Shoreline Master Program Periodic Review

**Periodic Review Checklist: 2021 version**

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). The review is required under the SMA at [RCW 90.58.080(4)](http://app.leg.wa.gov/RCW/default.aspx?cite=90.58.080). Ecology rules that define the procedures for conducting these reviews include a requirement to use this checklist to ensure a successful review ([WAC 173-26-090](http://apps.leg.wa.gov/wac/default.aspx?cite=173-26-090)). By filling out this checklist, the local government is demonstrating compliance with the minimum scope of review requirements of WAC 173-26-090(2)(d)(ii). The checklist is organized into two parts.

**Part One** is used to identify how the SMP complies with current state laws, rules and guidance. This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments.

**Part Two** is used to document local review to ensure the SMP is consistent with changes to the local comprehensive plans or development regulations, and to consider changes in local circumstances, new information or improved data. As part of this periodic review the local government should include consideration of whether or not the changes warrant an SMP amendment.

### **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.

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). Ecology recommends reviewing all items on the checklist.

Use the **action column** as a final summary identifying your final action taken to address the identified change in state law, rule or guidance. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b). This will likely include one of the following:

* Amendment proposed (include code citation);
* No amendment needed; or
* Not applicable.

### **Example**

|  |  |  |  |
| --- | --- | --- | --- |
| *Row* | *Summary of change* | *Review* | *Action* |
| 2017a | OFM adjusted the cost threshold for substantial development to $7,047. | 21A.25.290B refers to the statutory thresholds, as amended by OFM. | No amendments needed.  |

### **For more information**

Coordinate with [Ecology regional planner](https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Contacts) for more information on how to use this checklist and conduct the periodic review.

| Prepared By | Jurisdiction | Date  |
| --- | --- | --- |
|  | Omak | 2022 |

# Part One: State laws, rules and guidance review

**Part One** is used to demonstrate compliance with WAC 173-26-090(2)(d)(i)(A). This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments during periodic reviews.\*

| *Row* | *Summary of change* | *Review* | *Action* |
| --- | --- | --- | --- |
| 2021 |
|  | The Legislature amended **floating on-water residences** provisions | SMP does not allow “human habitation on or over water.” 18.21.060(a)(10), approximately page 34. | No action.  |
|  | The Legislature clarified the permit exemption for **fish passage projects** | SMP lists exemptions of substantial development permits. Exemptions, 18.21.050(b)(16), approximately page 27+. | Determine if “forest practices hydraulic projects” are applicable to Omak; if yes, consider updating to add the entirety of RCW language; if not, no action. |
| 2019 |
|  | OFM adjusted the **cost threshold for building freshwater docks**  | SMP cost threshold is outdated at approximately page 26 under 18.21.050 exemptions. | Consider updating.Update outdated threshold. Suggested language in SMP at page 26. |
| 2017 |
|  | OFM adjusted the **cost threshold for substantial development** to $7,047. | SMP cost threshold is outdated at approximately page 21 under definitions. | Consider updating.Update outdated threshold. Suggested language in SMP at page 21. |
|  | Ecology permit rules clarified the **definition of “development”** does not include dismantling or removing structures. |  “Development” does not include all of definition in RCW. Definitions 18.21.040, approximately page 6. | Consider updating.Consider adding what “development” is not. Suggested language in SMP at page 6. |
|  | Ecology adopted rules clarifying **exceptions to local review under the SMA.** | SMP does not appear to house exceptions for remedial hazards, boatyard improvements, or WSDOT maintenance and safety. | No action required.Could consider updating to exclude these exceptions; however, applies even if not in SMP. |
|  | Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute. | SMP does not appear to have appeal procedure, outside of civil penalty appeals. | No action required. |
|  | Ecology amended **forestry use regulations** to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.  | The SMP does not appear to address forestry use/timber cutting. | No action required. |
|  | Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction** | Shoreline element of CP includes exemption for federal activities on federal lands at approximately page 12. | No action required. |
|  | Ecology clarified “default” provisions for **nonconforming uses and development**.  | SMP addresses nonconforming structures, uses, and lots at approximately page 101-102 under 18.21.100, 105, 110; SMP did not adopt WAC 173-27-080 by reference.Shoreline element of CP addresses each at approximately pages 7- 8. | No action required. |
| 2016 |
|  | The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**. | SMP lists all other exemptions from WAC/RCW at approximately 24-29 under 18.21.050 exemptions9(1)-(16). | Consider updating to include 17th exemption for ADA. Suggested edit in SMP at page 30. |
|  | Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system. | SMP refers to Washington State Wetlands Rating System for E. WA – Revised…as updated at approximately page 86 under 18.21.080 Critical Areas in shoreline jurisdiction; at approximately 92, 94. | No action required. |
| 2015 |
|  | The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects.  | The SMP does not appear to refer to 90 day review. | No action required.Could consider adding language for consistency with statute. |
| 2012 |
|  | The Legislature amended the SMA to clarify **SMP appeal procedures**.  | The SMP does not appear to house SMP appeal procedures. | No action required. |
| 2011 |
|  | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**. | The SMP utilizes delineation for wetlands language at approximately page 91 under 18.21.080(f)(1)(A) Critical areas in shoreline jurisdiction. | No action required. |
|  | Ecology adopted rules for new commercial **geoduck aquaculture**. | The SMP does not have geoduck; aquaculture is prohibited at approximately page 48 under 18.21.070(c) Use and designation specific regulations.Aquaculture is also prohibited in the Shorelines element of the CP at approximately page 21. | No action required. |
|  | The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011. | Floating homes is prohibited at approximately page 34 under 18.21.060 General Regulations. | No action required. |
|  | The Legislature authorizing a new **option to classify existing structures as conforming**. | SMP appears to address at approximately page 101 under 18.21.105 nonconforming uses.Shoreline element of CP addresses conforming and non-conforming uses, structures and lots at approximately page 7-8. | No action required. |
| 2010 |
|  | The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**. | The SMP address critical areas in shoreline jurisdiction under 18.21.080 at approximately page 84-85, but not does include no net loss language.“Effective date” does not appear to be in SMP. | No action required.Consider adding sentence regarding “no net loss…”; suggested edit in SMP. |
| 2009 |
|  | 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.  | The SMP does not appear to provide for relief. | No action required.Ecology suggests the SMP include, “the City may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban grown areas consistent with criteria and procedures in WAC 173-27-215.” |
|  | Ecology adopted a rule for certifying **wetland mitigation banks**.  | The SMP and the CAO do not appear to include a provision for certifying wetland mitigation banks. | No action required.Ecology suggests the SMP include a provision authorizing use of mitigation banks - adding “credits from a certified mitigation bank may be used to compensate for unavoidable impacts.” |
|  | The Legislature added **moratoria authority** and procedures to the SMA. | The SMP does not appear to include moratoria authority. | No action required. |
| 2007 |
|  | 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 defined on approximately page 9-10 as FEMA. | No action required.Consider adding what the floodway does not include – RCW 90.58.030(2)(b); suggested language in SMP. |
|  | Ecology amended rules to clarify that **comprehensively updated SMPs shall include a** **list and map of streams and lakes** that are in shoreline jurisdiction.  |  |  |

