

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE
SKAMANIA COUNTY SHORELINE MASTER PROGRAM AND**

SMP Submittal accepted September 28, 2017 - Ordinance No. 2017-02
Prepared by Michelle McConnell on October 7, 2020

INTRODUCTION

Ecology's Findings and Conclusions (presented herein), including reference to Attachment B (Required Changes) and Attachment C (Recommended Changes), provide the factual basis for the Department of Ecology's (Ecology) decision on the Skamania County (County's) comprehensively updated Shoreline Master Program (SMP). This document is divided into three sections providing an Introduction; Findings of Fact regarding amendment history, the submittal, and local and state review; and Conclusions.

Description of Proposed Amendment

Skamania County has submitted a comprehensive update to their Shoreline Master Program (SMP) for review and approval by Ecology. The updated master program will regulate some 746 miles of shorelines, including approximately 166 miles of lake shoreline and some 580 miles of streams/rivers located within Skamania County. Shorelines within the county include nine (9) shorelines of statewide significance: Swift Reservoir, Spirit Lake, Columbia River, White Salmon River, Little White Salmon River, Wind River, Lewis River, Lava Creek, and Trout Lake Creek; as well as many other tributary streams, creeks and rivers, some 50 additional named and unnamed lakes, and all associated wetlands. The updated shoreline program will replace the county's existing shoreline program first adopted in 1974, last amended in 1986. The updated program establishes new goals, policies, and regulations to encourage and manage appropriate shoreline uses, public access, and protection and restoration of natural shoreline resources.

The comprehensive amendment contains locally tailored shoreline management policies, regulations, environment designations, a designation map folio, and administrative provisions. SMP 3.4 establishes shoreline critical areas provisions that are separate from the County's Critical Areas Code (SCC Title 21A) which does not apply within shoreline jurisdiction. Additional reports and supporting information and analyses were included in the County's submittal (as noted below), and have been considered by Ecology during its review.

Need for the Amendment

The County currently manages shorelines under an SMP originally adopted and approved in 1974. The proposed amendment is needed to comply with the statutory requirement (RCW 90.58.080) for a comprehensive update to the County's SMP, consistent with the SMP Guidelines in WAC 173-26. The update also ensures the SMP is consistent with land use management policies provided by the County's Comprehensive Plan.

This Shoreline Master Program (SMP) amendment is intended to satisfy the statutory requirements of RCW 90.58.080(2)(a)(i) to comprehensively update the County's SMP:

The record submitted by the County to Ecology as part of the SMP update, including Ordinance No. 2017-02, reports, analyses and local approval materials, provides additional details to describe the jurisdiction's specific need for the proposed amendment.

SMP provisions to be changed by the amendment as proposed

The proposed SMP would entirely replace the County's existing master program, including policies, regulations, and the shoreline environment designation maps. The updated SMP establishes shoreline setbacks based on type of use and designation, and regulates critical areas within shoreline jurisdiction with provisions of the SMP, including critical area buffers. The updated SMP regulates activities and development along the County's shorelines using five (5) new shoreline environment designations, each containing purpose statements, designation criteria, and management policies:

- Aquatic Environment
- Natural Environment
- Rural Conservancy Environment
- Shoreline Residential Environment
- High Intensity Environment

The proposed SMP uses these designations to tailor use and development allowance, prohibition, and other provisions based on shoreline conditions, as indicated in the Use Table at SMP 5.3.

FINDINGS OF FACT

Amendment History, Local Review Process

The County initiated the local planning process in November 2014 by agreeing to enter into a grant agreement with Ecology (#G1500044). The timeline below outlines the local process.

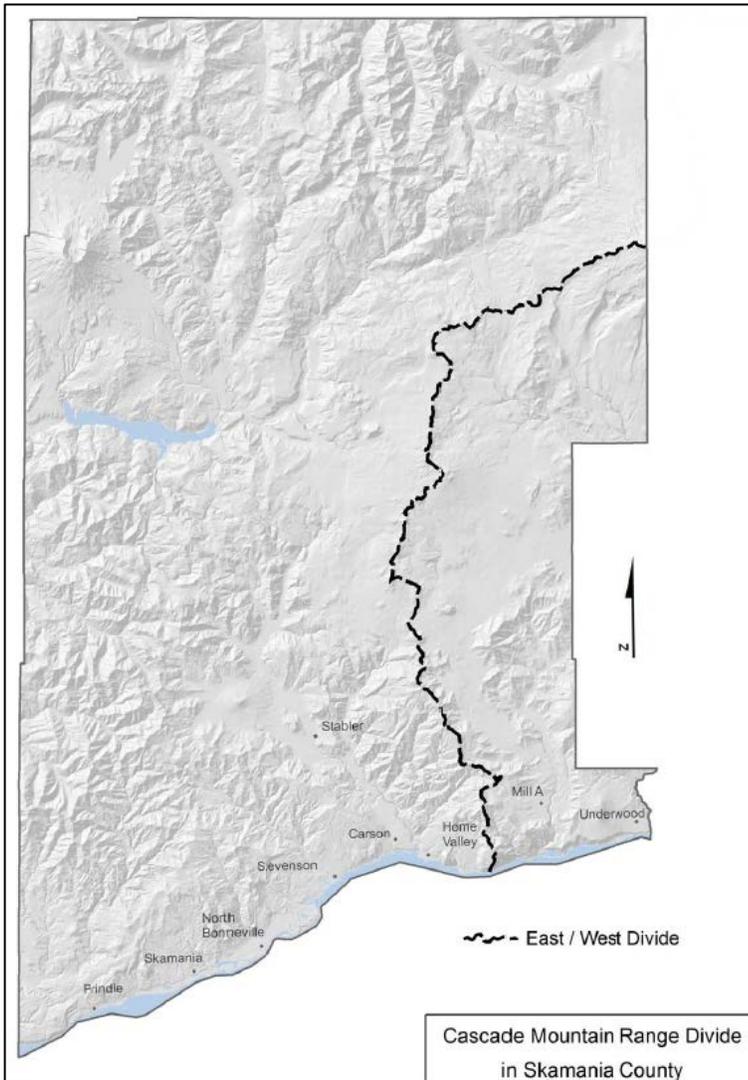
2015 - 2016: Shoreline Advisory Committee was formed to assist with the SMP Update. The committee was comprised of all County Planning Commission members plus additional stakeholder representatives for tribal, conservation district, commercial, National Scenic Area, WDFW, and City of Stevenson interests. The Committee met six (6) times and held two (2) community visioning meetings to receive public input. The Committee provided input on iterative draft technical background reports, policies and regulations through 2017.

