

ATTACHMENT A: FINDINGS AND CONCLUSIONS

MASON COUNTY SHORELINE MASTER PROGRAM PERIODIC REVIEW AMENDMENT

SMP Submittal accepted October 18, 2021, Ordinance No. 2021-064
Prepared by Department of Ecology on November 3, 2021

Brief Description of Proposed Amendment

Mason County (County) is undergoing a statutorily required periodic review of their Shoreline Master Program (SMP) and has submitted an amendment to Ecology for approval. As part of this review, the County chose to use the joint review process set forth in WAC 173-26-104. As part of this process, on August 13, 2021, per WAC 173-26-104(3)(b), Ecology provided the County with an initial determination of consistency with the policy of the Shoreline Management Act (SMA) and applicable rules. The County's final adopted ordinance incorporated Ecology's one required change provided as part of the initial determination.

FINDINGS OF FACT

Need for amendment

Mason County comprehensively updated their master program in September 2017. The proposed amendment is needed to comply with the statutory deadline for a periodic review of the County's SMP pursuant to RCW 90.58.080(4). The County has also proposed revisions to address changed local circumstances, new information and improved data.

Mason County's SMP is codified in Chapter 17.50 Shoreline Master Program of the Mason County Code (MCC). The SMP contains policies and regulations with the policies considered an element of the County's Comprehensive Plan. The SMP regulations set development standards within shoreline jurisdiction and are part of the County's development regulations. The Shoreline Environmental Designations Map is part of the SMP. The County's critical area regulations are adopted by reference and codified in MCC Chapter 8.52, Resource Ordinance.

Mason County's SMP regulates new shoreline uses and development along 492 miles of freshwater shorelines and over 217 miles of marine shoreline. County-wide, there are 109 fresh waterbodies identified as shorelines of the state.

SMP provisions to be changed by the amendment as proposed

The County prepared a checklist and an analysis documenting the proposed amendment. The amendment brings the SMP into compliance with requirements of the Shoreline Management Act, or state rules that have been added or changed since the County completed their SMP comprehensive update, ensures the SMP remains consistent with amended comprehensive plans and regulations, and incorporates revisions deemed necessary to reflect changed circumstances, new information, or improved data. In addition to general edits to correct syntax, improve formatting, and fix citations, the following amendments to the SMP are proposed:

Shoreline Master Program (MCC 17.50)

17.50.020 Definitions

- The following definitions are added: functionally isolated buffer areas; legally established or constructed structure, use, and/or lot.
- The following definitions are revised: development, floating home, floating on water residence, footprint.
- The following definitions are deleted: grandfathered structures; grandfathered uses; legal nonconforming lot.

17.50.060 Jurisdiction and Application of Regulations

- Table 17.50.060-B: Mason County Shorelines of the State – Streams. Remove Winter Creek from the table. Deleting this stream from the list was overlooked during the Comprehensive SMP Update. The current SMP map is accurate and required no change.

17.50.110 Ecological Protection, Critical Areas, No Net Loss

- Applicability. Updates the specific ordinance number and adoption date of the Mason County Resource Ordinance (MCC 8.52), and incorporates it into the SMP. [2.a.i]
- Buffers and Setbacks. Revisions allow for buffer reductions when areas are functionally isolated from the critical area, including areas upland of public roads. The functional isolation must be demonstrated in a report from a qualified professional. [2.b.ii]

17.50.120 Existing Structures, Uses and Lots

- Revisions are made throughout the section replacing the term “grandfathered” with “legal non-conforming”.
- Clarification is added that decks on the waterward side of a residence are not included in the footprint of the structure when proposing an expansion. [1.d]
- Clarification is added that a Common Line Mitigation Plan may be submitted when allowed by the SMP. [1.f.ii]
- A new provision is added requiring a Common Line Mitigation Plan when the existing footprint is shifted landward. [1.f.iv]

17.50.255 Residential

- Revisions clarify that both floating homes and floating on water residences, as well as over-water homes, are allowed to make improvements related to life safety and property rights provided any expansion is the minimum necessary. [B.1]

