SMP Periodic review workshop

Tukwila Community Center

January 31, 2018

Shorelands & Environmental Assistance Program
Updated SMA rules effective September 7, 2017

- Periodic review: clarifies scope and process
- New optional SMP amendment process

Local Sounding Board
Stephen Atkinson, City of Tacoma
Leonard Bauer, FAICP City of Olympia
Dave Catterson, Association of Washington Cities
Damien Hooper, Grant County
Mark Kulaas, FAICP Douglas Co (& Wenatchee Council)
Mike Shuttleworth, Benton County
Jason Sullivan, City of Bonney Lake
Lisa Verner, FAICP, King County

RCW 90.58.050
This chapter establishes a cooperative program… between local government and the state.
Context for SMP updates/reviews

1995
Legislature orders new SMA rules

2000

2003
SMA rules effective

2005

~200 of 262 SMP (~75%) updated

2010

2015

2020

2025

Periodic Reviews 2019-22

Periodic Reviews 2027-30

SMA rules
- Negotiated settlement
- New requirements
- Legislature set schedule and funded SMP updates

Comprehensive update of all SMPs
- One-time overhaul of 262 SMPs.
- Grant program ($34 million)
- Integrate with GMA plans
- Regulations to achieve “No Net Loss”

- Keep SMPs current
Shoreline planners toolbox

This toolbox is designed for local and state shoreline planners responsible for developing and administering Shoreline Master Programs. Users will find links to our web pages and publications to help with:

- Permitting
- Resolving shoreline management issues
- Developing and updating Shoreline Master Programs
- Researching laws and rules

If you don’t find what you need, please contact the Ecology regional planner serving your city or county government.

Administration of Shoreline Master Programs

- Shoreline permits and enforcement
- Shoreline permitting manual

New shoreline programs and amendments

- Shoreline Master Programs
- Status of local Shoreline Master Programs
- Shoreline Master Program Grants
- Shoreline Master Programs Handbook

Amendments

- Periodic review
- Comprehensive updates
- Locally-initiated amendment
Periodic review

The Shoreline Management Act requires each city and county to review, and, if necessary, revise their SMP at least once every eight years. The legislature set a staggered schedule that alternates with similar reviews under the Growth Management Act.

The jurisdictions required to conduct periodic review by June 30, 2019, the first deadline, are King, Pierce and Snohomish counties and the cities within them. You can find this requirement in [RCW 90.58.080](#).

[WAC 173-26-090](#) clarifies that local legislative action is required to complete the review, even when a local government determines that no changes are needed.

Our Periodic Review guidance provides a summary of the rule, checklist of changes to the Act and the WAC requirements, suggestions on how to use the checklist, a scope of work template, and public participation plan example. The Frequently Asked Questions (FAQ) provides some additional information.

- Summary of the rule
- Checklist
- Checklist guidance
- Grant scope of work template
- Public participation plan example
- Frequently Asked Questions
Summary of the Periodic Review Rule (WAC 173-26-090)

Introduction

This document is an annotated version of Ecology's rule (WAC 173-26-090) on conducting periodic reviews of Shoreline Master Programs (SMPs) under the Shoreline Management Act (SMA). The rule was based on Department of Commerce rules that guide local governments in meeting the analogous Growth Management Act (GMA) "periodic review" requirement.

The following is a brief summary of each section of the rule.

Section 1: Locally initiated review

This brief section is from a long-standing rule that encourages local governments to review their SMPs to reflect changing local circumstances, new information or improved data. Ecology retained this section to clarify that local governments may prepare SMP amendments outside the statutorily mandated review period. The rule encourages local governments to consult guidance materials available from Ecology that may inform their reviews.

Section 2: Periodic review requirements

The second section summarizes and explains statutory requirements. The SMA requires each city and county to review, and, if necessary, revise their SMP at least once every eight years. The legislature set a staggered schedule that alternates with similar reviews under the Growth Management Act (GMA).¹

Figure 1 illustrates how GMA and SMA review deadlines alternate over time. For example, Column A indicates that King, Pierce, and Snohomish counties and the cities within them have GMA review deadlines in 2015 and eight years later in 2023, interspersed with SMA reviews in 2019 and 2027.

The rule clarifies that local legislative action is required to complete the review, even when a local government determines no changes are needed. It also clarifies how the scope of the periodic review differs from the comprehensive updates that were conducted starting in 2005.
Each local government should review its shoreline master program and make amendments deemed necessary to reflect changing local circumstances, new information or improved data.

Local governments are encouraged to consult department guidance for applicable new information on emerging topics such as sea level rise.

Unchanged from 1997: general direction to keep your SMP current.

Appendix A

Addressing Sea Level Rise in Shoreline Master Programs

Introduction
One widely accepted consequence of a changing climate is an increase in the rate of sea level rise (IPCC, 2007). Although there is scientific uncertainty about the precise amount of sea level rise by the end of the century, projections for Puget Sound range from 14 to 54 inches relative to year 2000 (Morgan et al., 2015). Rates could be higher or lower, depending on the rate of vertical land motion locally.

Sea level rise will have significant effects on both human and natural systems (Platts, 2009), increasing the risk from coastal hazards and the pressure on shoreline resources. These effects present a serious challenge to shoreline planning and coastal management.

