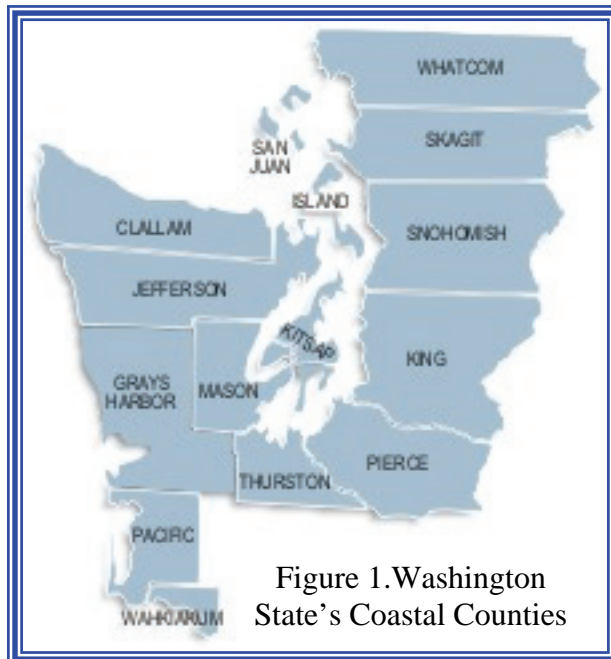


# **Programmatic Draft Environmental Impact Statement**

## ***Amendment No. 4***

### ***Incorporation of the Revised Washington Shoreline Management Act Guidelines***

### ***Into the Federally Approved Washington Coastal Management Program***



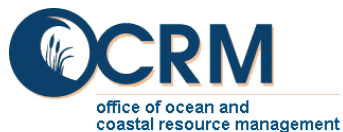
***February 2008***

***Office of Ocean and Coastal Resource Management***

***National Ocean Service***

***National Oceanic and Atmospheric Administration***

***U.S. Department of Commerce***





UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
PROGRAM PLANNING AND INTEGRATION  
Silver Spring, Maryland 20910

JAN 24 2008

Dear Reviewer:

In accordance with provisions of the National Environment Policy Act (NEPA), we enclose for your review the National Oceanic and Atmospheric Administration (NOAA) *Programmatic Draft Environmental Impact Statement for Amendment No. 4 Incorporation of the Revised Washington Shoreline Management Act Guidelines Into the Federally Approved Washington Coastal Management Program.*

In 1972, Congress passed the Coastal Zone Management Act (CZMA) "to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations" (16 U.S.C. 1452). In 1976 Washington was the first state to gain approval of a comprehensive and integrated coastal management program under this Act. The Washington Coastal Management Program (WCMP) is based primarily on the State's Shoreline Management Act (SMA) and the State Environmental Policy Act, both enacted in 1971. In 2004 Washington submitted a request to NOAA requesting incorporation of revised guidelines contained in the SMA into the WCMP. The SMA requires local governments located in the designated coastal zone to revise their Shoreline Master Programs (SMP) to be consistent with the standards contained in the new SMP guidelines.

The proposed federal action is the Office of Ocean and Coastal Resource Management's (OCRM) approval of these changes to the WCMP pursuant to NOAA regulations on Amendments to Approved Management Programs (15 C.F.R. 923.80). When an amendment is submitted, OCRM must review the request to determine if the federally-approved management program, as amended, will still constitute an approvable program. NOAA's full approval of the amendment will allow continued federal funding for implementation of the WCMP and the use of the revised enforceable policies for Federal consistency purposes. In accordance with the amendment procedures, NOAA must assess the environmental impacts of the proposed amendment in order to satisfy the requirements of NEPA.

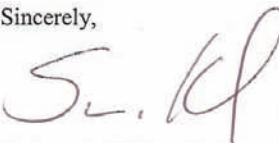
Written comments on the DEIS should be directed via mail, fax, or electronic mail to the responsible official identified below by no later than 45 days after which the EPA



publishes a notice of availability in the Federal Register.

