbody> <tr> <td>Dredging and dredge material disposal (see Section 4.3)</td> <td>see notes 1 & 2</td> <td>C⁴</td> <td>C</td> <td>C</td> <td>C</td> <td>C</td> <td>X</td> </tr> </tbody> </table>	Use/Development/Modification	Aquatic – Straits ¹	Aquatic – Pacific Ocean ¹	Marine Waterfront	Shoreline Residential - Intensive	Shoreline Residential - Conservancy	Resource Conservancy	Natural	Dredging and dredge material disposal (see Section 4.3)	see notes 1 & 2	C ⁴	C	C	C	C	X	<p>In consultation with County staff about a clarifying edit suggested to address dredge disposal under an approved DMMP, the Table 2-2 reference to Footnote #2 was recognized as erroneous, as it regards agricultural uses on agricultural lands. See also Periodic Review Checklist Item #2019.b.</p> <p>Ecology supports the change to correct the typo.</p>
Use/Development/Modification	Aquatic – Straits ¹	Aquatic – Pacific Ocean ¹	Marine Waterfront	Shoreline Residential - Intensive	Shoreline Residential - Conservancy	Resource Conservancy	Natural												
Dredging and dredge material disposal (see Section 4.3)	see notes 1 & 2	C ⁴	C	C	C	C	X												
CHAPTER 3 POLICIES & REGULATIONS FOR SPECIFIC SHORELINE USES & DEVELOPMENTS																			
13.	3.2.1 Aquaculture - Policies	<p>8. <u>The County recognizes that potential locations for aquaculture may be restricted due to specific requirements for water quality, temperature, flows, oxygen, adjacent land uses, wind protection, commercial navigation, and/or salinity, and that technology associated with some forms of existing aquaculture is still in its formative stages. These limiting factors necessitate some experimental latitude in the development of this use as long as its potential impacts are taken into account.</u> Experimental aquaculture projects in water bodies should be limited in scale and duration until their effects can be adequately understood. Flexibility to experiment with new aquaculture techniques should be</p>	<p>Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.i.B) by adding context for why experimental aquaculture is allowed.</p>																

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		allowed when consistent with state and federal regulations and this Program and when properly monitored to prevent adverse impacts.	
14.	3.2.2 Aquaculture Regulations - General	15. Where aquaculture use and development are authorized to use <u>public county</u> facilities, such as boat launches or docks, the Administrator shall reserve the right to condition the permit to require the project proponent to pay a portion of the maintenance costs and any required improvements commensurate with the project proponent's use. <u>The County shall seek comment from the public agency managing any public facility proposed to be used as part of the aquaculture operations on applicable use fees or other use restrictions or requirements.</u>	County proposed to accept the requested change, and added another suggested revision, to address issues raised by Taylor Shellfish comments in the Comment Response Summary (Attachment D) Item #49. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
15.	3.2.2 Aquaculture Regulations - General	18. The County shall require applicants for aquaculture developments provide a bond or similar financial surety to fund the removal of any abandoned or failed aquaculture facility. The amount of the bond shall be determined based upon the <u>cost to remove the facility value of the facility and the gross value of the annual facility production.</u> The County shall waive this requirement where sufficient bond to address the intent of this standard is part of the state Aquatic Land Lease Authorization.	County proposed to accept the requested change and suggested revisions to address issues raised by Taylor Shellfish comments in Comment Response Summary (Attachment D) Item #50. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
16.	3.2.5 Aquaculture – Application Requirements	5. An application for commercial geoduck aquaculture shall include: ... n. Whether the site contains existing public access to publicly owned lands <u>Where the site contains existing public access to publicly owned lands, consider recommendations from the department of natural resources or other landowning agencies regarding protection of the existing public access;</u> and	Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.iv.L.XII) : <i>Where the site contains existing public access to publicly owned lands, consider recommendations from the department of natural resources or other landowning agencies regarding protection of the existing public access.</i>
17.	3.11.2 Transportation Regulations – Design & Operations	6. Private road access to private development sites may be permitted to cross wetlands, streams and/or their buffers if there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of RCW 8.24. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts, may be specified, including placement on elevated structures as an alternative to fill, if feasible. Proponents of such wetland or stream crossings must demonstrate that all of the following criteria are met: a. There is no other feasible alternative route with less impact on <u>shorelines or</u> critical areas. ...	Clarifying edit suggested by County staff for internal consistency. Ecology supports the clarification.