Figure A-1: An unusually high tide in January 2016 caused water to spill over the seawall at Alki Beach in Seattle. Even modestly higher sea levels will cause the frequency of events such as this to increase, along with the potential for associated damage. (Photo by Hugh Johnson)
(2) Requirements

(a) Intro paragraph

(b) Deadlines

(c) Taking legislative action

(d) Minimum scope of review

Remainder of rule is based on existing GMA periodic update rule. (*WAC 365-196-610*)

(2) Requirements: clarify legislation

(3) Procedures: outline steps
(2) (b) Schedule

Deadline: June 30 of year listed

(RCW 90.58.080)
2 (c) Legislative action =

adoption of a resolution, motion, or ordinance following notice and a public hearing including:

findings that a review and evaluation has occurred and identifying the revisions made,

or that a revision was not needed (findings of adequacy.)

Legislative actions concluding the periodic review must be followed by Ecology approval.
2 (d) **Scope of Periodic Review**

Legislative requirement is to "**review** and if necessary, **revise**…"

To assure the SMP:

1) **Complies with applicable laws and rules**

2) **Remains consistent with changes to your comprehensive plan and development regulations**

**Rule clarifies:**

- "**applicable**” = *new* laws and rules
- Local government “should consider changes in local circumstances, new information, improved data”
- A review, not a re-do
- No requirement to re-do inventories.
(3) Procedures

(a) Public participation program

(b) Review and analysis

(c) Take legislative action

(d) Submittal to Ecology

(e) State process for approving periodic reviews
(3) Procedures

(a) Participation plan

Checklist

(b) Review:
(i) Laws/Rules
(ii) Comp plan
(iii) Other

Amendment needed

No amendment needed

Revise:
SMP local public process

(c) Legislative action:
Finding of Adequacy

(c)(iv) Legislative action:
Adopt Amendments

(d) & (e)
Ecology Approval *

* Triggers appeal period
Sample SMP periodic review work program – for reviews resulting in SMP revisions

This work program is a sample schedule of tasks associated with a review of SMPs under RCW 90.58.080(4), when the government determines SMP revisions will be needed to complete the periodic review. The schedule highlights operational steps in the review and amendment process. Citations to applicable rules are included for reference.

Local governments may revise or modify this schedule and use the timeline column to create a realistic schedule. Ask questions or suggestions for improving this sample work program to your Ecology regional SMP planner.

<table>
<thead>
<tr>
<th>Timeline</th>
<th>Tasks</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Staff Review, develop grant with Ecology</td>
<td>Consult with Ecology [WAC 173-26-100 or WAC 173-26-104(1) and WAC 173-26-090]</td>
<td>Work with Ecology’s regional planner, use the checklist to identify statutes or regulations that may need to be incorporated into your SMP. Review your comprehensive plan and development regulations for initial list of items that may require an amendment to your SMP to improve internal consistency. This initial review using checklists will help set the scope of work for the entire review and will speed up Planning Commission review. As early as possible, determine whether or not to use the joint review process under WAC 173-26-104.</td>
</tr>
<tr>
<td></td>
<td>Fill out Ecology checklist of statutory and regulatory amendments; review amendments to comprehensive plan and development regulations; and prepare initial recommendations on other changes needed to address changed local circumstances, new info, or improved data. [WAC 173-26-090(3)(b)]</td>
<td></td>
</tr>
<tr>
<td>Get professional help (if needed)</td>
<td>Hire contractor using local hiring procedures</td>
<td>Depending on how recently your SMP has been amended, or how many local issues you choose to address, you may elect to hire a consultant.</td>
</tr>
<tr>
<td>Public Participation Program</td>
<td>Develop public participation program [WAC 173-26-090(3)(a)]</td>
<td>See Sample Public Participation Plan.</td>
</tr>
</tbody>
</table>
DRAFT Sample SMP periodic review work program – for reviews resulting in Findings of Adequacy

This work program is a sample schedule of tasks associated with a periodic review of SMPs under RCW 90.58.080(4) where the initial determination of the local government and Ecology is that a Finding of Adequacy would be appropriate to complete the periodic review. Citations to applicable rules are included for reference.

This schedule is based on the local government using the “joint review” process under WAC 173-26-104 and assumes a scenario intended meet the minimum requirement of one hearing at planning commission.

Local governments may revise or modify this schedule and use the timeline column to create a realistic schedule. Please send questions or suggestions for improving this sample work program to your Ecology regional SMP planner.

<table>
<thead>
<tr>
<th>Timeline</th>
<th>Tasks</th>
<th>Notes: specific to “findings of adequacy”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Staff Review</td>
<td>Consult with Ecology [WAC 173-26-104(1)]</td>
<td>Working with Ecology’s regional planner, affirm that changes are not likely to be needed, and that your jurisdiction and Ecology will conduct joint review under WAC 173-26-104.</td>
</tr>
<tr>
<td>Public Participation Program</td>
<td>Develop public participation program [WAC 173-26-090(3)(a)]</td>
<td>See Sample Public Participation Plan.</td>
</tr>
<tr>
<td>Planning Commission review and hearings on SMP Periodic Review</td>
<td>Staff prepare draft findings of adequacy documents for Planning Commission review and discussion. This is a draft of the final determination that the periodic review will be completed with a Finding of Adequacy [WAC 173-26-090(3)(c)(ii)]</td>
<td>Examples of documentation: A checklist filled out demonstrating how review items are addressed. The checklist may be modified to include background information tailored to the local jurisdiction.</td>
</tr>
<tr>
<td></td>
<td>Conduct SEPA review [WAC 173-26-104(2)(a)]</td>
<td>For a finding of adequacy, SEPA is exempt under WAC 197-11-800 (19) which covers resolutions or ordinances “relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment, or “text amendments resulting in no substantive changes respecting use or modification of the environment.”</td>
</tr>
</tbody>
</table>
(3) (a) Participation Plan