Responsible Official: Helen Farr  
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Sincerely,



*for* Rodney F. Weiher, Ph.D.  
NOAA NEPA Coordinator

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Appendices

- Appendix A: Shoreline Management Act Guidelines, Section 173-26 RCW
- Appendix B: Shoreline Management Act of 1971, Chapter 90.58 RCP
- Appendix C: WDOE Shoreline Master Program Submittal Checklist
- Appendix D: Brief History of Washington’s Shoreline Management Act and Guidelines
- Appendix E: Description of Selected ESA Listed Salmonid Species

## LIST OF ACRONYMS

BA	Biological Assessment
BO	Biological Opinion
CAO	Critical Area Ordinance
CMP	Coastal Management Program
CZMA	Coastal Zone Management Act of 1972
DEIS	Draft Environmental Impact Statement
DMMP	Dredged Material Management Plan
EFH	Essential Fish Habitat
EO	Executive Order
ESA	Endangered Species Act
ESHB	Engrossed Substitute House Bill
FEIS	Final Environmental Impact Statement
FHWA	Federal Highway Administration
GMA	Growth Management Act
IRI	International Roughness Index
LUSC	Land Use Study Commission
NEPA	National Environmental Policy Act of 1969
NMFS	NOAA Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NPDES	National Pollution Discharge Elimination System
OCRM	Office of Ocean and Coastal Resource Management
RFEG	Regional Fisheries Enhancement Group
SBEIS	Small Business Economic Impact Statement
SEPA	State Environmental Policy Act
SHB	Shorelines Hearings Board
SMA	Shoreline Management Act
SMP	Shoreline Master Program
TTI	Travel Time Index
USACOE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
VC	Vegetation Conservation
WAC	Washington Administrative Code
WCZMP	Washington Coastal Zone Management Program
WDFW	Washington Departments of Fisheries and Wildlife
WDNR	Department of Natural Resources
WDOE	Washington Department of Ecology
WRIA	Water Resource Inventory Area

## EXECUTIVE SUMMARY

The Washington Coastal Zone Management Program (WCZMP) has been implemented since 1976 upon approval under the federal Coastal Zone Management Act of 1972 (CZMA). The Washington Department of Ecology (WDOE) has submitted a request to amend its program by incorporating revised guidelines (Washington Administrative Code [WAC] 173-26) developed pursuant to the Washington Shoreline Management Act of 1971 (SMA). The SMA requires local governments located in the designated coastal zone to revise their Shoreline Master Programs (SMPs) to be consistent with the standards contained in the new SMP guidelines. WDOE views the new guidelines as a significant enhancement over the original guidelines which allowed continued degradation of coastal environments. The new guidelines (when implemented through local SMPs) will create positive environmental effects as their intent is to guide shoreline growth in a more informed manner. The new guidelines take into account ecological functions, cumulative impacts of many small scale developments, and greater efforts to restore coastal environments.

Alternatives consist of approval of the proposed amendments; denial of the proposed amendments; and the no action alternative required by the National Environmental Policy Act (NEPA) of 1969. These alternatives are discussed in the Draft Environmental Impact Statement (DEIS). The preferred alternative is to approve the new WAC 173-26 SMA guidelines and permit federal CZMA grants awarded to WDOE in support of local governments revising their SMPs to meet the new guideline requirements.

This is a programmatic environmental impact statement. It analyzes the broad effects of the new requirements in the revised SMA guidelines that will be used by local governments to amend their comprehensive SMPs. It does not attempt to analyze how a local SMP, amended in accordance with the WAC 173-26, would affect the environmental impacts of individual development projects other than what would occur if the minimum standards of the guidelines were met. However, it does look at the impacts of adopting or not adopting the new guidelines, which will ensure development projects are more in accordance with the provisions of the SMA. Additional environmental analysis will be required at the time of adoption of local revised SMPs. The level of detail of this environmental impact statement is therefore generalized.

The new guidelines generally follow the same structure as the original guidelines, namely: environment designations, shoreline uses and shoreline developments. They require a higher standard in the preparation and implementation of SMPs as well as the use of the latest science and expertise available for planning and decision-making. The new guidelines do not require existing uses to meet the new standards, but all future developments under the revised SMPs will need to meet the new requirements. The new guidelines will help achieve improved water quality, scenic beauty, safer development and a number of other objectives consistent with the policies of the SMA. More importantly, the new guidelines introduce new requirements to: (1) achieve no net loss of ecological functions from the current baseline that exists at the time of SMP approval; (2) make improvements to the existing shoreline environments as part of mitigation and restoration requirements; (3) give designated “critical” areas special attention where future development may result in negative impacts; and (4) ensure that activities that do not normally require a shoreline development permit still help achieve SMA policy goals. As

previously, local governments will have latitude when interpreting the new guidelines to meet local circumstances.

