ATTACHMENT B: ECOLOGY CHANGES TO THE WESTPORT SHORELINE MASTER PROGRAM PERIODIC REVIEW AMENDMENT

Changes in red are required to comply with the Shoreline Management Act (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in blue are recommended and are consistent with SMA policy and the SMP Guidelines. Single ~~strikethrough~~ and underline reflect the City's proposed amendments; double ~~strikethrough~~ and double underline reflect Ecology changes.

ITEM	SMP PROVISION	BILL FORMAT CHANGES (UNDERLINE = ADDITIONS; STRIKETHROUGH = DELETIONS)	DISCUSSION/RATIONALE
Rec-1	Table 4-3: Allowed Ocean Uses	<table><tr><th>~~Shoreline~~ Ocean Uses (1)</th><th>Aquatic (2)</th></tr><tr><td>Ocean Mining (3)</td><td>C</td></tr><tr><td>Ocean Disposal</td><td>C</td></tr><tr><td>Ocean Transportation</td><td>C</td></tr><tr><td>Ocean Research ~~(2)~~ ~~(3)~~(4)</td><td>C</td></tr></table> … (3) Ocean mining of hard minerals, including metals, is prohibited in Grays Harbor and the Pacific Ocean. Hard minerals include natural deposits of valuable minerals other than rock, gravel, sand, silt, coal, or hydrocarbons.	This change is recommended to improve clarity and consistency of the City's ocean management regulations. WA Senate Bill 5145, passed in 2021, prohibited seabed mining of certain materials along the Washington coast, including Grays Harbor, Willapa Bay, and the Columbia River. During the City's local adoption process, a commenter recommended that a footnote be added to Table 4-3 to reflect this prohibition. In its response, the City stated that this change would be considered in "future comprehensive SMP updates." No future comprehensive updates to the SMP are planned or mandated under the SMA.
REQ-1	6.03.02 Clearing, Grading, and Fill – Regulations	E. Clearing, grading, and fill within wetlands or floodways and fill waterward of the OHWM is only allowed when: … 4. The shoreline use or development is one of the following: … ~~b. A water-related or water-enjoyment use, provided that such fill is limited to wetlands and floodways; no fill waterward of the OHWM on lakes, streams, or tidal waters is allowed for such uses in accordance with WAC 173-26-231(3)(c).~~	This change is required for consistency with WAC 173-26-201(2)(d) Preferred uses and (2)(e) Environmental impact mitigation, and WAC 173-26-221(2) Critical areas and (2)(c)(i) Wetlands. SMP Section 6.03.02(E) is based on WAC 173-26-231(3)(c), which lists allowances for fill waterward of the OHWM. These allowances are limited to those uses and activities that inherently require a shoreline location, consistent with the use preferences of WAC 173-26-201(2)(d). Many of the City's associated wetlands are separated geographically from the shoreline, such that fill to support a water-dependent use or public access to the shoreline does not make sense and would not be supported by the SMP's mitigation sequencing requirements. The proposed amendment expands this allowance to enable fill in wetlands and floodways to support water-related or water-enjoyment uses, which do not inherently require a shoreline location. WAC 173-26-221 establishes that Ecology's role in reviewing SMP provisions for critical areas, including wetlands and floodways (a subset of frequently flooded areas), shall be the protection of existing ecological functions and ecosystem-wide processes. Ecology finds that the provisions of Section 6.03.02(E), as amended, do not provide adequate protection for critical areas because they allow impacts without proper application of the full range of mitigation sequencing options, inconsistent with WAC 173-26-221(2)(c)(i)(C) and irrespective of the policy objectives of the SMA.
REQ-2	Appendix 2: Critical Areas Regulations – 2.05 Exemptions and Allowed Uses in Wetlands	~~A. The following wetlands are exempt from the buffer provisions contained in this Section and the normal mitigation sequencing process in SMP Appendix 2: Section 2.08. These wetlands may be filled if impacts are fully mitigated based on provisions in SMP Appendix 2: Section 2.08. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in SMP Appendix 2: Section 2.07 must be submitted.~~ ~~1. All isolated Category III and IV wetlands less than 1,000 square feet that:~~ ~~a. Are not associated with riparian areas or buffers;~~ ~~b. Are not part of a wetland mosaic; and~~ ~~c. Do not contain habitat identified as essential for local populations of priority species identified by the WDFW or species of local importance identified in SMP Appendix 2: Section 6.02.~~	This change is required for consistency with WAC 173-26-201(2)(a), (c), and (e). Ecology's 2022 wetland guidance, *Wetland Guidance for Critical Areas Ordinance (CAO) Updates (Ecology Publication No. 22-06-014)*, does not recommend exempting from buffer or mitigation sequencing requirements those wetlands that are associated with shorelines of the state. This allowance is inconsistent with the most current and accurate technical and scientific information available as well as the requirement to ensure no net loss of shoreline ecological functions and must be omitted from the SMP's critical areas regulations.