Sample plan: scale to level of effort

COUNTY/CITY NAME Shoreline Master Program:
Periodic Review Public Participation Plan

Introduction
COUNTY/CITY NAME is undertaking a periodic review of its Shoreline Master Program (SMP), as required by the Washington State Shoreline Management Act (SMMA), RCW 90.58.080(4). The SMA requires each SMP to be reviewed and revised, if needed, on an eight-year schedule established by the Legislature. The review ensures the SMP stays current with changes in laws and rules, remains consistent with other COUNTY/CITY NAME plans and regulations, and is responsive to changed circumstances, new information and improved data.

A Public Participation Plan is required to describe how COUNTY/CITY NAME will encourage early and continuous public participation throughout the process of reviewing the SMP.

This Public Participation Plan describes the steps that COUNTY/CITY NAME will take to provide opportunities for public engagement and public comment, as well as COUNTY/CITY NAME contact information and web addresses. This plan is in addition to any other minimum requirements for public participation required by COUNTY/CITY NAME’s Code Section _______. This plan is a working document and will be adjusted as needed to provide for the greatest and broadest public participation.

1.0 Public Participation Goals

- Provide interested parties with timely information, an understanding of the process, and multiple opportunities to review and comment on proposed amendments to the SMP.
- Actively solicit information from citizens, property owners and stakeholders about their concerns, questions and priorities for the Periodic Review process.
- Encourage interested parties to informally review and comment on proposed changes to the SMP throughout the process and provide those comments to decision makers.
- Provide forums for formal public input at project milestones prior to decision-making by local officials.
- Consult and consider recommendations from neighboring jurisdictions, federal and state agencies, and Native American tribes.

2.0 Public Participation Opportunities
COUNTY/CITY NAME is committed to providing multiple opportunities for public participation throughout the process. COUNTY/CITY NAME will use a variety of communication tools to inform the public and encourage their participation, including the following:

2.1 Website
COUNTY/CITY NAME’s website will include a Periodic Review webpage where interested parties can access status updates, draft documents, official notices, minutes and other project information. The webpage will be the primary repository of all information related to the Periodic Review process. The page will include who to contact for more information and an email link for questions and comments.

2.2 Survey
A community survey will be conducted to solicit specific feedback from interested parties and results will be posted on the Periodic Review webpage.

2.3 Open House
COUNTY/CITY NAME will initiate the Periodic Review with a community open house. Public comments received during the Open House will be posted on the Periodic Review webpage.

2.4 Notice mailing list
An email list of Interested parties will be created, advertised and maintained by the COUNTY/CITY NAME. The list will be used to notify interested parties regarding Periodic Review progress and participation opportunities. Interested parties will be added to the list by contacting the Planning Department.

2.5 Comment
Interested parties will be encouraged to provide comments to COUNTY/CITY NAME by letter or email. All comments will be forwarded to the COUNTY/CITY COUNCIL/COMMISSION NAME and Planning Commission. The Periodic Review webpage will be the central repository for information under consideration. Documents will be available for review at the COUNTY/CITY NAME Planning Department, and copies will be provided at the established copying cost.

2.6 Planning Commission
The Planning Commission will be the primary forum for detailed review and recommendations to the COUNTY/CITY COUNCIL/COMMISSION NAME. Interested parties are encouraged to attend and provide comments during the Planning Commission deliberations and/or COUNTY/CITY COUNCIL/COMMISSION NAME workshops and public hearings. Official notices will be published as established in COUNTY/CITY NAME policy.

2.7 News media
The local news media will be kept up-to-date on the Periodic Review process and receive copies of all official notices.

3.0 List of stakeholders
COUNTY/CITY NAME will engage the following stakeholders:

[INSERT LIST]

4.0 Public Participation Timeline
The following is a general timeline including anticipated public participation opportunities. COUNTY/CITY NAME will coordinate with the Department of Ecology throughout the process. A detailed timeline will be posted on the Periodic Review webpage.