17.50.320 Docks, Floats, Buoys, Lifts, Etc.

- Repair and replacement of overwater structures is revised, replacing the term “grandfathered” with “legal non-conforming” and clarifying this applies to docks, boat houses and other overwater structures. Replacement structures are restricted to the original footprint and size dimensions unless the reconfiguration meets current bulk dimensional standards and does not exceed the existing overwater coverage. [B.1.j.i]
- Revisions are made to clarify that any addition or “area of enlargement” to existing overwater structures must meet the standards for new construction. [B.1.j.ii]
- A proposed revision alters the standards within a semi-enclosed water (i.e. bay, cove or stream channel) by allowing for a dock or unattached float to extend to the lesser of the allowed dock length or fifteen percent of the fetch. [B.2.e]
- Provisions for Piers, Ramps and Floats are relocated in the section and revised. [B.2.f.v-vii]
 - A requirement for piers to be at least 6’ above the substrate is added, and a note about functional grating is rewritten for clarity. [B.2.f.v(b)]
 - Language is added clarifying the requirement for float stops on floats may be waived if approved by WDFW in a Hydraulic Approval. [B.2.f.vii(b)]
 - Provisions are rewritten to clarify allowances for attachments to the mainstem of a dock. [B.2.f.viii(a) and (b)]

17.50.340 Shoreline Stabilization

- ‘Capping’, or raising the height of an existing bulkhead, is allowed as repair when consistent with certain criteria including height, provided the bulkhead is not widened. The allowed additional height is revised from one foot to two feet. [B.5.i.i]

17.50.400 Permits, Exemptions, and Appeals

- General Requirements for all Uses and Development. Revisions are made to clarify the requirements for a meeting (with County staff) when a proposal requires shoreline permits or certain exemptions. [A.4]
- Development Exempt from the Substantial Development Requirements. Updates to the monetary thresholds are made for freshwater docks [B.1.h]. Projects with certification from the governor under RCW 80.50 is addressed in MCC 17.50.060.F and is deleted from the list of exemptions. [B.1.l].
- Shoreline Permits. A provision is added clarifying Substantial Development permits do not require a hearing but do require a notice of application. [C.2.a.iii]

Resource Ordinance (MCC Chapter 8.52)

- 8.52.070 – Inholding Lands. A minor edit removes unnecessary language. [(B)(3)]
- 8.52.110 – Wetlands. A new provision addresses how areas are documented as functionally isolated from the critical area. Buffer reductions are allowed if this is adequately demonstrated in a report by a qualified professional. [E(2)(a)(iv)]
- Tables 8.52.110(D) and (E) are revised, updating low and moderate habitat point score ranges to reflect Ecology’s 2018 revision to the 2014 Wetlands rating system. The low range of 3-4 is revised to 3-5 and the moderate range of 5-7 is revised to 6-7.
- 8.52.170 – Fish and Wildlife Habitat Conservation Areas.
 - The allowed height for guard rails on decks within a setback is revised from 36” to the minimum required by building code. [8.52.170(E)(1)(b)]
 - Minor revisions for clarity are made, deleting the term ‘pond’ [(E)(2)], replacing the term ‘habitat biologist’ with ‘fish and wildlife professional’ [(E)(3)(b)(iii)(b)], and revising ‘shoreline beach access’ to ‘within shoreline jurisdiction’[(E)(4)(d)].
 - A new provision is added to clarify that a Common Line Mitigation Plan is required when the footprint of certain existing developments is modified within the FWHCA or its buffer. [(E)(4)(j)(iii)]
 - Revisions clarify the need for a Common Line Mitigation Plan when the structural footprint is moved or the shape changes [(E)(4)(j)(iv)(c)(II) and (IV)]
 - Clarification is added that a structure’s footprint does not include decks on the waterward side of a residence. [(E)(4)(j)(iv)(d)]
 - A correction is made clarifying upland stairs are located landward of the OHWM. [(E)(4)(k)]
 - Revisions remove unnecessary language and clarify the need for a Habitat Management Plan if vegetation in the buffer will be removed. [(E)(4)(m)]
 - The term habitat biologist is replaced with Fish and Wildlife professional. [(H)(3)(b)]
 - The title is revised adding “and buffers” reflecting the intent of the subsection which addresses required mitigation for impacts to FWHCAs and buffers. [I]
- Appendix B to the Resource Ordinance – Mitigation Manual for Common Line Setbacks. A number of non-substantive revisions are made throughout the document for consistency with proposed revisions in the Resource Ordinance. Other revisions update terms, update referenced documents or are made for improved clarity.