The new guidelines require greater integration with the Growth Management Act (GMA). The SMA and guidelines manage a highly influential area (the land/water interface) of the coast, but cannot assure that growth beyond this 200-foot boundary will not adversely influence the water quality of its streams, rivers, lakes, and marine water bodies. The goal of a comprehensive and integrated CMP is to ensure that activities conducted outside the management area do not negatively affect the ecological functions the SMA is designed to protect. Washington promulgated the new guidelines because this level of integration had not been achieved.

The development of the new guidelines has taken over ten years and has at times been controversial. One of the major issues has been the relationship between the guidelines and the objectives of the Endangered Species Act (ESA), as a number of aquatic species have recently been listed in Washington State. The DEIS describes the potential impacts that federal approval of the new guidelines may have on federally listed threatened and endangered species. The DEIS concludes that successful implementation of the new guidelines will: (1) be more protective of critical habitats; (2) provide an information base on which more informed decisions by local governments will be made, and (3) result in less degradation of the environment through mitigation and restoration requirements. From a statewide program review perspective, the new guidelines meet the intent and objectives of the ESA to protect species and their habitats. However, the new guidelines may not prevent adverse affects to some species under a 20-year “worst case” development scenario required for analysis because the focus of the SMA is on the water bodies and their immediately adjacent lands. This is especially true for anadromous fish species. Future growth and development will continue to challenge planners, regulators, and wildlife managers. In order for future growth to achieve the objectives and standards of the new guidelines, local governments must comply with the new guidelines. The new guidelines establish minimum requirements for the update of local SMPs mandated by the SMA. Formal consultation is underway between the Office of Ocean and Coastal Resource Management (OCRM), the action office within the U.S. Fish and Wildlife Service (USFWS), and the NOAA Marine Fisheries Service (NMFS) to address ESA consultation requirements.

## **1. INTRODUCTION**

### **1.1 Approval of the Washington Coastal Management Plan**

In 1972 Congress passed the Coastal Zone Management Act (CZMA) “to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation’s coastal zone for this and succeeding generations” (16 U.S.C. 1452). Because both the Nation as a whole and the individual states and territories have substantial interests in the resources and uses of the coastal zone, Congress decided that management of the coastal zone would be best accomplished through a state-federal partnership. The incentives Congress offered the states to participate in the CZMA were: (1) funding for the development and implementation of coastal management programs (CMPs) approved by the U.S. Department of Commerce/National Oceanic and Atmospheric Administration (NOAA) as meeting the requirements of the CZMA; and (2) the requirement that federal agency activities and any activities requiring a federal license or permit be consistent with states’ CMP enforceable policies (referred to as “federal consistency”) (16 U.S.C. 1455 and 1456).

The CZMA provides guidelines for the development of state CMPs. The implementing federal regulations at 15 CFR Part 923, subparts B-G, outline the requirements for state program development and approval. Subpart H of these regulations includes the guidelines for changing an approved state program. Changes to an approved program may be processed as either a matter of routine program change or as an amendment (15 CFR part 923, subpart H).

In 1976 Washington was the first state to gain approval of a comprehensive and integrated CMP. The WCZMP is based primarily on the State’s Shoreline Management Act (SMA) and the State Environmental Policy Act (SEPA), both enacted in 1971. Other authorities related to water and air pollution control, ocean resources management, and energy facility site evaluation are also incorporated. The State designated the WDOE as the lead coastal management agency. Responsibility for administering the WCZMP has been consolidated in the Shorelands and Environmental Assistance Program.

### **1.2 Washington Coastal Management Program**

The furthest inland reach of Washington’s coastal zone lies in the landward boundary of the 15 coastal counties, including Wahkiakum County on the Columbia River. The SMA applies to the ‘shorelines of the state,’ including all: marine waters; lakes twenty acres and larger; streams and rivers with a mean annual flow of twenty cubic feet per second or more; land areas within 200 feet of the waters; and associated wetlands. These 10,245 miles of shoreline include pristine as well as highly developed urban environments.

The SMA has specific requirements for land and water uses:

- Recognition and protection of statewide interest over local interest;
- Preservation of the natural character of the shoreline;
- Promotion of long-term benefit over short-term gain;

- Protection of the resources and ecology of the shoreline;
- Increasing public access to publicly owned areas of the shoreline; and
- Increasing recreational opportunities of the public on the shoreline.