2017: Upon recommendation by the Shoreline Advisory Committee, the Planning Commission considered the Draft SMP and related technical background reports. The Planning Commission held a public hearing on May 30, 2017, and recommended the SMP Update to the Board of County Commissioners for approval. The Board of County Commissioners held a workshop on June 13, 2017, and a public hearing on June 27, 2017 to consider the Planning Commission's recommendation. With the passage of Ordinance 2017-02, on June 27, 2017, the County adopted the SMP Update and authorized staff to forward the proposed Comprehensive Update amendment to Ecology for approval.

Below are some highlighted features of the submittal package:

Inventory and Characterization (WAC 173-26-201)

Documentation of current shoreline conditions is a key part of the SMP update process and meeting the requirement to address the no net loss standard of the SMP Guidelines (WAC 173-26-186). The



County hired a consultant who produced the draft Shoreline Inventory and Characterization Report, June 2015 (ICR) and finalized the ICR in June 2017. The report documents existing shoreline conditions and helped inform preparation of the County's SMP, including environment designations, policies and use regulations that manage approximately 735 miles of freshwater shorelines. Skamania County is unique in that it straddles the east-west divide of the Cascade Mountain Range in the eastern portion of the county (map shown here from SMP Appendix D). The north-south mountain range is bisected by the east-west Columbia River leaving the County's community of Home Valley and the Wind River mouth to the west of the divide, and the mouth of the Little White Salmon River and Drano Lake east of the divide.

The County's ICR and companion map portfolio provides a watershed and reach-level analysis of existing shoreline environmental and land use conditions for each water body organized by water resource inventory area (WRIA) and by twelve-digit hydrologic unit code (HUC-

12) sub-basin. The inventory included all shoreline areas within the County, including two Urban Growth Boundary areas for Stevenson and North Bonneville established by the Columbia River Gorge National Scenic Area, and the extensive federal lands of the Gifford Pinchot National Forest, Mount Saint Helens National Volcanic Monument, three Wilderness areas, and two National Wildlife Refuges.

Reaches (also referred to as management areas) were delineated based on significant changes in the physical and biological composition of the regulated waterbody's shoreline and their relative intensity of land use patterns, physical landscape, and various ecosystem processes.

Finding: Ecology finds that the Inventory & Characterization Report adequately inventoried and analyzed the current conditions of the shorelines located in the Skamania County. The report synthesized existing information and was used to inform the master program update as well as provide a basis for future protection and restoration opportunities in County shoreline jurisdiction (WAC 173-26-201(3)(c)).

Shoreline Jurisdiction and Shoreline Environment Designations (WAC 173-26-211)

The extent of shoreline jurisdiction is defined in RCW 90.58.030(2). In Skamania County the jurisdictional shorelines of the state are provided in SMP Appendix B List of Shoreline Waterbodies, organized by WRIA, listed either as lakes or rivers/streams, and with the upstream point of jurisdiction identified by latitude/longitude location.

Skamania County has opted to use the minimum jurisdiction allowed by statute, including the bedlands and water areas of all shoreline waterbodies, shorelands located within 200 feet of the Ordinary High Water Mark (OHWM), the designated floodway and contiguous floodplain landward 200 feet from such floodways, and all associated wetlands and river deltas.

Shoreline jurisdiction is not extended to include optional buffers necessary to protect critical areas or to the full extent of the 100-year floodplain.

Local governments are required to classify shoreline areas into shoreline environment designations (SEDs) based on the existing use pattern, biological and physical character of the shoreline, and the goals and aspirations of the community as expressed in their comprehensive plan. The Inventory and Characterization Report is used to determine the relative degree of impairment and biophysical capabilities and limitations for individual shoreline reaches. Based on this assessment, along with consideration of anticipated future development, zoning and other regulatory overlays, local jurisdictions may apply the designation criteria provided in WAC 173-26-211 or develop their own tailored designation criteria.

The updated SMP proposes to establish five (5) SEDs: Aquatic; Natural; Rural Conservancy; Shoreline Residential; and High Intensity. The County has opted to use designation criteria established by WAC 173-26-211.

SMP 1.3 Shoreline Jurisdiction, and SMP 4.1 – 4.2.6 SED Provisions address these environment designations. Purpose statements are included in SMP 4.2.2 Aquatic, SMP 4.2.3 Natural, SMP 4.2.4 Rural Conservancy, SMP 4.2.5 Shoreline Residential, and SMP 4.2.6 High Intensity. Each Purpose statement is followed by designation criteria and a set of management policies for that SED.

Consistent with WAC 173-26-211(4)(iv)(A), the County's SMP 5.3 Shoreline Use Policies and Provisions Table 5-1: Shoreline Use and Standards identifies the different types of shoreline uses that are permitted, conditionally permitted (with a CUP), and prohibited in each shoreline environment, and establishes the shoreline setback distance per type of use and SED location, where applicable. In addition, SMP 6.2 Shoreline Modifications Table includes Table 6-1 that identifies what modification activities are permitted, conditionally permitted (with a CUP), and prohibited in each shoreline environment (further discussion of Modifications below).

The mapped designations, illustrated in the Appendix A SED Maps, are based upon and implement the designation criteria provided in SMP Chapter 4.

Finding: *Ecology finds that the County SMP defines shoreline jurisdiction consistent with the Act and the record sufficiently documents the basis for assigning shoreline environment designations. The County's shorelines are adequately identified in SMP Section 1.3 Shoreline Jurisdiction, mapped in the Appendix A Shoreline Environment Designations Maps, and listed in Appendix B List of Shoreline*

Waterbodies. Shoreline designations are adequately identified in SMP Chapter 4 and in the Appendix A Shoreline Environment Designations Maps. Ecology finds that, subject to required changes in Attachment B, for each environment designation, the SMP includes a purpose statement, designation criteria, and management policies as required by WAC 173-26-211(4)(a).