[TIMELINE]
3.0 List of stakeholders
Mukilteo will engage the following stakeholders:

- All people listed on the Shorelines, Downtown Waterfront, or Comprehensive Plan / Divers parties of record list
- Downtown Businesses and Residents
- Snohomish County Ferry Advisory Committee
- Mukilteo Kiwanis / Rotary / Mukilteo Chamber of Commerce
- Mukilteo Historical Society / Seniors
- Mukilteo Youth Advisory Committee / Parks and Arts Commission
- Port of Everett / Water & Wastewater Districts / City of Everett / Snohomish County
- Tulalip Tribes / Beach Watchers
### Mukilteo example: Project schedule outlining major tasks

#### Plan Analysis
- **June**
  - Analyze Data from Survey and Outreach Events
  - Planning Commission Review and Update
  - Land Use & Economic Development Committee Update
- **July**
  - City Council Update
  - Planning Commission Review of SMP Policies
  - Summarize Comments on Webpage and Send to Email List

#### Plan Development
- **August – September**
  - Draft Plan and Code Amendments
  - Prepare SEPA Checklist
  - Send Notice to Commerce
  - Coordinate Edits with DOE
- **September**
  - Planning Commission Chapter Review
  - Land Use & Economic Development Committee Update

#### Plan Review
- **October**
  - Issue SMP Review Notice (30 Days)
  - Planning Commission Review
  - Update Webpage
- **November**
  - Planning Commission Review & Pag Turn
  - Update Website as Needed with Schedule of Events
  - Land Use & Economic Development Committee Update
- **December**
  - Respond to DOE Comments

#### Plan Adoption
- **January 2019**
  - Planning Commission Public Hearing
- **February**
  - Continued Planning Commission Public Hearing (if Needed)
  - Land Use & Economic Development Committee Update
- **March**
  - City Council Public Hearing
- **April**
  - City Council Continued Public Hearing (If Needed)
- **May**
  - Send Council Approved SMP to DOE
- **June 2019**
  - DOE Approves SMP

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### SMP Project Prep

| December 2017 | Prepare Draft Work Plan Coordinate with DOE on Grant Set Up Webpage Select Consultant for Public Outreach |

### SMP Project Kick-Off

| January 2018 | Planning Commission - Project Introduction |
| February     | Council Approval of DOE Grant City Council Adoption of Public Participation Plan |

### Public Outreach

| March | Prepare Reader Friendly with Graphics Summary of SMP Amendments |
| April – May | Initiate Public Outreach for Comments & Concerns On-Line Survey |
| Targeted Outreach Meetings: | Downtown Businesses Downtown Residents Naketa Beach Residents FAC Kiwanis / Rotary Chamber of Commerce PAC / Historical Society / MYAC Port of Everett/WW/WW/City of Everett Tulalip Tribes |
| General Open House | Update Webpage as Needed with Schedule of Events |
Mukilteo example: Council resolution adopting:

- Work plan
- Public Participation Plan
- Schedule
A RESOLUTION OF THE [CITY/COUNTY COUNCIL] ADOPTING THE WORK PLAN PARTICIPATION PLAN AND TENTATIVE SCHEDULE FOR CONDUCTING THE LEGISLATURE’S MANDATED 2019 SHORELINE MASTER PROGRAM PERIODIC REVIEW UPDATE.

WHEREAS, on [date] the [City/County Council] adopted the latest version of the [City/County] Shoreline Master Program (SMP), and

WHEREAS, RCW 90.58.080(4) of the State Shoreline Management Act (SMA) requires that the (jurisdiction name) take legislative action to review and update its Shoreline Master Program by June 30, 2019, and

WHEREAS, to assist SMA planning jurisdictions the State Department of Ecology, which administers the SMA, provides compliance “checklists” for agencies to review against their local Shoreline Master Programs, and

WHEREAS, [City/County] planning staff used the Ecology “checklists” to review the [City/County] SMP for compliance with applicable provisions of the SMA, and

WHEREAS, [City/County] planning staff have also conducted an initial review of the [City/County] SMP for consistency with the current Comprehensive Plan and Development Regulations, and prepared initial considerations of changed circumstances, new information, and improved data relevant to the [City/County] SMP, and

WHEREAS, local governments are required to establish a program that identifies procedures and schedules for the public to participate in the periodic Shoreline Master Program update process, and

WHEREAS, the Department of Ecology recommends that local governments publish a public participation and work program with a schedule at the beginning of the review process, and

WHEREAS, the [Jurisdiction Name] Planning Commission reviewed the work plan and schedule on [date] and recommended approval of such plan to the City Council; and

WHEREAS, the [City/County Council] reviewed the plan and schedule at their work session on [date] to consider the draft 2019 Shoreline Master Program - Work Plan, Public Participation Plan, & Tentative Schedule. Now, therefore,

THE [CITY/COUNTY COUNCIL] DOES HEREBY RESOLVE AS FOLLOWS:


Section 2. Tentative Schedule. The [City/County Council] will review and adopt the amended Shoreline Master Program in accordance with the following schedule, provided that this schedule is subject to change as necessary to ensure public review and comment and thorough review by the Planning Commission and [City/County Council]:

<table>
<thead>
<tr>
<th>Task</th>
<th>Tentative Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Outreach Events</td>
<td>March – May 2018</td>
</tr>
<tr>
<td>SMP Document Preparation</td>
<td>June – August 2018</td>
</tr>
<tr>
<td>Formal Public Review and Circulation of the 2018-2019 SMP Amendments</td>
<td>September – December 2018</td>
</tr>
<tr>
<td>Planning Commission Workshops &amp; Public Hearings</td>
<td>January – February 2019</td>
</tr>
<tr>
<td>City Council Public Hearing(s) &amp; Adoption</td>
<td>March - April 2019</td>
</tr>
</tbody>
</table>
3(b)(i) Review SMA and rule changes

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

Introduction
This document is intended for use by counties, cities and towns conducting the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the Shoreline Management Act (SMA, at RCW 90.58.080). Ecology’s rule outlining procedures for conducting these reviews is at WAC 173-26-090.