Changes to the following two sections of the Resource Ordinance are noted here. However, neither section is part of the SMP.

- A. 8.52.210 – Nonconforming Use. Revisions are made for clarity including addition of a provision that this section does not apply in shoreline jurisdiction¹.

¹ See 17.50.110.B.2.a.v (e) which notes section 8.52.210 does not apply in shoreline jurisdiction and is replaced with the provisions of the SMP in MCC 17.50.120.

B. 8.52.220 – Variances from Standards. Review standards are revised. This section does not apply in shoreline jurisdiction².

Related amendment

The County is also amending Title 15 MCC Development Code to establish a requirement for a shoreline meeting for any proposed development within shoreline jurisdiction³. The shoreline meeting process is informal and distinguished from a pre-application meeting. An unrelated and minor revision is made to the requirements for filing an appeal with the County.

Amendment History, Review Process

The County prepared a public participation program in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines. An important element of the public participation plan is the County's SMP Periodic Review project [website](#)⁴. The Planning Advisory Commission (PAC) held three workshops in June, July and October 2020 to discuss the proposed SMP Periodic Review and the involvement of the public in the project. Due to the Covid-19 Pandemic, all meetings were held in a virtual format using Zoom.

The County used Ecology's Periodic Review checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines, that have occurred since the master program was last amended, and determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i). The County also reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii). The County considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii). The County consulted with Ecology and solicited comments throughout the review process including opportunities to comment on draft materials in January, February, April and May 2021.

Somewhat late in the process, a request to revise the Shoreline Environment Designation (SED) from Conservancy to Rural along the shoreline of two large parcels, was received by the County. This request added an additional month and an additional PAC workshop to the County process.

The record indicates the County completed a SEPA checklist and issued a Determination of Non-Significance (DNS) on May 13, 2021 for the proposed SMP amendment. Notice of the DNS was published May 13, 2021. Ecology did not comment on the DNS.

Joint Local/State comment period under WAC 173-26-104

The County and Ecology held a joint local/state comment period on the proposed amendments following procedures outlined in WAC 173-26-104. The comment period began on May 13, 2021 and continued through June 14, 2021⁵. A joint public hearing before the Planning Commission was held virtually via Zoom on June 21, 2021 and extended to July 19, 2021. Ecology staff attended both meetings.

² See 17.50.110.B.2.a.v (d). In shoreline jurisdiction, a Resource Ordinance variance is processed as a Shoreline Variance.

³ The need for a shoreline meeting is included in the SMP in 17.50.400.A.4. The amendment to Title 15 defines the term and establishes this in the County permit process.

⁴ <https://www.co.mason.wa.us/community-services/smp-update/index.php>

⁵ The draft proposal released for public comment included a property-owner request to revise the SED from Conservancy to Rural for two large parcels along the eastern shoreline of Hammersley Inlet. The request to revise the SED was withdrawn by the proponents on June 15, 2021.

The County provided notice to local parties, including a statement that the hearing was intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii). The County's record indicates notice of the hearing was published on June 11, 2021 in *The Shelton-Mason County Journal*.

Ecology distributed notice of the joint comment period to state interested parties on May 6, 2021. Separate notice, and an invitation to consult, was sent on May 6, 2021 to interested tribal governments. The Skokomish Indian Tribe provided comment during the joint comment period, but no tribes elected to consult with Ecology.

The County record includes all comments received over the course of the local process, including comments submitted before and during the 30-day public comment period as well as oral comments received at the hearing. Nine (9) comments were received on the proposed amendment. Comment letters were submitted by the Washington Department of Fish and Wildlife (WDFW), Mason Conservation District, Hood Canal Environmental Council, the Skokomish Indian Tribe, and five (5) members of the public.

