

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct 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 SMA at [RCW 90.58.080\(4\)](#). 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 2019 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

At the **beginning of the periodic review**, 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).

Ecology recommends reviewing all items on the checklist. Some items on the checklist prior to the local SMP adoption may be relevant.

At the end of your review process, 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)(ii)(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.

Prepared By	Jurisdiction	Date

Row	Summary of change	Review	Action
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	6.4.2 (8)(B)	6.4.2(8) revised to reflect current minimums: (a) 22,500 dollars for docks that are constructed to replace existing docks, and are of equal or lesser square footage than the existing dock being replaced, <i>or</i> (b) \$11,200 for all other docks constructed in fresh waters.
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (<i>applies to 9 jurisdictions</i>)	No water disposal sites managed by DMMP exist in Spokane County	No Action. Finding of Adequacy.
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.	6.4.2 (18) Full list of fish habitat enhancement projects is not present in the SMP – no action needed	No Action. Finding of Adequacy.
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	6.4.2 (1) Exemptions for substantial development minimum is set at \$5000.00. However, SMP references statutory requirements. Section 11 Definition of SDP cost threshold is outdated. Only portion of Statute referenced NOTE: Draft word doc provided had some inconsistencies with adopted.	Updated 6.4.2(1) from \$5,000 to \$7,047 and referenced statute and clarified language Updated 11.2: substantial development definition - cost threshold and other language adjusted / referenced statute. Added sentence requiring permits
b.	Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures.	11.2 Definitions – “Development” does not include suggested language. Also, last existing sentence:	Added within 11.2: “‘Development’ does not include dismantling or removing structures if there is

		consider changing “state” to “stage”	no other associated development or redevelopment.” Also changed “state” to “stage”
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	6.4.2 currently only includes <i>substantial development permit exemptions</i> . However, does not specify exceptions to to CUPs, Variances or other local review, etc.) for remedial actions, environmental excellence program and energy facility site eval. council process. Missing local review <i>exceptions</i> : (ii) Boatyard improvements for NPDES (iii) WSDOT facility maintenance and safety improvements NOTE: Ecology recommends providing for exceptions to SDPs or local review rather than including into SDP exemptions.	Added new section 6.4.6 “Developments not required to obtain shoreline permits or local reviews” with all 5 exceptions per rule. Removed remedial actions, environmental excellence program and energy facility site eval from existing 6.4.2 in lieu of new section.
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	6.3.4 and 6.3.5(5-6) Ecology Review for SDPs: update to “date of filing” needed / clarify date of filing as transmittal to local gov and applicant 7.1.6 Ecology Review for Variances: update needed 7.2.6 Ecology Review for CUPs: update needed	Revised 6.3.4 and 6.3.5(5) per checklist guidelines Added new section 7.3 specifying ecology review (permit filing) process for CUPs and VARs. Removed 7.1.6 and 7.2.6 in lieu of revised and new section above.
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	6.3.2 (5) SDP Determination: clarity recommended for timber cutting. NOTE: Section 5.3.3, Tables 5A and 5B provide for forest	Revised 6.3.2 (5), adding: <i>A forest practice that only involves timber cutting is not considered a development under this chapter and does not require a shoreline</i>

		practices and land clearing activity standards.	<p><i>Substantial Development Permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development and may require a Substantial Development Permit, as required by WAC 222-50-020.</i></p> <p>Revised 11.2 definition to match RCW 76.09.020 “Forest Practices” definition</p>
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	<p>1.4 Scope and Application: Recommended clarifying that SMA does not apply under exclusive federal jurisdiction.</p> <p>NOTE: While 6.4.5 specifies activities which are subject to Federal Review, this update clarifies <i>applicability</i>: that lands under federal jurisdiction are not subject to the jurisdiction of the SMA.</p>	<p>Added suggested language within 1.4: <i>Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of the Shoreline Management Act (chapter 90.58 RCW).</i></p>
g.	Ecology clarified “default” provisions for nonconforming uses and development .	<p>6.5 provides for a definition and standards for nonconforming use and development. However, the definitions are not separated and there are two definitions listed (1) and (3). No definition or standards exist for nonconforming lots.</p> <p>Various other amendments needed per guidelines.</p> <p>Legal Review Recommended</p>	<p>6.5(1-3) Revised and separated definitions for nonconforming use, structure, and lot</p> <p>6.5(5) revised for clarity per guidelines</p> <p>6.5(6) RECOMMEND LEGAL REVIEW prior to any further changes: See WAC 173-27-080(2)(c) – CUP Required? If further revisions needed, Sub-Sections 2 and 3, which reference 6.5(6) may also need amending.</p> <p>6.5(11) revised for clarity as per statute</p> <p>6.5(12) changing 6 months to 2 years</p>