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2017 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist
See Section 2 of Ecology’s Periodic Review Checklist Guidance document for a description of each item, relevant links, review considerations, and example language.

At the beginning: Use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

At the end: Use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(iii)(D), and WAC 173-26-110(9)(b).

Local governments should coordinate with their assigned Ecology regional planner for more information on how to use this checklist and conduct the periodic review.
Checklist will be revised as needed

<table>
<thead>
<tr>
<th>Row</th>
<th>Summary of change</th>
<th>Review</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td>The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to $20,000 (from $10,000).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| 2012|                                                                                     |        |        |
| a. | The Legislature amended the SMA to clarify SMP appeal procedures.                  |        |        |

| 2011|                                                                                     |        |        |
| a. | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual. |        |        |
| c. | The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011. |        |        |

2011

2011 a. Federal wetlands delineation manual
Ecology repealed the State Delineation Manual rule and replaced it with a rule requiring that identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.


Review considerations
All SMPs should use language from the new WAC because the state delineation manual rule has been repealed. Consult Ecology's website for wetland delineation manual guidance.

Example language
The following language should be included in the applicable section of the SMP (or the applicable critical areas code if wetland delineation is addressed in a CAO adopted by reference):

Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.
<table>
<thead>
<tr>
<th>Row</th>
<th>Summary of change</th>
<th>Review</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>OFM adjusted the cost threshold for substantial development to $7,047.</td>
<td>2015 SMP includes reference to previous $6,416 cost threshold.</td>
<td>X.2.14: definition of Substantial Development amending SDP cost threshold to new inflation-adjusted amount of $7,047. NOTE: City website and permit application forms were revised with new cost thresholds.</td>
</tr>
<tr>
<td>b.</td>
<td>Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures.</td>
<td>2015 SMP does not clarify that removing structures does not constitute “development.” This issue has come up at the counter frequently enough that staff recommend adding this optional clarification to the SMP.</td>
<td>X.2.10: amended definition of development to include Ecology example code.</td>
</tr>
<tr>
<td>c.</td>
<td>Ecology adopted rules clarifying exceptions to local review under the SMA.</td>
<td>Ecology’s revised rule addressing exceptions incorporated a 2015 Legislative statutory exceptions for WSDOT projects that went into effect after the 2015 SMP was approved. Other statutory exceptions in WAC 173-27-044 and WAC 173-27-045 were in the SMP but included among the list of permit-exemptions.</td>
<td>X.2.15: statutory exceptions moved from list of permit exemptions to new section. X.2.17: Created new section consolidating all exceptions into new section based on Ecology example code.</td>
</tr>
<tr>
<td>d.</td>
<td>Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.</td>
<td>2015 SMP describes filing procedures for permit by stating “permits shall be filed with Department of Ecology pursuant to WAC 173-27-130.” Ecology amendments apply to the city, but no local amendments are needed.</td>
<td>N/A. Note: Administrator amended the SMP Staff Manual to clarify concurrent filing of SDPs, CUPs and Variances.</td>
</tr>
<tr>
<td>e.</td>
<td>Ecology amended forestry use regulations to clarify that forest practices that</td>
<td>Not applicable. No commercial forestry in City.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Back of Guidance document:
Example of a form documenting:

- Review
- Considerations
- Final action
Introduction
This document is intended to provide an overview of the City’s Shoreline Master Program (SMP) Periodic Review update that is necessary to bring the City into compliance with state law. This review is intended to keep the City’s SMP current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the Shoreline Management Act (SMA) at RCW 90.58.080(4). Mukilteo is required to update its Shoreline Master Program by July 1, 2019.

This checklist summarizes the City’s responses to state law amendments, adopted rules and applicable Department of Ecology guidance documents between 2007 and 2017. This document is a living document and will be updated throughout the Master Plan adoption process to reflect necessary SMP amendments and responses to how those amendments were addressed.

State Law, Rules and DOE Guidance – Shoreline Management Regulations

<table>
<thead>
<tr>
<th>Row</th>
<th>Summary of change</th>
<th>Review</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>a. OFM adjusted the cost threshold for substantial development to $7,047.</td>
<td>MMC 17B.13.020(2) relies on reference to statute</td>
<td>No Action Required</td>
</tr>
<tr>
<td></td>
<td>b. Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.</td>
<td>MMC 17B.08 – Definitions: Update per Ecology’s recommended language</td>
<td></td>
</tr>
<tr>
<td></td>
<td>c. Ecology adopted rules that clarify exceptions to local review under the SMA.</td>
<td>Exemptions are provided, but not exceptions; update per DOE recommended language; create new section MMC 17B.13.015 - Exceptions</td>
<td></td>
</tr>
<tr>
<td></td>
<td>d. Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.</td>
<td>Update MMC 17B.13.150 to reflect “date of filing” requires decisions to be filed with Ecology by “return receipt”</td>
<td></td>
</tr>
<tr>
<td></td>
<td>e. Ecology amended forestry use regulations to clarify that forest practices that only involves “Development”Definition, MMC 17B.08, needs to be updated to reflect change;</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Mukilteo example:

Checklist filled out back to 2007 entries

Each row: documents what needs review, with citations, OR where no action is required.