General Master Program Provisions (WAC 173-26-221)

The SMP Guidelines in WAC 173-26-221 list general provisions that are intended to apply broadly to all of types of shoreline development regulated by master programs, including the following subsections: (1) Archaeological and Historic Resources; (2) Critical Areas; (3) Flood Hazard Reduction; (4) Public Access; (5) Shoreline Vegetation Conservation; and (6) Water Quality, Stormwater and Nonpoint Pollution. In addition, WAC 173-26-191 requires SMP contents to address elements including, but not limited to, economic development, public access, conservation, historical, cultural, scientific and educational values, and flood damage. WAC 173-26-201 requires SMPs to ensure ‘at minimum, no net loss of shoreline ecological functions necessary to sustain shoreline natural resources’. The County’s SMP Chapter 3 includes the following general provisions:

3.3 Archaeological, Cultural and Historic Resources Policies at 3.3.2 and Regulations at 3.3.3 set minimum standards for site inspection and inadvertent discovery, and establish locally tailored requirements to encourage coordination between private and public parties, require notification to and consultation with affected tribes, DAHP, and the County.

3.4 Critical Areas provisions with Policies at 3.4.2, General Critical Area Regulations at 3.4.3, General Mitigation Requirements for All Critical Areas at 3.4.4, and General Critical Area Report Requirements at 3.4.5. Provisions for specific critical areas are included as follows:

3.4.6 Wetlands

3.4.7 Critical Aquifer Recharge Areas

3.4.8 Fish and Wildlife Habitat Conservation Areas

3.4.9 Frequently Flooded Areas and Channel Migration Zones

3.4.10 Geologically Hazardous Areas

Where critical area buffers overlap, the greater distance of the most restrictive buffer requirement applies. The regulations include an allowance to adjust up to 25% of the buffer width through buffer averaging or buffer reduction without a shoreline variance.

3.5 Environmental Protection and No Net Loss (NNL) provisions establish requirements for NNL of ecological function, mitigation sequencing, and evaluation of cumulative impacts.

3.6 Public Access Policies at 3.6.2 and Regulations at 3.6.3 ensure the public’s ability to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Specific provisions focus on maintaining, protecting, improving and expanding existing views and facilities, and providing new access opportunities, as well as taking future action to prepare an overall public access plan.

3.7 Shoreline Vegetation Conservation Policies at 3.7.2 and Regulations at 3.7.3. These regulations apply to all activities in shoreline jurisdiction, except projects solely for planting native vegetation and maintaining existing landscaping. These provisions limit clearing to the minimum necessary, require WDFW consultation, set mitigation standards, address hazard trees, view maintenance, noxious weed

control, and Table 3-8 sets the mitigation action requirements based on the location and type of vegetation removed.

3.8 Water Quality, Water Quantity, and Non-Point Source Pollution Policies at 3.8.2 and Regulations at 3.8.3 establish protections against adverse effects to public health, shoreline resources, and waters of the state from stormwater discharge, sewage systems, construction materials, and in-stream flow withdrawals in WRIs 27, 28, and 29A. The County has voluntarily included a requirement for all projects, except single family homes, to follow Ecology’s *Stormwater Management Manual for Western Washington* (2014) for collecting, dispersing and infiltrating runoff on-site. Provisions encourage all property owners to voluntarily install new or retrofit existing stormwater features using best management practices, including low impact development techniques (e.g. pervious pavement, rain gardens).

3.9 Shorelines of Statewide Significance (SSWS) Policies at 3.9.2 and Regulations at 3.9.3 establish the order of use preference required by WAC 173-26-181, including specific locally-tailored actions to ensure these SMA policy goals are achieved.

3.10 Economic Development Policies at 3.10.2 and Regulations at 3.10.3 recognize shoreline recreation and tourism at more than ten (10) federal- and state-protected public land areas, and the economic importance to the community, the Port and Economic Development Council.

***Finding:** Ecology finds that, subject to required changes in Attachment B, the general policies and regulations are consistent with WAC 173-26-221.*

Shoreline Modifications (WAC 173-26-231)

The SMP Guidelines in WAC 173-26-231 define “shoreline modifications” as: “...generally related to construction of physical elements such as a pier, floating structure, shoreline stabilization, dredged basin, or fill...” and WAC 173-26-231(2)(b) establishes a general principle that master programs should: “Reduce the adverse effects of shoreline modifications, and as much as possible, limit shoreline modifications in number and extent.” These shoreline modification principles and standards contained in WAC 173-26-231 are reinforced through associated requirements for mitigation sequencing (WAC 173-26-201(2)(e) and the no net loss of shoreline ecological function standard (WAC 173-26-186).

Skamania County’s SMP regulates shoreline modifications in SMP Chapter 6 including 6.1 General Policies; 6.2 Modification allowances of Table 6-1 as permitted, conditional, and prohibited activities based on SED; 6.3.1 Shoreline Stabilization; 6.3.2 Fills; 6.3.3 Breakwaters, Jetties, Groins & Weirs; 6.3.4 Dredging & Dredge Material Disposal; and 6.3.5 Shoreline Enhancement & Restoration. The County SMP addresses piers and docks as part of Chapter 5.3.3 Boating Facilities and Overwater Structures noted below.

***Finding:** Ecology finds that the shoreline modification policies and regulations are consistent with WAC 173-26-231.*

Shoreline Use Provisions (WAC 173-26-241)

The SMP Guidelines in WAC 173-26-241 are intended to both recognize existing uses and ensure that future development will be appropriately managed consistent with the underlying policies of the SMA. Avoidance of use conflicts through coordinated planning and prioritization of “preferred” shoreline uses is a primary tenant of the SMA (RCW 90.58.020). Updates to local SMPs are intended to support these goals through development of appropriate master program provisions, based on the type and scale of future shoreline development anticipated within a particular jurisdiction.