Washington's SMA of 1971 (RCW Chapter 90.58) sets policies and standards for shoreline management to be implemented by Washington's local jurisdictions through the adoption of local Shoreline Master Programs (SMPs). The SMA requires that SMPs be approved at the state level by Washington's designated coastal management agency, the WDOE. The standards for approval of local SMPs are contained in the Shoreline Management guidelines developed and adopted by WDOE.

Fifteen counties and 115 local jurisdictions within the coastal zone have developed, adopted, and received approval of their SMPs from WDOE and NOAA. These 130 jurisdictions have authority under the SMA to issue or deny substantial development permits for shoreline use activities. Local government recommendations for conditional uses and for variances from their SMP, however, must be submitted to WDOE for approval. The SMA also provides an appeals process. Any person aggrieved by the granting, denying, or rescinding of any local government shoreline permit may appeal that decision to the Shorelines Hearings Board (SHB), a quasi-judicial body. Local and WDOE decisions on conditional use permits and variances, for example, are subject to SHB appeal.

In addition to these formal regulatory and oversight responsibilities, the WCZMP instructs the WDOE to assist local governments with technical, financial, shoreline, and growth management planning assistance. To further extend the goals of the program, the WDOE is to engage in public education and outreach activities.

### **1.3 Development of new Shoreline Master Program Guidelines**

For over 30 years state and federal agencies have funded the comprehensive and integrated WCZMP. Since 1972, state and local bodies have made significant efforts to improve management of the coastal zone. However, growth and development pressures have continued to lead to further degradation of the natural resources. While much was learned over this time about ecological processes and development impacts to water quality and important habitats, the SMA guidelines have not been significantly changed. By the early 1990's, it had become apparent to WDOE (and many others) that the SMA guidelines needed revising in order to incorporate new knowledge, conditions, and laws.

Beginning in 1992 WDOE began exploring the desirability and rationale for amending SMP guidelines; specifically the rules regulating local governments' preparation of local SMPs. Simultaneously, WDOE embarked on a two-year process assisting local governments with integration of provisions of the SMA with the newly enacted GMA (GMA, RCW 36.70A). This included the GMA requirements for local adoption of Critical Area Ordinances (CAOs). This effort culminated in the release of the 2nd edition of the *Shoreline Management Guidebook* (Shorelands and Coastal Zone Management Program, 1994).

In 1995 the Washington legislature adopted Engrossed Substitute House Bill (ESHB) 1724, directing that WDOE: "...periodically review and adopt guidelines..." for local shoreline master programs consistent with SMA policy, and "...at least once every five years...conduct a review of the guidelines." WDOE responded by initiating a review process, conducting research, and forming a Shorelines Policy Advisory Group composed of persons representing local governments, environmental organizations, business and industry, and agriculture. The Shorelines Policy Advisory Group issued a draft report in October 1996, which WDOE presented to the legislatively mandated Land Use Study Commission (LUSC) in early 1997. The LUSC did not reach consensus on the draft report, but endorsed more "efficient and effective" shoreline regulations.

Between 1998 and 2000 WDOE established a new guidelines Commission to draft an amendment of the guidelines rule. The Commission concluded the guidelines should be updated for three principle reasons: (1) the legislative requirement; (2) a need to provide better direction to local governments; and (3) the use of the guidelines in implementing the strategy to recover salmon and their habitat.<sup>1</sup> The Commission held 19 meetings and reviewed two draft rules prepared by WDOE, but could not reach consensus on some issues. WDOE issued a draft rule for public comment in April 1999. This document received a high degree of public scrutiny and comment, much of it critical. WDOE withdrew this draft and used it as a basis for discussions with local and state elected officials.

By 2000 implications from a federal ESA listings of certain salmonid stocks became a factor to great to ignore. Throughout 2000 WDOE developed a revised draft rule that included two different paths (Path A and Path B) for achieving the SMA's intent, and possibly more

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<sup>1</sup> The **Report of the Shoreline Guidelines Commission to the Department of Ecology** dated February 16, 1999 states that the guidelines need updating for three principal reasons:

1. The Legislature has required that the guidelines be updated. The 1995 regulatory reform legislation, ESHB 1724, stated in Section 1, that the Growth Management Act "...should serve as the integrating framework for all other land-use related laws." ESHB 1724 also established a schedule for local governments to review and update their plans and development regulations, with the next such cycle due September 1, 2002. If master programs are to be integrated in accordance with ESHB 1724 in this cycle, the guidelines need to address integration issues well in advance of that date.