Determines scope of review and documents rationale

<table>
<thead>
<tr>
<th>Row</th>
<th>Summary of change</th>
<th>Review</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>changes;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>Update MMC 17B.72.060 to ensure “effective date” matches state statute</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td>The Legislature created new “relief” procedures for instances in which a <strong>shoreline restoration project within a UGA</strong> creates a shift in Ordinary High Water Mark.</td>
<td>Evaluate impacts of Japanese Gulch Daylighting project and potential Big Gulch Estuary project on shoreline jurisdiction; add new section MMC 17B.13.045 – Requests for Relief from Shoreline Regulations if needed</td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>Ecology adopted a rule for certifying <strong>wetland mitigation banks</strong>.</td>
<td>MMC 17B.52B.100 allows use of wetland mitigation banks</td>
<td>No Action Required</td>
</tr>
<tr>
<td>c.</td>
<td>The Legislature added <strong>moratoria authority</strong> and procedures to the SMA.</td>
<td>Current regulations do not address SMP Moratoria Authority; add new section MMC 17B.72.070 – Moratoria Authority</td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>The Legislature clarified <strong>options for defining “floodway”</strong> as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.</td>
<td>Review definitions in MMC 17B.08 and MMC 17B.52D – Flood Hazard Areas for compliance</td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td>Ecology amended rules to clarify that comprehensively updated SMPs shall include a <strong>list and map of streams and lakes</strong> that are in shoreline jurisdiction.</td>
<td>Table 1, MMC 17B.52C.080 lists all streams in the City and MMC 17B.52C.080(b) addresses Lake Serene (in MUCA); Add maps</td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>Ecology’s rule listing statutory exemptions from the requirement for an SDP was amended to include <strong>fish habitat enhancement projects</strong> that conform to the provisions of RCW 77.55.181.</td>
<td>MMC 17B.13.020(2) relies on reference to statute</td>
<td>No Action Required</td>
</tr>
</tbody>
</table>

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*Note: This table summarizes the changes and actions taken in Mukilteo's shoreline management plan, focusing on events from 2007 to 2009. Each entry details the action taken, the review process, and the rationale behind the decision.*
3(b)(ii) Review relevant comp plans & regs

“Local governments must review changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them.

Changes since SMP was approved

WAC 173-26-191 (1)(e) and WAC 173-26-211(3) provide guidance on determining internal consistency.

Citations to SMA and GMA directives for mutual consistency

Environment Designations:
(a) Provisions not precluding one another (b) Use compatibility (c) Sufficient infrastructure

It is the responsibility of the local government to assure consistency between the master program and other elements of the comprehensive plan and development regulations. Local governments should document the consistency analysis to support proposed changes.”
3(b)(iii) Additional review and analysis

Local governments should consider during their periodic review whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data as described under subsection (1) of this section.

Local governments should consider whether the significance of the changed circumstances, new information or improved data warrants amendments.

Consider public comments in determining Local discretion.

From Section 2(ii) “There is no minimum requirement to comprehensively revise shoreline inventory and characterization reports or restoration plans.”
3(b)(iii) Additional review and analysis

**Mukilteo example:**
City tailored the checklist, categorized other review items:
- changes in local circumstances
- implementation issues

<table>
<thead>
<tr>
<th>Circumstances:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Changes along the Mukilteo Waterfront</td>
<td>Update with new information from the WSF Project, Tank Farm Master Plan, and Updated Policies</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Local Implementation:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Address changes in code that were impediments to WSF, NOAA and Tulalip Property Redevelopment</td>
<td>Building setback and height setbacks from promenade inconsistent sidewalk widths parking setbacks update maps word search for “mayor or his designee” investigate “intercity plateau aquifer” and evaluate if it impacts Mukilteo</td>
</tr>
</tbody>
</table>

**Shoreline Master Program – The Following Changes are Being Initiated by the City to Incorporate Changing Local Conditions**

<table>
<thead>
<tr>
<th>Row</th>
<th>Summary of change</th>
<th>Review</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cover Page, Acknowledgements and TOC</td>
<td>Amend format to resemble 2015-2035 Comprehensive Plan and update as needed</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Chapter 1: Introduction**
- Update local demographics
- Update all maps
- Update minor procedural and process sections
- Clarify SMP is a stand-alone document
- Definitions
- Procedures
- Permitted Uses
- Critical Areas
- Non-Conforming Regulations

Changing Circumstances:
- Ferry Terminal Project
- Waterfront Master Plan
- Policies

Local Implementation:
- Bulk Regulations, Building Height, Setbacks, Sidewalk Widths
3(c) (i) and (iii) Take Legislative action: With changes

Example Ordinance for Shoreline Management Act Periodic Review: Findings of Fact and Adoption of Revisions

Introduction

All cities and counties in Washington state are required to “review, and revise if necessary” their SMPs adopted under the Shoreline Management Act (see RCW 90.58.080(4)). A specific “legislative action” is required by each city and county to demonstrate the completion of this requirement.

This document includes examples of findings that counties and cities could include in the final ordinance adopted by a local government’s elected officials to complete this requirement. This example includes optional language for a review that results in SMP revisions.