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18.	3.12.0 Utilities - Applicability	<u>This section applies to all</u> Utilities including distribution lines and related facilities, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations, <u>except as applies to residential utilities described in Section 3.8.2 of this Program.</u>	Clarifying edit suggested by County staff for internal consistency with SMP 3.8 Residential Development provisions. Ecology supports the clarification.
CHAPTER 4 POLICIES AND REGULATIONS FOR SHORELINE MODIFICATIONS			
19.	4.1.2 Shoreline Modifications – Beach Access Structures - Regulations	2. New beach access structures shall comply shall comply with the applicable provisions of Chapters: 6, Buffers; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.	Clarifying edit suggested by County staff to delete duplicate language. Ecology supports the change to correct the typographical error.
CHAPTER 5 GENERAL POLICIES AND REGULATIONS			
20.	5.1.0 General Policies & Regulations – Existing (Grandfathered) Uses & Development - Applicability	2. Consistent with RCW 90.58.620 and WAC 173-27-080, single-family residences and accessory appurtenant structures located landward of the ordinary high water mark that were legally established prior to the effective date of this Program, but do not conform to the regulations of this Program, are considered conforming structures and uses for the purposes of this Program. For the purposes of this section, accessory structures do not include shoreline modifications or over water structures.	In consultation with County staff about a clarifying edit for consistency with Attachment B Required Change to SMP 11 Definitions for ‘accessory’ and ‘appurtenant structures’, it was recognized that consistency with the noted statutory citation would provide better clarity. Further, the last sentence as presented can be deleted as duplicative of the SMP 11. Definition for Appurtenance/Appurtenant Structures. Ecology supports the change and proposes alternative phrasing for consistency with RCW 90.58.620(1.a) "Residential structures and appurtenant structures that were legally established..." and (2) "For purposes of this section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or overwater structures"
21.	5.1.3 General Policies & Regulations – Existing (Grandfathered) Uses & Development –	7. Expansion/Enlargement of Single-family Residence or <u>Accessory Appurtenant</u> Structure: a. Administrative Approval: The Administrator may allow a one-time enlargement, expansion or addition to a grandfathered, single-family residence or accessory <u>appurtenant</u> structure that would not otherwise be allowed under this Program, if all of the following criteria are met:	Same as #20 above, replace ‘ accessory ’ with ‘ <u>appurtenance</u> ’ for accuracy and internal consistency.

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	Regulations – Existing Structures	c. Variance Approval Required: Enlargement or expansion of a single-family residence or accessory appurtenant structure that do not meet all of the criteria in part “(a)” above that would extend waterward beyond the existing foundation walls, further into a shoreline buffer or critical area, or that increases the structure height above the limits established by this Program shall require a variance pursuant to Chapter 10 of this Program.	
CHAPTER 7 CRITICAL AREAS WITHIN SHORELINE JURISDICTION			
22.	7.3 General Critical Areas Regulations	8. Land Divisions: Land divisions in critical areas and/or buffers shall meet all of the following conditions and the policies and regulations in Section 3.8 (Residential) of this Program: a. Proposals to create new lots for development shall demonstrate an adequate building envelope (including access and utilities) that is suitable for development and is not within a wetland, aquatic and terrestrial habitat conservation area, floodplain, or landslide hazard area or their buffers. ...	Upon consultation with County staff, omission of this term was an unintended oversight. For internal consistency this list should also include Terrestrial Habitat Conservation Areas. Ecology recommends revision to add ‘and terrestrial’.
23.	7.9 Regulations – Aquatic Habitat Conservation Area Protection Standards	2. New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts on Aquatic HCAs Type F, Np and Ns Waters and their buffers. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; foregoing construction of accessory structures; directing lights away from the water body; preserving native vegetation; and other reasonable measures. 3. New uses and developments may be allowed in Aquatic HCAs Type F, Np and Ns Waters and/or their buffers, as specified in this Program, when all reasonable measures have been taken to avoid adverse impacts on species and habitats; when compensatory mitigation is provided, in accordance with Section 8.3 of this Program, for all adverse impacts that cannot be avoided; and the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose. 4. The Administrator may impose conditions on any new shoreline uses and developments in Aquatic HCAs Type F, Np and Ns Waters and their buffers as needed to: ...	Overall, Aquatic HCAs are designated & classified at 7.7(1) to include Type S, F, Np & Ns waters, plus TSE aquatic habitat and Critical FW & Saltwater habitats. By only using the Typed waters terms in Regulations #2, 3, and 4 they would not apply to the other classes of Aquatic HCAs. Ecology recommends revision to use the more inclusive term Aquatic HCAs.