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REQ-3 Rec-2	Appendix 2: Critical Areas Regulations – 2.08.D Preference of Mitigation Actions	~~4.~~ 3. Preservation (Protection/Maintenance). ~~Preservation of high quality, at risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, if a minimum of 1:1 acreage replacement is provided by re-establishment or creation. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being altered and the quality of the wetlands being preserved.~~ The removal of a threat to, or preventing the decline of, wetlands by an action in or near those wetlands. This term includes activities commonly associated with the protection and maintenance of wetlands through the implementation of appropriate legal and physical mechanisms such as recording conservation easements and providing structural protection like fences and signs. Preservation does not result in a gain of aquatic resource area or functions but may result in a gain in functions over the long term. ~~5.~~ Preservation ~~of high quality at risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts~~ of a wetland and associated buffer can be used only when the following criteria are met: a. The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations. ~~a.~~ b. The area proposed for preservation is of high quality or critical for the health and ecological sustainability of the watershed or sub-basin. The following features may be indicative of high-quality sites: 1) Category I or II wetland rating (using the wetland rating system for western Washington); 2) Rare wetland type (for example, bogs, mature forested wetlands, estuarine wetlands); 3) The presence of habitat for priority or locally important wildlife species; ~~and~~ 4) Provides biological and/or hydrological connectivity to other habitats; and ~~4)~~ 5) Priority sites in an adopted watershed plan. ~~b.~~ c. Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA listed species. ~~c.~~ d. There is no net loss of habitat functions within the watershed or basin. ~~d.~~ e. Mitigation ratios for preservation ~~as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost~~ are found in Table 2-4. ~~e.~~ f. Permanent preservation… … ~~3.~~ 4. Enhancement of significantly degraded wetlands…	Required change: This change is required for consistency with WAC 173-26-201(2)(a) Use of scientific and technical information and WAC 173-26-201(2)(e) Environmental impact mitigation. Ecology's 2022 wetland guidance asserts that preservation should be considered higher in the preference order than enhancement. Recommended change: Additional revisions are recommended to align Appendix 2's definition and treatment of preservation as compensatory mitigation with Ecology's 2022 guidance. The recommended language provides more specificity and predictability around compensatory mitigation for applicants and City staff, while ensuring preservation actions lead to no net loss of shoreline ecological functions.

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<tr><td>Rec-3</td><td>Appendix 2: Critical Areas Regulations – Table 2-4: Wetland Mitigation Ratios</td><td>
<table>
<tr><th>Category and Type of Wetland</th><th>Creation or Re-establishment</th><th>Rehabilitation</th><th>Preservation</th><th>Enhancement</th></tr>
<tr><td colspan="5">Category I:</td></tr>
<tr><td>Bog, Natural Heritage site</td><td>Not Considered Possible</td><td>Case by case</td><td>24:1</td><td>Case by case</td></tr>
<tr><td>Mature Forested</td><td>6:1</td><td>12:1</td><td>24:1</td><td>24:1</td></tr>
<tr><td>Based on functions</td><td>4:1</td><td>8:1</td><td>16:1</td><td>16:1</td></tr>
<tr><td>Category II</td><td>3:1</td><td>6:1</td><td>12:1</td><td>12:1</td></tr>
<tr><td>Category III</td><td>2:1</td><td>4:1</td><td>8:1</td><td>8:1</td></tr>
<tr><td>Category IV</td><td>1.5:1</td><td>3:1</td><td>6:1</td><td>6:1</td></tr>
</table>
</td><td>As written, mitigation ratios for preservation actions are determined on a case-by-case basis. Ecology's 2022 wetland guidance defines mitigation ratios for preservation actions consistent with current scientific and technical information. Specifying these ratios in Table 2-4 is recommended to provide the City and applicants with more predictability and ensure consistent implementation of compensatory mitigation requirements.</td></tr>
<tr><td>Rec-4</td><td>Appendix 2: Critical Areas Regulations – 5.02.C Mapping of Geologically Hazardous Areas</td><td>h. ~~WSG Geological~~ WGS Geologic Information Portal</td><td>Correction of this typographical error was recommended in a comment from DNR during the state comment period. In its response, the City indicated that it intends to make this correction.</td></tr>
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<td>REQ-4</td>
<td>Appendix 2: Critical Areas Regulations – Table 6-1: Riparian Habitat Area Buffers</td>
<td>
<table>
<tr><th colspan="2">Riparian Habitat Areas</th></tr>
<tr><th>Stream type</th><th>Recommended Riparian Habitat Areas widths</th></tr>
<tr><td>Type F Water. Segments of natural waters other than Type S waters.</td><td><s>100 feet</s>
150 feet</td></tr>
<tr><td><s>Type F A Water. Segments of natural waters other than Type S waters, which are greater than ten feet in width.</s></td><td><s>150 feet</s></td></tr>
<tr><td><s>Type F B Water. Segments of natural waters other than Types S waters, which are less than ten feet in width.</s></td><td><s>100 feet</s></td></tr>
</table>
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</table>
</td>
<td>This change is required for consistency with WAC 173-26-221(5) and WAC 173-26-201(2)(c). Nothing in the record supports a reduction of the buffer protections for Type F waters that were evaluated in the Cumulative Impacts Analysis during the City's comprehensive SMP update. WDFW's online Priority Habitats and Species (PHS) mapper indicates that at least one such waterbody exists in the City's shoreline jurisdiction.

In its response to a comment from the Quinault Indian Nation about this change, the City indicated that this change is intended for conformance with the water typing system in WAC 222-16-030, which does not distinguish Type F waters based on channel width. However, the record does not provide an analysis of the potential impacts of this change, for example by assessing what percentage of Type F streams in shoreline jurisdiction are over 10' wide and subject to a significant reduction in buffer protection. It is therefore not clear how the proposed change will still ensure that development under the SMP achieves no net loss of shoreline ecological functions.

Through conversation with the City, Ecology has identified two alternatives to remedy this inconsistency, presented at left. The first defaults to the larger buffer (150') for all Type F waters to ensure that the current level of protection in the SMP is maintained. The second alternative also maintains the current level of protection, but preserves the distinction based on channel width while deleting reference to the defunct water typing system (Type FA vs. Type FB).</td>
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