Consistent with WAC 173-26-186(5), the County SMP reflects the principle that the regulation of private property needs to be consistent with all relevant constitutional and other legal limitations. The updated SMP varies the allowed uses within each SED depending on the current level of impairment of shoreline functions. This is based on the inventory and characterization, existing land use patterns, and use preferences. No Net Loss and Mitigation Sequencing requirements are contained in SMP Chapter 3.5, described above.

Skamania County’s SMP provides context and regulates specific types of shoreline use with the Applicability, Policy, and Regulation provisions of SMP Chapter 5, including:

5.2 General Provisions;

5.3 Shoreline Use Policies & Provisions;

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| 5.3.1 Agriculture; | 5.3.8 Instream Structures; |
| 5.3.2 Aquaculture; | 5.3.9 Mining; |
| 5.3.3 Boating Facilities & Overwater Structures; | 5.3.10 Recreational Uses; |
| 5.3.4 Commercial Uses; | 5.3.11 Residential Development; |
| 5.3.5 Forest Practices; | 5.3.12 Transportation & Parking Facilities; and |
| 5.3.6 Industrial & Port Uses; | 5.3.13 Utilities. |
| 5.3.7 Institutional Uses; | |

Preferred uses, other priority uses, and property rights are explicitly addressed by these provisions:

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| 1.2 SMP Purpose #3; | 5.3.2 Aquaculture Policy #1; |
| 3.2 SMP Goal #3; | 5.3.6 Industrial & Port Uses Policy #1 and Regulation #2; |
| 3.6.2 Public Access Policy #8; | 5.3.10 Recreation Policy #2; and |
| 3.9.3 SSWS Regulation #3; | 5.3.11 Residential Development Policy #1. |
| 4.2.2 Aquatic Designation Policy #7; | |
| 4.2.4 Rural Conservancy Designation Policy #3; | |

Finding: Ecology finds that, subject to required changes in Attachment B, the County has established a system of use regulations consistent with WAC 173-26-241 along with related environment designation provisions that accommodate preferred and priority uses, protect property rights while implementing the policies of the SMA, reduce use conflicts, and assure no net loss of shoreline ecological functions.

Shorelines of Statewide Significance (WAC 173-26-251)

RCW 90.58.020 specifically calls out Shorelines of Statewide Significance (SSWS) for special consideration, declaring that “the interest of all of the people shall be paramount in the management” of these shorelines. The nine (9) shorelines of statewide significance in the County include:

- Spirit Lake, Swift Reservoir, and Lewis River in the northwest;
- Trout Lake Creek in the northeast;
- Lava Creek in the southeast; and
- Columbia River, and major tributaries Wind River, Little White Salmon River, and White Salmon River.

The Shoreline Guidelines in WAC 173-26-251 require that local master programs recognize the specific use preferences identified in the SMA and provide for “*optimum implementation*” of the statutory policy. This is done by providing SMP provisions that implement: (a) statewide interest, (b) preserve resources for future generations and (c) give preference to uses identified in RCW 90.58.020.

The SMP as a whole is consistent with the policies of RCW 90.58.020. Specifically, SMP 3.9 Shorelines of Statewide Significance 3.9.2 Policies and 3.9.3 Regulations address these special considerations, even providing specific local requirements to ensure the policies are met. Additionally, the provisions of SMP 5.3.5 Forest Practices and SMP 6.3.2 Fills contribute to the optimum implementation of the SSWS statutory policy.

Finding: *Ecology finds that the SMP has accurately identified SSWS within the County’s jurisdiction, is consistent with RCW 90.58.020 and WAC 173-26-251, and provides for optimum implementation of the statutory policy.*

Cumulative Impact Analysis (WAC 173-26-201(2)(c))

Addressing no net loss of ecological functions is a critical element in any SMP update. Ecology rules require that “Master programs shall contain policies and regulations that assure at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.”¹ A cumulative impacts analysis (CIA) documents how an SMP update addresses no net loss of ecological functions. The *Skamania County Final Cumulative Impacts Analysis*, prepared by BergerABAM June 2017, includes review and analysis of existing shoreline characteristics, reasonably foreseeable future shoreline uses, development, and modifications, including their anticipated impacts and applicable SMP provisions.

The CIA concludes that based on the current circumstances, reasonably foreseeable future development/use, and potential beneficial effects of established regulatory programs, the regulatory provisions of the SMP would serve to maintain or improve the overall condition of shoreline resources.

Finding: *Ecology finds that the County’s Cumulative Impact Analysis (CIA) provides an adequate examination of anticipated development and potential effects to shoreline ecological functions per WAC 173-26-201(3)(d)(iii).*

Shoreline Use Analysis (WAC 173-26-201(3)(d)(ii))

Chapter 5.3 of the Shoreline Inventory and Characterization analyzed current and future potential land uses and trends to address the SMP Guidelines requirement to project future shoreline development, identify potential use conflicts and ensure preference is given to water oriented uses, particularly preferred uses that are unique to or dependent upon a shoreline location. This analysis found that:

¹ WAC 173-26-201(2)(c)