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24.	7.14 Regulations – Geologically Hazardous Areas Protection Standards	<p>10. Channel Migration Zone Protection Standards:</p> <p>...</p> <p>b. CMZ Checklist and Review. Applicant’s that propose new shoreline uses and development in the mapped potential CMZ within the shoreline jurisdiction shall submit a completed CMZ checklist available from the Administrator with their shoreline application. The Administrator will perform and document the results of the following steps to determine whether to require the applicant to prepare a CMZ assessment report: ...</p> <p>ii. Consult maps and related supporting data bases and reports on the location and extent of the potential CMZ that are available to the public;</p> <p>iii. Review whether any significant channel movement has occurred between available County aerial orthophoto data layers since Year 2000 <u>photo series spanning at least 30 years where available</u>; ...</p> <p>c. CMZ Assessment Report. If required by the Administrator, the CMZ assessment report shall be prepared by a geologist, engineering geologist, professional engineer licensed in the state of Washington, or other qualified professional that demonstrates the following:</p> <p>...</p> <p>ii. The proposed use or development site has minimal risk of channel migration as indicated by the existing channel type, land cover (and low likelihood of future alterations in land cover); surficial geology, low soil erosion potential; lack of evidence of likely avulsion pathways (including areas upstream of, but proximate to, the site); low inundation frequency(ies); whether channel movement has occurred between <u>an</u> aerial photo <u>series spanning at least 30 years where available</u>; and other available information. ...</p>	<p>County suggested revisions to address issues raised by Futurewise comments in Comment Response Summary (Attachment D) Item #100. The County’s proposed revision is not necessary for consistency with SMA, but is acceptable.</p> <p>In consultation with County staff, the photo series timeline was corrected from 50- to 30-years; Ecology supports the County’s revisions for accuracy.</p>
CHAPTER 8 MITIGATION & NNL			
25.	8.2 Mitigation & No Net Loss - Policies	<p>3. The County should work cooperatively with shoreline property owners and with other local, state, federal, and Tribal resource management agencies to <u>track new development and redevelopment subject to this Program, violations and remediation of violations of SMP permits issued under this Program, and collect information pertaining to environmental indicators. monitor the effects of development and track gains and losses in ecological functions using a set of specific environmental indicators.</u> The following Specific <u>environmental</u> indicators that should be <u>measured tracked on frequent and regular basis</u> at least once every five years and compared to <u>2012 previous</u> baseline levels</p>	<p>Clarifying edits requested by County staff to better describe the type of data collection anticipated to occur given availability/capacity of staffing resources, new data sets, and permit details. Tracking permits & readily available information is a more reasonably achievable target than the County obligating itself to conducting scientific field surveys to measure on the ground changes in ecological conditions.</p> <p>Ecology supports the change to clarify these actions towards cumulative impacts and no net loss evaluations.</p>

