

Attachment B – Town of Concrete SMP Periodic Review – Ecology Required and Recommended Changes

The changes in **red are required** for consistency with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in **blue are recommended** and consistent with SMA (RCW 90.58) policy and the SMP Guidelines (WAC 173-26, Part III)

ITEM #	SMP Submittal PROVISION	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
Req-1 Req-2 Req-3	7. Integration of Critical Area Regulations 7.1 Introduction	<p>Critical Area Regulations (CARs) are adopted by the Town, <u>effective April 9, 2018 (Ordinance 784)</u>, under Chapter 16.12 of the Concrete Municipal Code (CMC) and are adopted herein by direct reference. The Town’s CARs incorporate Best Available Science (BAS) and have been reviewed for consistency with Shoreline Management Act and Guidelines. Where there is a conflict in language between the CARs and the body of the SMP, the policies and regulations of the SMP will prevail. References to areas outside of shoreline jurisdiction in the CARs are not under the authority of this SMP.</p> <p><u>Provisions of the Critical Areas Regulations inconsistent with the Shoreline Management Act, Chapter 90.58 RCW, and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction, as follows:</u></p> <p><u>a. Provisions (m) and (o) of 16.12.040 relating to activities allowed in critical areas without a critical area review.</u></p> <p><u>b. Provisions in 16.12.100(3)(a) relating to exemptions from the Critical Areas Regulations shall not relieve the applicant from obtaining a Shoreline Substantial Development Permit or other permit approval required under this Master Program, or from meeting the specific requirements identified in other sections of this Master Program, including requirements for no net loss.</u></p> <p><u>c. Provision 16.12.120(5)(b) Decreasing Buffer Width.</u></p> <p><u>d. Provisions in 16.12.300(a) titled “Exemptions and allowed uses in wetlands” shall not apply within the shoreline jurisdiction.</u></p> <p><u>e. Provisions relating to “reasonable use” shall not apply within the shoreline jurisdiction. This includes provisions in 16.12.170 and 16.12.100(4)(a)(vii).</u></p> <p><u>f. Exclude the definition of “development” listed in 16.12.020.</u></p> <p>All shoreline uses and activities shall be located, designed, constructed and managed to protect and/or not adversely affect shoreline/riparian ecological functions and to facilitate an appropriate intensity of human use. All projects within shoreline jurisdiction require a site visit to determine if a critical area site assessment is needed or if the proposal may be exempt under CARs.</p>	<p>Required Change 1: Include critical area regulations in the SMP A change is necessary for consistency with RCW 90.58.610 and RCW 36.70A.480, which govern the relationship between CARs and SMPs, and with WAC 173-26-221(2)(a). Pursuant to RCW 36.70A.480(3)(b), protection of critical areas within shoreline jurisdiction must comply with the SMA and its implementing rules and guidelines. While incorporating critical areas standards by reference is allowed per WAC 173-26-191(2)(b), such incorporation must reference a specific dated edition.</p> <p>Required Change 2: Exclude sections of CAO that are inconsistent with the SMA Changes are necessary for consistency with the SMA, WAC 173-26 and WAC 173-27.</p> <ul style="list-style-type: none"> Chapter 16.12 contains several sections that do not comply with the permitting framework established in RCW 90.58.140 and WAC 173-27. These include 16.12.100(3)(a) Exemptions and Allowed Uses in Wetlands, [WAC 173-27-040 lists exemptions in shoreline jurisdiction], 16.12.100(4)(a)(vii) Wetland Buffer Averaging to allow reasonable use, and 16.12.170 Reasonable use allowance, [where provisions interfere with reasonable use, relief is granted through a shoreline variance]. Exclude provision 16.12.120(5)(b), or revise 16.12.120(5)(b)(iv) to require buffer width reduction no more than 25% of the standard buffer. This change is necessary for consistency with WAC 173-26-186(8)(b), which requires that SMP regulations be designed to achieve no net loss of shoreline ecological functions. Allowing buffers to be reduced below those established by best available science is unlikely to achieve no net loss. The definition for “development” in 16.12.020 of the CAO is inconsistent with WAC 173-26-030(6). Chapter 16.12.040 allows utility activities listed in (m) and (o) to occur within critical areas without a critical area review. WAC 173-26-201(2)(d) lists preferred uses. New and expanded utilities are not a preferred use in shoreline jurisdiction (unless they are water-dependent), so retaining the critical area and its buffer would be preferred over new or expanded utilities. Regulations for utility activities must also be consistent with WAC 173-26-241. <p>Required Change 3: Delete reference to eliminate confusion with allowable exemptions under the SMP. This change is necessary for internal consistency with the above required changes. WAC 173-27-040 lists allowable exemptions in shoreline jurisdiction.</p>

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<p>Req-4 Req-5</p>	<p>8.3 Clearing and Grading Table 6</p> <p>8.3.2(a) Clearing and Grading – General Regulations</p>	<p>Table 6: Clearing and Grading - Use Matrix by Shoreline Environment Designation</p> <table border="1" data-bbox="543 342 1787 534"> <thead> <tr> <th>Shoreline Use</th> <th>Natural</th> <th>Aquatic</th> <th>High Intensity</th> <th>Urban Conservancy</th> </tr> </thead> <tbody> <tr> <td>Commercial Forestry</td> <td>CU/FPA</td> <td>Prohibited</td> <td>FPA</td> <td>FPA</td> </tr> <tr> <td>Clearing</td> <td>Prohibited</td> <td>Prohibited</td> <td>CU</td> <td>CU</td> </tr> <tr> <td>Grading</td> <td>Prohibited</td> <td>Prohibited</td> <td>SD</td> <td>SD</td> </tr> </tbody> </table> <p>CU = Conditional Use/FPA = DNR Forest Practice Application/ SD = Substantial Development</p> <p>(a) Clearing and grading activities shall only be allowed in association with an approved FPA or permitted shoreline development permit. The provisions of the Forest Practice Act (RCW 76.09) shall control commercial timber harvest activities including harvests on shorelines of statewide significance pursuant to the limitations of RCW 90.58.150. Forrest practices that are limited to commercial timber harvest and are not accompanied by development as defined in Section 10 Definitions of this SMP, do not require a substantial development permit. <u>However, a shoreline conditional use permit is required for commercial forestry in the Natural designation.</u></p>	Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy	Commercial Forestry	CU/FPA	Prohibited	FPA	FPA	Clearing	Prohibited	Prohibited	CU	CU	Grading	Prohibited	Prohibited	SD	SD	<p>Required Change 4: Require CUP for Commercial Forestry in Natural SED WAC 173-26-211(5)(ii)(D) states Commercial forestry may be allowed as a conditional use in the "natural" environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation. If the Town will allow commercial forestry in the natural environment, the town shall require a conditional use permit for the activity to comply with WAC 173-26-211(5)(ii)(D).</p> <p>Required Change 5: Require CUP for Commercial Forestry in Natural SED See Required Change 4.</p>
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<p>Rec-1</p>	<p>2.3 When is a Shoreline Permit Required?</p>	<p><i>"Substantial development" shall mean any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period." As of September 2, 2017, the dollar threshold is \$6,016.00.</i></p>	<p>Recommended change 1: Revise or remove cost threshold for "Substantial development" for accuracy. Ecology recommends either removing the cost threshold or revising it to \$7,047. The updated amount applies in the Town's shoreline regardless, but we recommend the Town's SMP match the correct current amount for better implementation.</p>																				