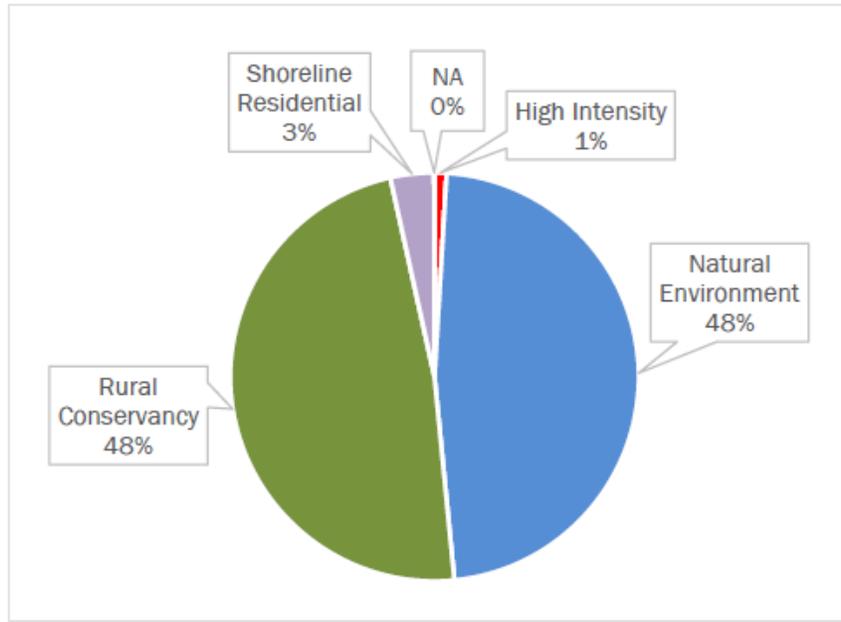
- Existing development in the County is predominately residential and focused along the Columbia River and its tributaries in the Columbia River Gorge.
- The Swift Reservoir and surrounding area in the northern portion of the County is one exception that falls outside of the National Forest and where existing recreational uses and vacation homes are located on isolated portions of the lake.
- Existing uses in the West End near Washougal and areas surrounding the cities of North Bonneville and Stevenson and the Gorge urban areas of Carson, Home Valley, and Underwood are predominantly single-family residential and accessory structures, recreational facilities, and open space (preferred uses under the SMA and WAC) interspersed with agriculture, pockets of commercial, forestry, and public facilities, such as roads, and the BNSF railroad.

The County's *Final Cumulative Impact Analysis* (2017; CIA) provides an extensive table to summarize characteristics for over seventy (70) HUC sub-basins, such as this WRIA 26 excerpt:

Table 3. Summary of Characteristics

WRIA	12 Unit HUC	Biological Characteristics (1)	Existing Land Use		Shoreline Modifications (4)	Environment Designations (5)					
			Use (2)	Zoning (3)		Existing	Proposed (6)				
							AQ	NAT	RC	SR	HI
WRIA 26 Cowlitz	Muddy Fork Cispus River (170800040303)	Good	SG	UZ	None	Conservancy	X	X	X		
	Chambers Creek - Cispus River (170800040304)	Good	SG	UZ	None	Conservancy	X	X			
	Adams Creek (170800040305)	Good	SG	UZ	None	Conservancy	X	X	X		
	East Canyon Creek (170800040306)	Good	SG	UZ	None	Conservancy	X	X	X		
	Cat Creek - Cispus River (170800040307)	Good	SG	UZ	None	Conservancy		X	X		
	Blue Lake - Cispus River (170800040309)	Good	SG	UZ	None	Conservancy		X			
	McCoy Creek (170800040401)	Good	SG	UZ	None	Conservancy			X		
	Yellowjacket Creek (170800040402)	Good	SG	UZ	None	Conservancy	X	X	X		
	Quartz Creek (170800040407)	Good	SG	UZ	None	Conservancy		X			
	Headwaters Green River (170800050401)	Fair	SG, MN	UZ	None	Conservancy	X	X	X		
	Upper Green River (170800050402)	Good	SG, MN	UZ	None	Conservancy	X	X	X		
	Coldwater Creek (170800050501)	Good	SG	UZ	Low (1-10)	Conservancy	X	X			
	Headwaters North Fork Toutle River (170800050502)	Good	SG, CR, MN	UZ	None	Conservancy	X	X			

The report identifies that over 90% of all shoreline areas will be designated as Natural or Rural Conservancy, with a small portion designated as Shoreline Residential or High Intensity, as shown in CIA Figure 7:



Source: Skamania County, Department of Assessment and GIS

These designations help ensure that future shoreline use and development are compatible with local economic activity, community desires to both remain rural and accommodate single-family residential growth, and federal and state-mandated ecological protection goals. Based on evaluation of existing use patterns, trends in population growth and the availability and location of developable land, single-family residential development and accessory uses are anticipated to dominate future shoreline activities. Commercial use will likely be the second-most common development, though it is somewhat restricted by conditional use permits. Due to very little commercially-zoned land, commercial development will likely occur on vacant parcels designated as High Intensity in the more developed southern areas of the county.

As the most common type of future foreseeable shoreline use and development, CIA Chapter 5, Table 12 identifies the impacts and effects of residential development (excerpt shown below):

Shoreline Use/ Activity	Current Status	Relevant Shoreline Processes Affected	Foreseeable Use & Development	Foreseeable Impacts & Effects	SMP Provisions	Other Regulatory Programs
Residential, Single-family Development (and accessory or appurtenances)	Single-family residential uses make up the vast majority of Skamania County's developed shorelines. Many property owners are unaware that normal maintenance & repair has long been exempt from shoreline permit but must adhere to standards.	Clearing and grading for single-family development within shoreline jurisdiction removes riparian vegetation, affecting water quality & habitat functions. Chemical application related to landscaping and maintenance of pavement & roofs can also affect water quality by increasing contaminants and nutrient loading. Impervious surface effects on stormwater & hydrology;	Most development will be single-family residential on previously vacant parcels. Some amount of redevelopment/in-fill for existing homes, and a lesser degree of multi-family homes is anticipated.	Population growth throughout the County may create pressure to convert lands currently used for agriculture or forestry to residential uses. Residential land uses may typically result in associated shoreline modifications (i.e., vegetation clearing, grading, and shoreline structures such as piers, docks, bulkheads, etc.) that can affect shoreline functions.	New residential uses and non-water-oriented appurtenant structures such as garden sheds, garages, and guest houses, must adhere to the setback standards. Stormwater, vegetation, critical areas and shoreline stabilization provisions must be met.	Appropriate permits from Skamania County.

Finding: Ecology finds that the County has adequately considered SMA preferred uses and the potential for use conflicts consistent with WAC 173-26-201 (2)(d) and WAC 173-26-201 (3)(d)(ii).