[See separate Sample Resolution for jurisdictions that adopt a “Finding of Adequacy” with no changes.]

ORDINANCE NO. _________
AN ORDINANCE CONCERNING THE SHORELINE MASTER PROGRAM PERIODIC REVIEW REQUIRED BY RCW 90.58.080(4)

WHEREAS, the Shoreline Management Act (SMA) requires (name of jurisdiction) to develop and administer a Shoreline Master Program (SMP); and

WHEREAS, the (name of jurisdiction) adopted a comprehensive SMP update as required by RCW 90.58.080(2), which was effective as of (effective date of comprehensive SMP update); and

WHEREAS, RCW 90.58.080(4) requires (name of jurisdiction) to periodically review and, if necessary, revise the master program on or before June 30, 2019; and

WHEREAS, the review process is intended to bring the SMP into compliance with requirements of the act or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data; and

WHEREAS, (name of jurisdiction) developed 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; and

Ecology example document:

Ordinance: for final local action adopting changes to the SMP.

Includes relevant citations to laws and rules, and description of process steps.
Example Resolution for Shoreline Management Act Periodic Review: Findings of Fact and Adoption for Findings of Adequacy

Introduction
All cities and counties in Washington state are required to “review, and revise if necessary” their SMPs adopted under the Shoreline Management Act (see RCW 90.58.080(4)). A specific “legislative action” is required by each city and county to demonstrate the completion of this requirement.

This document includes examples of findings that counties and cities could include in the final resolution adopted by a local government’s elected officials to complete this requirement.

This example includes optional language for “Findings of Adequacy” where the jurisdiction has determined no revisions are needed. The Findings are premised on the local government using the optional “joint review” process under WAC 173-26-104.

RESOLUTION NO. __________
A RESOLUTION CONCERNING THE SHORELINE MASTER PROGRAM PERIODIC REVIEW REQUIRED BY RCW 90.58.080(4)

WHEREAS, the Shoreline Management Act (SMA) requires (name of jurisdiction) to develop and administer a Shoreline Master Program (SMP); and

WHEREAS, the (name of jurisdiction) adopted a comprehensive SMP update as required by RCW 90.58.080(2), which was effective as of (effective date of comprehensive SMP update);

WHEREAS, RCW 90.58.080(4) requires (name of jurisdiction) to periodically review and, if necessary, revise the master program on or before June 30, 2019; and

WHEREAS, the review process is intended to bring the SMP into compliance with requirements of the act or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data; and

WHEREAS, (name of jurisdiction) developed 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; and
Sample Public Notice for Public Comment Period on Finding of Adequacy

This is a sample of notice for a periodic review under WAC 173-26-090, where the jurisdiction is doing a Finding of Adequacy, and is using the optional Joint Review process under WAC 173-26-104.

Ecology rules require publishing notice at WAC 173-26-090(2)(c)(i). The joint review process requires a public comment period of at least thirty days.

(Name of jurisdiction) and Department of Ecology

Shoreline Master Program Periodic Review Public Comment Period and Public Hearing

The (name of jurisdiction) and Washington Dept. of Ecology are accepting comments on a periodic review of the (city’s/county’s) shoreline master program under RCW 90.58.080(4). The (city/county) and Department of Ecology have made an initial determination that no revisions are necessary and the (city/county) anticipates adopting a finding of adequacy under WAC 173-26-090(2)(c)(i).

Public comment is accepted from (date) to (date), 5 p.m. The public Hearing is (date and time) at the (location).

Documents indicating how the existing master program remains consistent with applicable laws, rules and the (city/county) comprehensive plan are available for review at: [insert local government website], the (city/county Planning Department) at (address), or the Dept. of Ecology (NW/SW) Regional Office. Send comments to (city/county) staff member (name) at [number, email).
Joint state/local review

WAC 173-26-104
2. “Joint review” of SMP amendments

Concerns raised about Ecology SMP amendment rules:

- Both local and state comment period is required for every SMP amendment
- Improvements slowed by 2 – 6 months
- Process draw staff resources from implementation

New *optional* process

For amendments other than comprehensive SMP updates:

- “Joint review” = concurrent state and local comment period
- Consolidates, does not reduce public comment opportunity
**Existing amendment process**

1. Local government consult w/Ecology & others
2. Prepare SMP amendments, Planning Commission review
3. Local notice: (GMA review, SEPA, newspaper ad)
4. Local comment period & hearing
5. Local government adopts SMP, complete submittal to Ecology
6. Ecology review for completeness
7. State Notice
   - Ecology comment period and (optional) hearing
   - Ecology sends comments to local government
   - Local response to comments
8. Ecology review & final action

**New: Optional “Joint Review”**

1. Local government consult w/Ecology & others
2. Prepare SMP amendments, Planning Commission review
3. Joint notice: (GMA review, SEPA, newspaper ad)
4. Joint local/state comment period & hearing
5. Local response to comments
6. Ecology initial determination whether amendments comply
7. Local government adopts SMP, complete submittal to Ecology
8. Ecology review for completeness
9. Ecology review & final action

**Added step to improve transparency. Initial Ecology response before local adoption**

**Legend**

- Local action
- Ecology action
- Joint action
Local government consult w/Ecology & others

Draft SMP amendments, Planning Comm review

Joint notice: (GMA review, SEPA, newspaper ad)