			6.5(13) revised per statute 6.5(14) removed nonconforming lot definition in lieu of new one provided above
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	Section 9 provides for a description of periodic review updates and references the correct statutes. NOTE: While Section 13 addresses amendments, this update is specific to the periodic review procedures of Section 9. However, referral within 13.2(4) to Section 9 may be provided for clarity	Section 9: No Action. Finding of Adequacy. 13.2(4) fixed RCW reference error, adding "90." and removed reference to only sub-section 4 / added reference to section 9.
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	Section 13 provides for not optional joint review process	Added 13.5: <i>Optional joint review process for amending the shoreline master program: Pursuant to WAC 173-26-104 and RCW 90.58.090, the County may elect to collaborate with the Department of Ecology in order to combine the required comment periods by both agencies and to jointly conduct any public hearings.</i>
j.	Submittal to Ecology of proposed SMP amendments.	Section 13 provides for the SMP amendment submittal procedures and is not in conflict with existing WAC rules, which it also references	No Action. Finding of Adequacy.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the Americans with Disabilities Act .	6.4.2 does not provide for an exemption for ADA retrofits	Added exemption 6.4.2(19): <i>RCW 90.58.030(3)(e)(xiii) The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise</i>

			<i>provide physical access to the structure by individuals with disabilities.</i>
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	8.4 refers to the Spokane County CAO. No conflict with SMP found. 8.5(A) provides that the most restrictive regulation applies in the case of conflicts	No Action. Finding of Adequacy. NOTE: CAO currently references 2014 Wetlands Rating System for Eastern WA
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	Procedures for WSDOT projects not addressed. Action is optional to include but not necessary	Added section per guidelines: <i>6.4.7 Special procedures for WSDOT projects that do not meet the conditions of RCW 90.58.356</i>
2014			
a.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	5.2.1 (10), second sentence, provides that “use of over water improvements and floating structures as a residence is prohibited.” Revisions needed. Definition and new provision needed. NOTE: “Floating Home” is defined and treated differently per statute (2011c)	Added New Definition within 11.2: <i>Floating on-water residence - any floating structure other than a floating home, as defined by this chapter: (a) that is designed or used primarily as a residence on the water and has detachable utilities; and (b) whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.</i> Added New provision 5.2.1(12): <i>New over-water residential developments are prohibited. Existing floating on-water residences legally established and moored within a marina within Spokane County prior to July 1, 2014 are considered a conforming use.</i>

2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	13.4 (7, f-i) is consistent with RCW 90.58.190	No Action. Finding of Adequacy.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	8.4 refers to the Spokane County CAO. No conflict with SMP found. 8.5(A) provides that the most restrictive regulation applies in the case of conflicts The CAO section 11.20.050(A) wetlands is adopted by reference and provides for the current standard "1987 Corps of Engineers Wetlands Delineation Manual... or as amended" NOTE: Appendix I weblink is outdated	No Action. Finding of Adequacy. NOTE: Recommend revise link in Appendix I referencing CAO
b.	Ecology adopted rules for new commercial geoduck aquaculture .	No saltwater shorelines exist in Spokane County	No Action. Finding of Adequacy.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	5.2.1 (10), second sentence, provides that "use of over water improvements and floating structures as a residence is prohibited." Revisions needed. Definition and new provision needed. NOTE: "Floating on-water residence" is defined and treated differently per statute (2014a)	Added New Definition within Section 11: <i>Floating home - a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.</i> New provision 5.2.1 (11): <i>New over-water residences are prohibited. A floating home permitted or legally established prior to January 1, 2011 is considered a conforming preferred use.</i> New Definition added within 11.2:

			<p><i>"Conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable. Floating homes should be accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property.</i></p>
d.	The Legislature authorizing a new option to classify existing structures as conforming.	6.5 addresses Nonconforming Use and Development. No action needed.	No Action. Finding of Adequacy.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.	13.4 (7)(c) currently provides for an effective date of 14 days after Ecology’s written notice of final action.	<p>No Action.</p> <p>Effective date is current. Ecology to advise on any other outstanding GMA critical area clarifications needed.</p>
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	6.4.2(14) provides for procedures. However, Ecology rule is not adopted by reference	Amended 6.4.2(14) to add “...consistent with criteria and procedures in WAC 173-27-215.”
b.	Ecology adopted a rule for certifying wetland mitigation banks.	CAO adopted by reference within 8.4	No Action.

c.	The Legislature added moratoria authority and procedures to the SMA.	Moratoria authority is not addressed in SMP but is not required to - reliance on statute suffices.	No Action. Finding of Adequacy.
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Floodway is not currently defined in SMP Section 11. FEMA flood regulations are administered by the Public Works Department.	<p>Added FEMA map definition in Section 11 for consistency of administration:</p> <p><i>Floodway: The area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.</i></p>
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	The 2013 comprehensive update did include maps adopted as Appendix II. Lists of lakes and streams are adopted within the SMP text and found in Section 10, which also references the maps adopted as Appendix II.	No Action. Finding of Adequacy.
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	6.4.2 does not provide for an exemption to fish habitat exemption projects	<p>Add within 6.4.2:</p> <p>WAC 173-27-040(2)(p) <i>Consistent with WAC 173-27-040, a public or private project designed to improve fish or wildlife habitat or fish passage, that conforms to the provisions of RCW 77.55.181.</i></p>

Additional amendments

Modify this section, as needed, to reflect additional review issues and related amendments. The summary of change could be about Comprehensive Plan and Development regulations, changes to local circumstance, new information, or improved data.

Two example formats:

SMP section	Summary of change	Review	Action
5.3.19 (new) plus edits to Table 5A/5b as applicable	Add "Shoreline Onsite Wastewater Treatment Systems" section which was adopted under Board of County Commissioners (BoCC) Resolution 14-0605A, adopted on 7/22/14		Simply adds already adopted language into the code in a logical location within the Use Regulations

SMP Section	Summary of change	Discussion