Restoration Plan (WAC 173-26-201(c) and (f))

Local governments are directed to identify restoration opportunities as part of the SMP update process and to include policies that promote restoration of impaired shoreline ecological functions (WAC 173-26-201 (2)(c) and (f)). It is intended that local government, through the master program, along with other regulatory and non-regulatory programs, contribute to restoration by planning for and fostering such actions. These are anticipated to occur through a combination of public and private programs and actions.

The restoration planning component of the SMP is focused on voluntary mechanisms, not regulatory provisions. Skamania County prepared a *Shoreline Restoration Plan* (BergerABAM, October 2016; Final June 2017), based on information gathered in the Inventory & Characterization which identified programmatic and site specific restoration opportunities organized by WRIA and HUC sub-basin. The County's restoration planning is focused on economic incentives, available funding sources, volunteer programs, and other programs that can contribute to a no net loss strategy.

The County developed restoration goals, identified potential restoration programs, prioritized restoration actions and recommended short-term and long-term timeframes for implementation. As the report states on page 1 "The objective of this restoration plan is to help the County and the public understand the specific shoreline restoration opportunities in Skamania and how these opportunities might be prioritized in order to maximize the available resources." The plan goes on to identify degraded shoreline areas and functions by waterbody reach and identify potential partners and funding sources for shoreline restoration within Skamania County.

The Restoration Plan Chapter 1.1 Purpose includes the following summary:

The purpose of the plan is to provide a non-regulatory framework for the restoration of shorelines in the County utilizing the goals and policies proposed in the Draft SMP and information contained in "Skamania County Final Inventory and Characterization Report," prepared by BergerABAM (Skamania County 2017b). The restoration plan establishes a basis for improving the quality and sustainability of Skamania County's shoreline resources over time in a collaborative and cohesive manner.

The County's SMP includes policies at SMP 6.3.5 (1-6) and regulations at SMP 6.3.5 (1-2.f) that promote restoration efforts and connects restoration actions to the Restoration Plan. The Shoreline Use and Standards Table 5-1 at SMP 5.3 permits restoration and enhancement actions in all shoreline designations, and some specific types of projects are exempted from the permit process at SMP 2.5 Substantial Development Permits & Letters of Exemption.

Finding: Ecology finds that the Restoration Plan is based on appropriate technical information available during the SMP update and meets the requirements of WAC 173-26-201(2)(c) and (f).

Consistency Review

Consistency with the Shoreline Management Act (RCW 90.58): The proposed amendments have been reviewed for consistency with the policy and procedural requirements of RCW 90.58.020 and the approval criteria of RCW 90.58.090.

Consistency with applicable guidelines (WAC 173-26): The proposed amendments have been reviewed for compliance with the requirements of the applicable Shoreline Master Program guidelines (WAC 173-26-171 through 251 and -020 definitions). This included review of a SMP Submittal Checklist, which was completed by the County.

Consistency with SEPA Requirements: The County submitted evidence of compliance with RCW 43.21C, the State Environmental Policy Act (SEPA) in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendment on May 17, 2017. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update

Ecology reviewed the following documents prepared by the County in support of the SMP amendment:

- *May 2015 Public Outreach Plan,*
- *June 2017 Final Shoreline Inventory and Characterization Report,*
- *June 2017 Final Shoreline Restoration Plan,*
- *June 2017 Final Cumulative Impacts Analysis,*

Ecology also reviewed and considered both formal comment letters and numerous informal comments that the County received during the local process.

The state's review process is described next.

Department of Ecology review process

The proposed SMP comprehensive update was received by Ecology for state review on August 8, 2017. Ecology is required to determine if SMP submittals are complete and in compliance with Washington Administrative Code (WAC) 173-26-100 and 110.

Pursuant to WAC 173-26-100 and -110, Skamania County has satisfied the submittal requirements for a comprehensive SMP update as indicated below:

- A signed Ordinance was provided to Ecology that indicated the County's adoption of Ordinance 2017-02 on June 27, 2017 (WAC 173-26-110(1) & WAC 173-26-100(7));
- This comprehensive SMP update is intended to entirely replace the County's existing SMP (WAC 173-26-110(2));
- Amended shoreline environment designation maps were submitted to Ecology (WAC 173-26-110(3));
- Materials summarizing the update process were provided to Ecology (WAC 173-26-110(4));
- Evidence of compliance with the State Environmental Policy Act (SEPA) was provided to Ecology including a Determination of Nonsignificance issued by the County on May 17, 2017, along with a completed Environmental Checklist (WAC 173-26-110(5) & WAC 173-26-100(6));

- Evidence of compliance with the public notice and consultation requirements of WAC 173-26-100 was provided to Ecology (WAC 173-26-110(6));
- The County provided numerous opportunities for public and Ecology review and comment throughout the SMP update effort between 2015 and 2017. Notice of public hearings before the Planning Commission and Board of County Commissioners were duly advertised in the *Skamania County Pioneer* newspaper and the hearings held on May 30, and June 27, 2017. (WAC 173-26-110(7) & WAC 173-26-100(1-3));
- The County provided evidence that the public notice clearly stated the Shoreline Master Program update was required in compliance with RCW 90.58 and WAC 173-26;
- The County solicited comments on the draft SMP from Ecology as part of the 2015-2017 local process;
- A copy of the completed SMP submittal checklist was provided to Ecology (WAC 173-26-110(8));
- Copies of the County’s shoreline inventory and characterization report, shoreline restoration plan, and cumulative impacts analysis were submitted to Ecology (WAC 173-26-110(9)).

Ecology provided the County with a letter verifying the submittal was complete on September 28, 2017.

Ecology Public Comment Period

Ecology held a public comment period from October 25 to November 30, 2017, at 5 p.m. Interested parties were notified using mail and email. Notice of the state comment period was distributed to state task force members and interested parties identified by the County on October 10, 2017, in compliance with the requirements of WAC 173-26-120. Seven (7) tribal governments were individually and specifically notified and invited to comment: the Chinook, Cowlitz, Grand Ronde, Nez Perce, Umatilla, Warm Springs, and Yakama Tribes. This notice identified that the SMP amendment is intended to satisfy the state statutory requirements of RCW 90.58.080 to comprehensively update the County’s SMP. Ecology also posted an article on the agency’s EcoConnect blog on November 17, 2017. Notice of the comment period, including a description of the proposed SMP and the authority under which the action is proposed along with the manner in which interested persons may obtain copies and present their views, was also provided on Ecology’s website: <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/State-approved-Shoreline-Master-Programs/Skamania>. All interested parties were invited to provide comment on the proposed update during this public comment period. No public hearing was held during the state comment period. Four comment letters were received from tribal, government and non-governmental organizations.