Joint local/state comment period & hearing

Local response to comments

Ecology initial determination whether amendments comply

Local government adopts SMP, complete submittal to Ecology

Ecology review for completeness

Ecology review & final action

1(a) Notify Ecology of intent to use the Optional Joint Review Process

(b) Solicit early public and agency feedback

(i) Gauge public participation needs according to the level of complexity, anticipated controversy, and range of amendments
Local government consult w/Ecology & others

Draft SMP amendments, Planning Comm review

**Joint notice**: (GMA review, SEPA, newspaper ad)

**Joint local/state comment period & hearing**

Local response to comments

Ecology initial determination whether amendments comply

Local government adopts SMP, complete submittal to Ecology

Ecology review for completeness

Ecology review & final action

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2(a). Commerce 60-day Notice

2(b). SEPA [*check if exempt under WAC 197-11-800 (19)*]

2(c)(ii) Newspaper ad must include certain minimum items:

*See Sample Public Notice:*

“The City of _____ and Washington Department of Ecology are accepting comments on changes to the (city’s) shoreline master program…”

Ecology will send notice to state interested parties list

---

**Legend**

- Local action
- Ecology action
- Joint action
Local government consult w/Ecology & others

Draft SMP amendments, Planning Comm review

**Joint notice:** (GMA review, SEPA, newspaper ad)

**Joint local/state comment period & hearing**

Local response to comments

Ecology initial determination whether amendments comply

Local government adopts SMP, complete submittal to Ecology

Ecology review for completeness

**Ecology review & final action**

**Legend**

- Local action
- Ecology action
- Joint action

2(c)(i) 30-day comment period

2(c)(ii) minimum of (1) **joint** public hearing *(typically at Planning Commission)*
Local government consult w/Ecology & others

Draft SMP amendments, Planning Comm review

Joint notice: (GMA review, SEPA, newspaper ad)

Joint local/state comment period & hearing

Local response to comments

Ecology initial determination whether amendments comply

Local government adopts SMP, complete submittal to Ecology

Ecology review for completeness

Ecology review & final action

Legend:
- Local action
- Ecology action
- Joint action

2(e) Within 30 days of end of comment period, provide responses
Identify if additional amendments are proposed as a result of comment
3(a). Send SMP to Ecology for **initial determination** of consistency with SMA and Guidelines. [~*Draft Findings & Conclusions*]

**Submittal includes:**

i. Public comments and responses

ii. Summary of changes in response to comments.

iii. Updated text and map amendments.

3(b). Ecology has 30 days (up to 45 days for complex amendments) to provide written determination
Local government consult w/Ecology & others

Draft SMP amendments, Planning Comm review

**Joint notice:** (GMA review, SEPA, newspaper ad)

**Joint local/state comment period & hearing**

Local response to comments

Ecology initial determination whether amendments comply

Local government adopts SMP, complete submittal to Ecology

Ecology review for completeness

Ecology review & final action

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(4) After receiving written concurrence from Ecology, locally adopt the proposed SMP amendments.

Formal submittal WAC 173-26-110.
Local government consult w/Ecology & others

Draft SMP amendments, Planning Comm review

Joint notice: (GMA review, SEPA, newspaper ad)

Joint local/state comment period & hearing

Local response to comments

Ecology initial determination whether amendments comply

Local government adopts SMP, complete submittal to Ecology

Ecology review for completeness

WAC 173-26-110: Include standard submittal checklist (and periodic review checklist)
Local action

Draft SMP amendments, Planning Comm review

Legend

<table>
<thead>
<tr>
<th>Local action</th>
<th>Ecology action</th>
<th>Joint action</th>
</tr>
</thead>
</table>

Joint notice: (GMA review, SEPA, newspaper ad)

Joint local/state comment period & hearing

Local response to comments

Ecology initial determination whether amendments comply

Local government adopts SMP, complete submittal to Ecology

Ecology review for completeness

Ecology review & final action

State approval under WAC 173-26-120 was not really changed, it just clarifies you skip the State Comment Period.
Grants for periodic review
Grants for periodic reviews

FY 2017-2019 budget
$3.2 Million (base SMA budget)
- $1.8 Million ("one-time cut")
$1.4 Million

How to divvy up?

- Grants only for 2019 jurisdictions
- Reduce grant amounts overall
- 75% for cities that updated in 2015
- 50% for cities that updated in 2016/early 2017
- "Findings of Adequacy" for updates now in Ecology review (no grant needed)

<table>
<thead>
<tr>
<th>Category</th>
<th>Grant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Counties</td>
<td>$75,000</td>
</tr>
<tr>
<td>Cities (pop):</td>
<td></td>
</tr>
<tr>
<td>&gt; 100K</td>
<td>$30,000</td>
</tr>
<tr>
<td>50K – 100K</td>
<td>$25,000</td>
</tr>
<tr>
<td>20K – 50K</td>
<td>$20,000</td>
</tr>
<tr>
<td>5K – 20K</td>
<td>$15,000</td>
</tr>
<tr>
<td>&lt; 5K</td>
<td>$10,000</td>
</tr>
</tbody>
</table>
Can we spread out the workload?

Low/Minor: Findings of Adequacy / minor edits

Medium: More changes, low controversy

High: Complex amendments