**\*** See additional considerations for Ocean Management within Ecology’s Ocean Management Checklist and associated guidance for using the Ocean Management Checklist. This checklist and guidance summarizes state law, rules and applicable updated information related to Ocean Resources Management Act (ORMA) and the Washington State Marine Spatial Plan (MSP). All jurisdictions with coastal waters must implement ORMA and the MSP applies to all jurisdictions that overlap with the MSP Study Area. Clallam County, Jefferson County, Grays Harbor County, Pacific County, Ilwaco, Long Beach, Raymond, South Bend, Cosmopolis, Ocean Shores, Hoquiam, Aberdeen, Westport need to plan for ocean uses consistent with ORMA and the MSP and should be using the Ocean Management Checklist in addition to this Periodic Review Checklist.

## **Part Two: Local review amendments**

**Part Two** is used to demonstrate compliance with WAC 173-26-090(2)(d)(ii). This checklist identifies changes to the local comprehensive plans or development regulations, changes in local circumstances, new information or improved data that may warrant an SMP amendment during periodic reviews.

## Changes to Comprehensive Plan and Development regulations

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| --- | --- | --- |
| Question | Answer | Discussion |
| Have you had Comprehensive Plan amendments since the SMP comprehensive update that may trigger need for an SMP amendment? |[ ]  Yes |  |
|  |[ ]  No |  |
| Have your had Development Regulations amendments since the SMP comprehensive update that may trigger need for an SMP amendment? |[ ]  Yes |  |
|  |[ ]  No |  |
| Has your Critical Areas Ordinance (CAO) been updated since the SMP comprehensive update? If yes, are there changes that trigger need for an SMP amendment? |[ ]  Yes |  |
|  |[ ]  No |  |
| Are CAO provisions incorporated by reference (with ordinance # and date) into your SMP? If yes, is it the current CAO or a previous version? |[ ]  Yes |  |
|  |[ ]  No |  |
| Has any new shoreline area been annexed into your jurisdiction since your SMP was updated? If yes, were these areas pre-designated? |[ ]  Yes |  |
|  |[ ]  No |  |
| Other |[ ]  Yes |  |
|  |[ ]  No |  |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP for consistency with amendments to the Comprehensive Plan and Development regulations. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
| --- | --- | --- | --- |
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## Changes to local circumstance, new information, or improved data

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| Question | Answer | Discussion |
| Has your jurisdiction experienced any significant events, such as channel migration, major floods or landslides that impacted your shoreline and could trigger a need for an SMP amendment? |[ ]  Yes |  |
|  |[ ]  No |  |
| Have FEMA floodplain or floodway maps been recently updated for your jurisdiction? If your SMP extends shoreline jurisdiction to the entire 100-year floodplain, has FEMA updated maps that trigger a need for an SMP amendment? |[ ]  Yes |  |
|  |[ ]  No |  |
| Have you issued any formal SMP Administrative Interpretations that could lead to improvements in the SMP? |[ ]  Yes |  |
|  |[ ]  No |  |
| Are there any Moratoria in place affecting development in the Shoreline? |[ ]  Yes |  |
|  |[ ]  No |  |
| Have staff identified the need for clarification based on implementation or other changes? e.g., modifications to environment designations, mapping errors, inaccurate internal references. |[ ]  Yes |  |
|  |[ ]  No |  |
| Are there other changes to local circumstances, new information, or improved data that need to be addressed in your SMP? |[ ]  Yes |  |
|  |[ ]  No |  |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP to address changes to local circumstances, new information, or improved date. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
| --- | --- | --- | --- |
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