Summary of Issues Raised During the Ecology Public Comment Period

Consistent with WAC 173-26-120, the Comment Response Summary (Attachment D) includes a summary of the comments received, the County’s responses to SMP topics raised in the comments, and Ecology’s review considerations that are also reflected in the discussion and rationale of Attachments B and C and in the section below titled “Summary of Issues Relevant to Ecology’s Decision.”

A general list of topics and concerns raised during the state comment period includes: Archaeological, Cultural, and Historic Resources; Boating Facilities and Overwater Structures; Critical Areas (aquifers,

fish & wildlife habitat, frequently flooded areas, geological hazards, and wetlands); dimensional standards; Tribal Treaty Rights; Vegetation Conservation; Inventory & Characterization Report; Restoration Plan; and Cumulative Impacts Analysis.

Summary of Issues Identified by Ecology as Relevant to Its Decision

Ecology is required to review all SMPs to ensure consistency with the Shoreline Management Act (SMA) and implementing rules including WAC 173-26, State Master Program Approval/Amendment Procedures and Master Program Guidelines.² WAC 173-26-186(11) specifies that Ecology “shall insure that the state’s interest in shorelines is protected, including compliance with the policy and provisions of RCW 90.58.020.”

Based on review of the locally adopted SMP for consistency with applicable SMP Guidelines requirements and the Shoreline Management Act, and consideration of supporting materials in the record submitted by the County, the following topics remain relevant to Ecology’s final decision on the comprehensive update to the Skamania County SMP:

- Critical Areas – general buffer standards; wetland buffers, adjustment options, and mitigation ratios; and fish & wildlife habitat riparian buffers;
- Shoreline Environment Designations – Rural Conservancy default; Shoreline Residential designation criteria;
- Permit process - date of filing;
- Substantial Development Permit Exemptions;
- Shoreline Use – height and setback dimensional standards; recreational public access allowances; forest practices requirements; residential priority use status; residential setback adjustment options and uses allowed; residential accessory cottage occupation/light home industry;
- SMP Definitions – appurtenance; floodway; shoreline administrator; and structure; and
- Vegetation Conservation - hazard trees; and mitigation standards.

The specific issues, proposed changes, and Ecology’s rationale are detailed in Attachment B and briefly described below:

Critical Area Regulations

As required by the Growth Management Act (RCW 36.70A.480(3)(d)), upon Ecology approval of an updated shoreline master program, “critical areas within shorelines of the state are protected under chapter 90.58 RCW and are not subject to the procedural and substantive requirements of this chapter...”.³ This requirement means critical area reviews for activities in shoreline jurisdiction occur within the context of the SMP permitting procedures. The SMP addresses critical areas in Chapter 3.4.

Ecology, with County staff assistance, has identified changes to the SMP to ensure the SMP and associated critical area provisions are implemented consistent with the requirements of the Act. These changes add clarifying provisions, remove conflicting language, and correct citation errors. (Attachment B, Items 3 - 7).

² RCW 90.58.050

³ See also RCW 90.58.610

Ecology found several instances where the proposed provisions were not fully consistent with statute, rule, and the most current technical guidance. The following issues are presented in Attachment B Required Changes to ensure such consistency:

- 3.4.3 General Critical Area Regulations – Revisions required to address unvegetated buffer areas, functionally isolated buffers, and wetland buffer reductions with minimization methods and habitat corridors;
- 3.4.6 Wetlands – General Performance Standards – Revisions required to address wetland mitigation ratios, and for accurate internal citations.
- 3.4.8 Fish & Wildlife Habitat Conservation Areas – Revisions required to include standard riparian buffer widths for non-SMA streams located in shoreline jurisdiction, and to clarify that riparian buffers work in concert with the shoreline setbacks established separately for Type S waters.

Finding: *Ecology finds that the County has chosen to include separate critical area provisions in the SMP to address wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas as required by WAC 173-26-221(2). Ecology also finds that revisions are needed (Attachment B) to ensure the SMP is consistent with this provision along with ensuring internal consistency for efficient and effective implementation.*

Shoreline Environment Designations

As described by WAC 173-26-211, “Master programs shall contain a system to classify shoreline areas into specific environment designations.” It is further required that “all areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned a "rural conservancy" designation... until the shoreline can be re-designated through a master program amendment.”

Ecology, with County staff assistance, has identified changes necessary to ensure the SMP includes the rural conservancy default provision, and that designation criteria remain internally consistent. These changes remove conflicting language and/or add clarifying provisions. (Attachment B, Items 10 - 11)

Finding: *Ecology finds that corrections are needed (Attachment B) to ensure consistency with WAC 173-26-211(4) and for internal consistency.*

Permit Process

Both the Act at RCW 90.58.140(6) and the SMP Guidelines at WAC 173-27-130 establish required methods and timelines for local governments to file permit decisions, and how Ecology notifies local government and the applicant about receipt and decisions, based on the ‘date of filing’ that is determined by permit type. In addition, WAC 173-27-190 establishes that permitted construction must not start until 21-days after the date of filing. Clarifying the required ‘date of filing’ actions is important for calculating appeal period timelines, administering related authorizations (i.e. building permits), and creating a record to avoid submittals getting lost/delayed by general mail service.

Ecology, with County staff assistance, has identified changes to the SMP to ensure the SMP and associated permit filing provisions are implemented consistent with the requirements of the Act. These changes remove conflicting language and/or add clarifying provisions. (Attachment B, Item 1).

Finding: Ecology finds that corrections are needed (Attachment B) to ensure consistency with WAC173-27-130 and -190.