Consideration of public comments

The County prepared a Comment Matrix to summarize comments and provide the County's response. This Matrix identified twenty-two (22) of individual comments organized by commenter, topic, and SMP section. The comments address a number of topics including pier and dock standards, the 2012 Shoreline Inventory and Characterization Report, the voluntary stewardship program, and required qualifications to prepare a Habitat Management Plan. Other concerns focused on the permitting of geoduck aquaculture, shoreline buffers, sea level rise and climate change, and the impacts of shoreline development. The Comment Summary and Response demonstrates the County considered all comments.

Discussion on a subset of comment topics

Geoduck aquaculture – Concerns around geoduck aquaculture and the SMP permit requirements, particularly the conversion of existing non-geoduck aquaculture sites to geoduck aquaculture were raised. Commenters asked that these conversions require a Shoreline Conditional Use Permit consistent with the SMPs of nearby communities. In addition, commenters requested the County require subsequent cycles of planting and harvest be consistent with the requirements for a shoreline permit revision. The County considered these comments and declined to make any revisions, noting the cited provisions were discussed extensively during the Comprehensive SMP Update and the current SMP permitting requirements were a deliberate choice. County staff also identified where permit revisions are already addressed in the SMP. No changes to the SMP were proposed.

Finding. Ecology finds the County considered the comments related to geoduck aquaculture and concluded no changes are necessary. The County indicates aquaculture was the subject of much discussion during the Comprehensive SMP Update and deliberate choices were made about permitting geoduck aquaculture. Ecology also finds that WAC 173-26-241(3)(b) requires a shoreline conditional use permit for new commercial geoduck aquaculture while leaving the permitting requirements, for conversion of existing non-geoduck aquaculture to geoduck aquaculture, to local government discretion.

Functional disconnection, shoreline buffers – Concerns were expressed about proposed language allowing for an automatic conclusion that vegetated areas on the upland side of public roads are functionally isolated. It was suggested that in areas where roadways are located within the 50-150 ft. saltwater shoreline buffers, the vegetation upland of the road may be even more important as a wildlife corridor and should be protected. A change clarifies the need for a qualified professional to document the functional disconnection.

Finding: Ecology finds the County considered these comments and proposed revisions in the SMP that adequately address this concern.

Sea level rise and climate change – Commenters suggest it is time to more clearly address sea level rise and climate change in the SMP. Concerns were raised about the impacts of sea level rise on onsite septic systems, the

potential for these systems to fail and the potential effects on public health and the shellfish industry. It was suggested sea level rise projections be considered when locating onsite systems. Other comments raised broader concerns related to climate change and sea level rise and impacts to the landscapes of the County as a whole. County staff acknowledged the concerns and indicate the County anticipates addressing issues related to sea level rise and climate change in the future pending guidance from Ecology. No changes to the SMP were proposed.

Finding. Ecology finds the County has considered the comments related to climate change and sea level rise and has declined to make any changes at this time. The County's response indicates staff would be open to further work on these issues with additional guidance from Ecology.

Ecology agrees climate change and related effects are important topics to consider within the context of shoreline resilience to climate change. The agency is actively engaged at the statewide level in work being done on climate change and sea level rise. The Shoreline Management Act (SMA) and the current Shoreline Master Program (SMP) Guidelines contain no explicit requirements for SMPs to address climate change or sea level rise. However, they require local jurisdictions to take into account scientific and technical information pertinent to shoreline management issues. The Guidelines require local governments use "the most current, accurate and complete scientific and technical information available" [WAC 173-26-201(2)(a)]. The Guidelines also encourage local governments to consult Ecology's guidance for applicable new information on emerging topics such as sea level rise [WAC 173-26-090(1)].⁶

Ecology finds addressing these topics within the community, and more specifically in a local SMP, is currently left to the discretion of each city and county. Ecology does recognize the importance of considering resilience to climate change within land use planning documents. Some communities have chosen to address these issues through other regulatory mechanisms including their zoning code. In most cases, the addition of sea level rise policies and regulations to a master program are a result of a community-wide effort, considering the entire geography of the place, and not limited to the comparatively narrow shoreline jurisdictional area. This comprehensive approach has led to more fully integrated responses to these risks within and outside of shoreline jurisdiction in those communities.