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		<p><u>when data is reasonably obtainable and publically available from either governmental sources, the scientific community or aerial imagery include:</u></p> <ul style="list-style-type: none"> a. Percent of mapped feeder bluffs with armoring (percent classified as modified); b. Status of salmon stocks; c. Status of shellfish beds (frequency of closures); d. Length of stream bordered by/confined by levees, excluding setback levees; e. Number of overwater structures per mile of shore and number of overwater structures per mile of sediment transport zone; f. Number <u>Length</u> of <u>shoreline</u> tidal barriers; g. Percent of aquatic area supporting submerged aquatic vegetation (e.g., kelp, eelgrass); h. Percent closed canopy forest within two hundred (200) feet of the ordinary high water mark; i. Percent impervious surface within two hundred (200) feet of the ordinary high water mark; and j. Area of undeveloped floodplains/channel migration zone. 	
26.	<p>8.3 Regulations – General Mitigation Requirements</p>	<p>3. The Administrator shall require compensatory mitigation for development proposals that:</p> <ul style="list-style-type: none"> a. Do not fully conform to one or more of the dimensional requirements, performance standards, and/or design criteria in this Program; or b. Result in measureable damage <u>adverse impacts</u>, loss and/or displacement of <u>shoreline ecological functions including</u> a wetland, aquatic habitat conservation area, terrestrial habitat conservation area, flood storage or conveyance area, or critical aquifer recharge area <u>or geologic and hydraulic processes</u>; or c. Result in measureable damage <u>adverse impacts</u>, loss and/or displacement of kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association. 	<p>County suggested revisions to address issues raised by Futurewise comments in Comment Response Summary (Attachment D) Item #103. The County’s proposed revision is not necessary for consistency with SMA, but is acceptable.</p> <p>In consultation with County staff, Ecology supports the County’s revisions.</p>

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CHAPTER 10 ADMINISTRATIVE PROCEDURES			
27.	10.2.5 Exemptions from SSDP	<p>11. No statement of exemption is required for emergency development pursuant to WAC173-27-040(2)(d) , but after the fact permitting and/or removal of temporary structures may be required once the emergency situation is over.</p>	<p>WAC 173-27-040(2.d): <i>Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;</i></p> <p>Ecology recommends revision for clarity & to aid the reader during implementation</p>
CHAPTER 11 DEFINITIONS			
28.	11. Definitions	<p>Many of the terms and concepts used in this Program have definitions established by the SMA (RCW 90.58) or implementing rules (WAC 173-18, -20, -22, -26, and -27). In the event of a conflict between the definitions provided herein and those established by statute and rule, the RCW and WAC definitions shall prevail.</p>	<p>Because many of the definitions provided at SMP 11 are comparable to but not the exact wording of the RCW/WAC version, Ecology recommends adding text to provide context and clarity.</p>
29.	11.A	<p>16. Agricultural land means those specific land areas on which agriculture activities are conducted as of the date of adoption of this Program pursuant to the state guidelines (WAC 173-26) as evidenced by aerial photography or other documentation. After the effective date of the Program, land converted to agricultural use is subject to compliance with the requirements of the Program.</p> <p>17. Agricultural products means to includes, but is not limited to, horticultural, viticultural, ... poultry and poultry products, and dairy products. WAC 173-26-020. Upland finfish aquaculture use and development is subject to the Aquaculture policies and regulations of this Program.</p>	<p>RCW 90.58.065(2)(b) and (d), and WAC 173-26-020(3)(b) and (d):</p> <p><i>"Agricultural land" means those specific land areas on which agriculture activities are conducted.</i></p> <p><i>"Agricultural products" includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products</i></p>

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			<p><i>including but not limited to meat, upland finfish, poultry and poultry products, and dairy products;</i></p> <p>Regulatory clauses are better presented as separate provisions rather than as part of a definition. As written, the added text at #16 and #17 is not part of the RCW/WAC definitions, and is duplicative of other text at SMP 3.1.2 Agriculture:</p> <ul style="list-style-type: none"> • Regulation #4 that addresses agriculture existing prior to the adoption date of the Program; and • Regulation #7 that addresses upland finfish aquaculture. <p>Ecology recommends text revisions for improved consistency with RCW 90.58.065.</p>
30.	11.A	<p>25. Aquatic Habitat Conservation Areas means the subset of fish and wildlife habitat conservation areas listed in WAC 395-365-190-130(24) that occur in the water.</p>	<p>Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130.</p>
31.	11.C	<p>81. Critical freshwater habitats includes critical areas as designated in CCC 27.12 and this Program that are associated with freshwater shorelines, including streams and associated riparian zones, wetlands, aquatic and wildlife habitat conservation areas, and areas with which priority species, as defined by WAC 173-26-020(3129), have a primary association.</p>	<p>Incorrect WAC citation, should be -020(31)</p>
32.	11.D	<p>89. Development or Development Activities means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level. <u>“Development” does not include dismantling or removing structures if there is no other associated development or re-development.</u></p>	<p>Ecology recommends this revision for added clarity to aid both applicants and practitioners.</p> <p>See also Periodic Review Checklist #2017.b This item also identified by S Gray Feb '19 email re: PR items</p>
33.	11.F	<p>132. Floodway means the area of a river valley that conveys flood waters with reasonable regularity, although not necessarily annually. At a minimum, the floodway is that which has been established in Federal Emergency Management Act flood insurance rate maps or Federal Emergency Management Act floodway maps. <u>The floodway does not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.</u></p>	<p>Ecology recommends revision for consistency with RCW 90.58.030(2.b):</p> <p>“Floodway” means the area, as identified in a master program, that either:</p> <p>(i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or</p> <p>(ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of</p>