Substantial Development Permit Exemptions

Both the Act at RCW 90.58.030(3.e) and the implementing rules at WAC 173-27-040 establish that some specific shoreline activities are not considered substantial development and are exempt from requirements for a substantial development permit. Using the exact language as established by statute and rule will ensure these allowances are correctly implemented and narrowly construed, as required. While incorporating the full list is consistent, some clauses are rather lengthy so that providing abbreviated text that is supplemented by reference citations for additional details helps streamline the SMP.

Ecology, with County staff assistance, has identified changes needed to ensure that SMP substantial development permit exemptions are implemented consistent with the requirements of the Act. These changes remove conflicting language and add clarifying provisions. (Attachment B, Item 2).

Finding: Ecology finds that corrections are needed (Attachment B) to ensure consistency with WAC173-27-040 and for clarity to aid both applicants and practitioners.

Shoreline Use Provisions

A number of changes have been identified to ensure consistency with the SMP Guidelines and/or internal consistency within the SMP:

- RCW 90.5.8.320 requires building/structure height limit with criteria.
- WAC 173-26-221(4) establishes Public Access requirements, and WAC 173-26-241(3.i) establishes Recreational use standards. The SMP use allowances should regulate recreational trails providing public access based on type of use separate from other standards for construction material.
- WAC 173-26-241(3.e) requires that only non-harvest/timber cutting Forest Practices activities, including conversions, are regulated by the SMP.
- WAC 173-26-201(2.d) establishes the order of use preference for water-dependent and other types of use, WAC 173-26-241(3.j) establishes that single family residential use is not water-dependent and may be considered a priority when pollution and damage are avoided.
- WAC 173-26-186(8.b) requires SMP provisions to achieve ‘no net loss of shoreline ecological functions’. While some administrative discretion can be allowed for minor site-specific adjustments, the common line setback to accommodate view obstructions, and other adjustment options, are limited to 25%, so that any further exceedance of a dimensional standard requires a variance.
- WAC 173-26-241(3)(j) allows for residential development, including appurtenances and accessory uses, when consistent with requirements to control pollution and prevent damage to

the natural environment. SMP provisions should also avoid conflict with other municipal code provisions by using consistent terminology and standards.

Ecology, with County staff assistance, has identified changes needed to ensure the SMP provisions for height and setback dimensional standards, preferred, priority, and accessory uses are implemented consistent with the requirements of the Act. These changes remove conflicting language and/or add clarifying provisions. (Attachment B, Items 12 - 17).

Finding: Ecology finds that corrections are needed (Attachment B) to ensure consistency with WAC173-27-040 and for internal consistency.

SMP Definitions

Terms defined in the SMP must be consistent with RCW 90.58.030, WAC 173-26-020, WAC 173-27, and other applicable rules. Other terms not established by statute & rule should be consistent with municipal code and local practice.

Ecology, with County staff assistance, has identified changes to the SMP to ensure the SMP Definitions accurately reflect established terms for appurtenance, floodway, shoreline administrator, and structure. These changes remove conflicting language and/or add clarifying language. (Attachment B, Items 18 – 21).

Finding: Ecology finds that corrections are needed (Attachment B) to ensure consistency with the SMA, WAC 173-26 and WAC 173-27, and for internal consistency.

Vegetation Conservation

As described by WAC 173-26-221(5), “Master programs shall include: Planning provisions that address vegetation conservation and restoration, and regulatory provisions that address conservation of vegetation; as necessary to assure no net loss of shoreline ecological functions and ecosystem-wide processes, to avoid adverse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.”

Ecology, with County staff assistance, has identified changes to the SMP to ensure the SMP vegetation conservation provisions for hazard trees and mitigation actions are implemented consistent with the requirements of the Act. These changes remove conflicting language and/or add clarifying provisions. (Attachment B, Items 8 - 9).

Finding: Ecology finds that corrections are needed (Attachment B) to ensure consistency with the SMA, WAC 173-26-221(5), and for internal consistency.

Additional Recommended Changes

In addition to the required changes noted above, we have also identified a number of recommended changes intended to improve document clarity and aid implementation. A general list of the issues addressed include: internal consistency of formatting, citations, terminology, and comparable standards; SMP applicability and exceptions to local review & permitting; Tribal Treaty Rights; nonconforming use & development; permit filing & appeal timelines; archeological & cultural resources; vegetation retention & views; recreational use; definitions; SED mapping;

and technical background documents. These recommended changes were prepared with County staff assistance, and are further described in Attachment C.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the County's comprehensive SMP update proposal, subject to and including Ecology's required changes (itemized in **Attachment B**), is consistent with the policy and standards of RCW 90.58.020, RCW 90.58.090, RCW 36.70A.480 and the applicable SMP guidelines (WAC 173-26-171 through 251) as well as the definitions in WAC 173-26-020 and WAC 173-27. This includes a conclusion that the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program, per the standards of WAC 173-26-201(2)(c).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in **Attachment C**) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required but can, if accepted by the County, be included in Ecology's approved SMP amendment.

As stipulated in RCW 90.58.610, RCW 36.70A.480 governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under chapter 36.70A RCW. Consistent with RCW 36.70A.480(4), Ecology concludes that, subject to and including Ecology's required changes, the SMP provides a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

Ecology concludes that the County has chosen *not* to exercise its option pursuant to RCW 90.58.030(2)(d)(i) or (ii) to increase shoreline jurisdiction to include i) the full extent of the 100-year floodplain; or ii) buffers for critical areas located within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction the buffer shall continue to be regulated by the County's Critical Area regulations.

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

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

Ecology concludes that the County has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update process.

Ecology concludes that the County has complied with the purpose and intent of the local update process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of 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's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring an SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes the County's final legislative action will serve to complete the comprehensive SMP update required by RCW 90.58.080(2).

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP are consistent with the policy of the Shoreline Management Act, the applicable Guidelines and implementing rules, once the required changes set forth in **Attachment B** are accepted by the County. The County may choose to adopt the recommended changes in **Attachment C**. Pursuant to RCW 90.58.090(2)(e), the County must notify Ecology of the approval or denial of the recommended changes. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the County may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action.