Impacts of shoreline development – A broad set of comments were provided by the Skokomish Tribe raising concerns around the cumulative effects of continued development along shorelines, and within the watershed, which increase impervious surface coverage, affect water quantity, water quality and contribute to habitat loss including loss of shoreline buffers and vegetation. The proliferation of development leads to a proliferation of structures both upland and in water. Comments suggest this will lead to a permanent and unmitigated loss of habitat. Additionally, the cumulative effects of in/over water structures, including those related to aquaculture and mariculture can limit physical access of tribal members to Usual and Accustomed areas for tribal social and cultural activities, including shellfish harvesting and fin fish/salmon harvesting. Finally, the letter suggests the administrative and regulatory mechanisms (permits and exemptions) allow for permanent development with impacts which are not effectively mitigated. The County response noted that the Comprehensive SMP Update included the requirement to complete a cumulative impacts and no net loss analysis of the SMP which was approved by Ecology. The County also noted the requirement in the SMP to notify tribes during the permitting process. No changes to the SMP were proposed.

Finding. Ecology finds the County considered the comments and declined to make any changes to the SMP at this time. Ecology staff reached out to staff from the Skokomish Tribe to discuss their comment letter. Ecology acknowledges the concerns expressed by the Skokomish Tribe, while recognizing that some of the issues may exceed the limits of regulation by the Shoreline Master Program and the Shoreline Management Act in both geography and regulatory authority. As noted above, Ecology is actively engaged in work on climate change and

⁶ See SMP Handbook Appendix A <https://apps.ecology.wa.gov/publications/parts/1106010part19.pdf>

sea level rise. In addition, State agencies, including Ecology and the Department of Commerce, are working with local governments to identify how to assess effectiveness in the project review and permitting process, as well as in the on-the-ground results, including mitigation monitoring.

Ecology also finds the County was required to show how their comprehensively updated shoreline master program results in no net loss of ecological function when implemented over its planning horizon⁷. The County concluded, and Ecology agreed, that the 2017 County SMP met this standard.

Ecology also finds RCW 90.58.140(3) provides that local governments shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of shoreline permits. As currently established under the SMA, Mason County has no discretion to eliminate the issuance of shoreline exemptions, substantial development, conditional use and variance permits. At this time, Ecology could not identify specific changes to the Shoreline Master Program to address these concerns but agrees that continued work is needed across a broad set of topics to address the issues.

Revisions made by the County in response to comments

Revisions⁸ to the SMP proposed by the County in response to comments

1. Functional isolation: A definition for “functionally isolated buffer areas” [17.50.020], and new language, requiring that the functional isolation be demonstrated, through a report from a qualified professional [17.50.110.B] are added.
2. Overwater structures/piers and docks: Clarification that installation and use of overwater structures must also comply with applicable regulations of other agencies, including WDFW, is added [17.50.320.B.1]. New standards are added for piers and docks addressing height above the substrate, pier orientation, and an allowance for the exclusion of float stops if approved by WDFW through a Hydraulic Approval [17.50.320.B.2.F].
3. Shoreline Stabilization – The proposed inclusion of docks as a primary structure, which could allow for new shoreline structural stabilization measures is removed. [17.50.340.B.2.a.iii]

Revisions made to MCC 8.52 Resource Ordinance

1. Voluntary Stewardship Program (VSP) – The omission of references to the VSP in the Resource Ordinance is corrected. [8.52.020, 8.52.030, 8.52.050.E, 8.52.170.F.9]
2. The term “qualified habitat biologist” is replaced with “qualified fish and wildlife professional” consistent with the definition already in the Resource Ordinance.
3. Appendix B – Mitigation Manual for Common Line Setbacks: Updates are made throughout, referencing current source documents and correcting errors.

These changes were included in the draft SMP amendment and Resource Ordinance submitted to Ecology for the Initial Determination.

Finding. Ecology has reviewed all the comments received during the joint review process along with the County’s responses. Ecology finds the County’s responses are consistent with the statutory obligations for conducting periodic reviews. Ecology finds the County considered whether to incorporate any amendments to reflect changed circumstances, new information, or improved data, as provided or raised during the comment

⁷ Mason County Cumulative Impacts Analysis (2017). This report assessed the cumulative impacts on shoreline ecological functions from “reasonably foreseeable future development” allowed by the SMP.