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			<p><i>flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.</i></p> <p><i>Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state;</i></p> <p>See also Periodic Review Checklist #2007.a</p>
34.	11.T	331. Terrestrial Habitat Conservation Areas means the subset of fish and wildlife habitat conservation areas listed in WAC <u>365</u> 395 -190-130 that occur on land.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130.
APPENDICES			
35.	Exhibit A. Shoreline Environment Designation (SED) Maps	Map 2 - Change the reach of Sequim Bay owned by USFWS from Shoreline Residential-Conservancy to Natural.	<p>County suggested revisions to address issues raised by USFWS comments in Comment Response Summary (Attachment D) Item #117. The County's proposed revision is not necessary for consistency with SMA, but is acceptable.</p> <p>In consultation with County staff, Ecology supports the County's revisions.</p>
36.	Exhibit A. SED Maps	Map 2 – Depict USFWS lands similar to other publicly-owned parcels; inquire with USFWS how this block of USFWS owned land should be referenced on the map.	<p>County suggested revisions to address issues raised by USFWS comments in Comment Response Summary (Attachment D) Item #118. The County's proposed revision is not necessary for consistency with SMA, but is acceptable.</p> <p>In consultation with County staff, Ecology supports the County's revisions.</p>
37.	Exhibit A. SED Maps	Map 7 – Evaluate potential options to better distinguish between separate but similar blue lines depicting shorelines and non-SMP streams.	<p>County suggested revisions to address issues raised by USFWS comments in Comment Response Summary (Attachment D) Item #119. The County's proposed revision is not necessary for consistency with SMA, but is acceptable.</p> <p>In consultation with County staff, Ecology supports the County's revisions.</p>

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38.	Exhibit A. SED Maps	Map 7 - Consider rectifying the green Natural SED boundaries for Dungeness National Wildlife Refuge where the outline of the spit and sand areas shown are based on the 2011 aerial photo. However, the spit is dynamic and the boundary of the sand spit will continue to change over-time.	County suggested revisions to address issues raised by USFWS comments in Comment Response Summary (Attachment D) Item #120. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
39.	Exhibit B. Shoreline Checklist & Statement of Exemption Form	<p style="text-align: center;">Exhibit B Shoreline Checklist & Statement of Exemption Form for Ensuring Consistency with SMP Policies and Regulations and No Net Loss Policy ...</p> <p>If the County accepts this deletion, the following changes are also recommended:</p> <p>8. Mitigation & NNL: Note: ... The County has prepared a draft shoreline restoration plan that will also help improve ecological functions such that there is a net gain overall. The County has also prepared a draft approach and strategy (see Exhibit B) to track the effects of shoreline development on a programmatic scale to ensure that the no net loss requirement is met.</p> <p>8.2 Policies: 4. The County should use <u>a the checklist application form in Exhibit B</u> to track new development proposals against the list of indicators in Section 8.2.3. Changes in indicators should be tracked and monitored at the shoreline reach and watershed scales.</p> <p>10.2.5 Exemptions from SSDP: #9. All statements of exemption shall be in writing on forms attached to this Program (Exhibit B). As appropriate, statements of exemptions shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and RCW 90.58. The granting of a statement of exemption shall constitute a valid authorization to engage in the activity or development.</p>	<p>This Exhibit B checklist exemption form is referenced at three locations in the SMP:</p> <p>8. Mitigation & NNL 8.2 Policies 10.2.5 Exemptions from SSDP: #9</p> <p>In consultation with County staff, Ecology recommends removing this form from the SMP to use as a separate companion document/application form so that any future edits to the form do not trigger a formal SMP amendment. Upon its removal, we also recommend the above text edits to eliminate references to it.</p>