⁸ Non-substantive changes, such as updates to departmental or organization names, and updates to specific document references are not explicitly identified here.

period. The County determined, and Ecology concurs, that no additional amendments are warranted at this time based upon the significance of this information and the existing SMP provisions⁹.

Initial Determination of Consistency

As part of this review, the County chose to utilize the joint review process set forth in WAC 173-26-104. After the joint local/state comment period and hearing, and consideration of the comments received, the County submitted the proposed amendment to Ecology for initial review. Ecology is required under WAC 173-26-104(3)(b) to provide the County with an initial determination of consistency with the policy of the Shoreline Management Act (SMA) and applicable rules.

The proposed SMP amendments were received by Ecology on July 14, 2021 for initial state review. Supplemental materials were received July 22, 2021, and the submittal was verified as complete on July 28, 2021. This began Ecology's review and initial determination.

Ecology sent a written statement of initial concurrence to the County on August 13, 2021. The record was considered and Ecology concluded the proposal was consistent with applicable laws and rules, subject to one required change related to the integration of critical area regulations into the master program.

Based upon this determination, Ecology advised the County to consider the issue we identified and the change proposed prior to local adoption. We concluded that if the issue identified within our required change was resolved prior to local adoption, we anticipated being able to approve this SMP Periodic Review amendment upon formal submittal per WAC 173-26-110.

Final Submittal

With passage of Ordinance No. 2021-064 on October 12, 2021, the County authorized staff to forward the proposed amendments to Ecology for formal approval. The County's final adopted ordinance incorporated Ecology's one required change provided as part of the initial determination.

The County's final submittal was received October 14, 2021 and Ecology verified the submittal as complete on October 18, 2021. The locally adopted SMP includes the required change identified during the Initial Determination.

At the conclusion of our formal review, Ecology's Director must decide to approve the program as submitted, approve it with required changes and/or recommended changes, or deny approval.

Periodic Review and SMP Amendment Approval Criteria

WAC 173-26-090(2) and (3) Periodic review requirements and procedures

The periodic review is distinct from the comprehensive updates required by RCW 90.58.080(2). The presumption in the comprehensive update process was that all master programs needed to be revised to comply with the full suite of Ecology guidelines. By contrast, the periodic review addresses changes in requirements of the act and guidelines since the comprehensive update or the last periodic review; changes for consistency with revised comprehensive plans and regulations; and changes deemed necessary to reflect changed circumstances, new information or improved data. There is no minimum requirement to comprehensively revise shoreline inventory and characterization reports or restoration plans.

As established by the act, the purpose and scope of the periodic review is to assure that the master program complies with applicable law and guidelines in effect at the time of the review. It is also to assure consistency of

⁹ WAC 173-26-090(3)(b)(iii)

the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

The periodic review is a formal public process that starts with scoping and concludes with elected officials taking formal action after a public hearing. The procedural requirements establish that the local government must: **Engage** the public, stakeholders, and tribes - Pursuant to RCW 90.58.130, all reasonable efforts shall be made to inform, fully involve and encourage participation of all interested persons and private entities, tribes, and agencies of the federal, state or local government having interests and responsibilities relating to shorelines of the state and the local master program. Local governments may follow the public participation procedures under either the standard local process outlined in WAC 173-26-100, or the optional joint review process outlined in WAC 173-26-104;

Review the SMP for consistency - This review includes filling out the periodic review checklist, which provides a single place for local governments to explain and document their periodic review;

Revise if determined necessary - If the local government determines an amendment is needed, they revise the SMP through the normal local adoption process;

Take legislative action at the local decision making body - Ecology rules clarify that local legislative action is required to complete this periodic review, even when a local government determines that no changes are needed; then

Submit to Ecology for final action – If the local government determines amendments are needed, the amendment must be submitted to Ecology consistent with WAC 173-26-110. If the local government determines amendments are not needed they submit a Finding of Adequacy and other items required by WAC 173-26-090(3)(d)(ii) to Ecology.



[WAC 173-26-090\(3\)\(e\) State process for approving period reviews](#)

Ecology must issue a formal approval of any SMP periodic review amendment. This approval affirmatively concludes the periodic review process by

- Confirming that state review of the local action has occurred.
- Ensuring Ecology followed applicable procedures described in WAC 173-26-120.
- Establishing a definitive appeal window consistent with RCW 90.58.190.

[WAC 173-26-201\(1\) Process to prepare or amend shoreline master programs](#)

This section establishes the following approval criteria for all SMP amendments:

All master program amendments are subject to the minimum procedural rule requirements of WAC 173-26-010 through 173-26-160, and approval by Ecology as provided in RCW 90.58.090.

Master program amendments may be approved by Ecology provided:

- The proposed amendment will not foster uncoordinated and piecemeal development of the state's shorelines;
- The amendment is consistent with all applicable policies and standards of the act;
- All requirements for public notice and consultation have been satisfied; and

- Master program guidelines' analytical requirements and substantive standards have been satisfied, where they reasonably apply to the amendment. All master program amendments must demonstrate that the amendment will not result in a net loss of shoreline ecological functions.

The periodic review checklist and SMP submittal worksheet can be used to document the proposed amendment meets all the above criteria.

WAC 173-26-120 State process for approving/amending SMPs

Ecology must first determine if the SMP amendment submittal was complete pursuant to WAC 173-26-104 and WAC 173-26-110. Ecology must then:

- Make written findings and conclusions regarding the consistency of the proposal with the policy of RCW 90.58.020 and the applicable guidelines. Ecology shall approve a master program related to shorelines unless it determines that the submitted parts are not consistent with the policy of RCW 90.58.020 and the applicable guidelines. These written findings and conclusions must be provided to the local government and made available to all interested persons, parties, tribes, groups, and agencies of record on the proposal
- Either approve the proposal as submitted, recommend specific changes necessary to make the proposal consistent with chapter 90.58 RCW policy and its applicable guidelines, or deny the proposal in those instances where no alteration of the proposal appears likely to be consistent with the policy of RCW 90.58.020 and the applicable guidelines.

Consistency Review

Consistency with Chapter 90.58 RCW

The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The County has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with applicable guidelines (Chapter 173-26 WAC, Part III)

The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This includes review for compliance with the SMP amendment criteria found in WAC 173-2-201(1)(c) along with review of the SMP Periodic Review Checklist completed by the County.

Consistency with SEPA Requirements

The County submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) May 13, 2021 for the proposed SMP amendments.

Other Studies or Analyses supporting the SMP amendment

Ecology also reviewed supporting documents prepared by or for the County in support of the SMP amendments. These documents include the public participation plan, the periodic review checklist, and the staff reports on the SMP Periodic Review amendment.

CONCLUSIONS OF LAW

After review of the complete record submitted and all comments received, Ecology concludes that the County's proposed amendment is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions).

Ecology concludes that the proposed amendment satisfies the criteria for approval of amendments found in WAC 173-26-201(1)(c). This includes the conclusion that approval of the SMP amendment will not foster uncoordinated and piecemeal development of the state's shorelines (WAC 173-26-201(2)(c)(i) and will assure no

net loss of shoreline ecological functions will result from implementation of the amended master program (WAC 173-26-201(2)(c)(iv) and WAC 173-26-186(8)).

Ecology concludes that those SMP segments relating to shorelines of statewide significance continue to provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the County has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the County has complied with purpose and intent of the amendment process requirements contained in RCW 90.58.130 and WAC 173-26-090 and WAC 173-26-104, including conducting public hearings, providing notice, consulting with parties of interest and soliciting comments from tribes, government agencies and Ecology.

Ecology concludes that the County has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the County SMP submittal to Ecology was complete pursuant to the requirements of WAC 173-26-090, WAC 173-26-104, and WAC 173-26-110.

Ecology concludes that we have complied with the state's procedural requirements for review and approval of shoreline master program amendments as set forth in RCW 90.58.090, WAC 173-26-104, WAC 173-26-110, and WAC 173-26-120.

Ecology concludes that with this action the County has completed the required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26).

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed periodic review amendment is consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules. Ecology approval of the proposed amendment is effective 14 days from Ecology's final action approving the amendment.