2. Population growth and changes in the law, planning practice, and use of science since 1971 are significant and require clearer guidance in the rule in order to achieve balanced and effective resource management. In chapter 90.58.020 RCW the Legislature found "...that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration and preservation..." and called for "...coordinated planning ... in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property." The guidelines need to provide better direction to local governments for effective protection, restoration and preservation of natural resources and utilization of the shorelines, particularly with regard to conflict among uses preferred in the Act.

3. A premise of the Governor's Salmon Recovery Strategy is to use existing laws to comply with the ESA. Since salmon depend on many areas and resources within the jurisdiction of the Shoreline Management Act for their survival, the guidelines need to show how local master programs can help implement the strategy to recover salmon and their habitat.

definitively, meet goals for salmon recovery. While controversial, this rule was adopted by WDOE in November 2000.

The rule remained controversial, especially regarding the dual path approach. Coalitions of interest groups appealed the rule to the Shoreline Hearings Board (SHB), while others intervened on behalf of WDOE. The SHB concluded that WDOE had failed to properly conduct the rule review process, and certain features of Path B exceeded statutory authority. This ruling invalidated the new guidelines rule but did not invalidate WDOE's repeal of the previous rule, thus leaving the State with no approved SMP guidelines rule. The WDOE coalition quickly appealed the SHB decision to Thurston County Superior Court. Before the Superior court could take up the appeal however, the State initiated a mediation process which embraced all parties to the original SHB appeal. The parties reached a negotiated settlement by December 2002.

In January 2003, in conformance with the settlement agreement, WDOE initiated the public process for formal adoption of the negotiated settlement draft guidelines rule. In July 2003, public review drafts of the rule, plus the associated environmental and economic assessment documents, were released for public review and comment. WDOE responded to comments by expanding and/or clarifying the economic and environmental assessment documents, and by making minor clarifications to the rule itself. This process proceeded with little controversy, and in December 2003 WDOE adopted a new guidelines rule, WAC 173-26, Sections 171 to 251. (See Appendix D for a chronological history of the SMA guidelines.)

WDOE submitted the revised SMA guidelines to OCRM in late October 2004 as a program change to the WCZMP. OCRM evaluated the submitted documents and made a preliminary approval determination that the revised SMA guideline changes met the requirements of the CZMA. However, because OCRM determined that incorporation of the new guidelines into the WCZMP would constitute a significant federal action, a final determination could not be made until the requirements of the NEPA were met. Additionally, because of the potential for long-term land use planning and regulation to affect listed endangered and threatened species in Washington, OCRM is conducting formal Section 7 consultation under the ESA with the USFWS and NMFS (*see* Section 7.1.1).

Washington's SEPA, which is similar to NEPA, is an approved management tool used in the implementation of the WCZMP, including review of the guidelines. Consequently, documents 6-8 (Supplemental Final Environmental Impact Statement (FEIS), B/C Analysis, and Small Business Impacts) are incorporated by reference as part of the analysis associated with federal approval of the guidelines as they constitute part of the WDOE submission to OCRM. These documents have been viewed by the public, and are available through the WDOE web site at: <http://www.ecy.wa.gov/biblio/sea2003.html>.

## **2. PURPOSE AND NEED FOR ACTION**

### **2.1 Purpose**

OCRM is responsible under the CZMA for approving any program changes made by a state to its original federally-approved CMP. Changes that must be submitted are those that (1) affect the



CMP as approved by OCRM; (2) the state CMP chooses to spend CZMA funds on; and (3) the state CMP wishes to use for federal consistency review purposes. On October 21, 2004, Washington submitted the new guidelines to OCRM for review and approval as an amendment to the WCZMP. Adoption of the new guidelines represents a substantial change to the state's CMP. The purpose of OCRM's approval of Washington's program change request would be to allow the State to continue its certification as a federally-approved CMP, receive CZMA funds to implement the revised guidelines, and conduct state and federal consistency reviews based on the revised program policies.

## **2.2 Need for Guideline Change**

The CZMA regulations define two types of program changes: amendments and routine program changes. Amendments are defined in 15 C.F.R. 923.80(d), as substantial changes in one or more of five program areas. Whether or not a program change is substantial is based on a case-by-case determination. Indicators of a substantial change include: new or revised enforceable policies that address coastal uses or resources not previously managed, or major changes in the way a state CMP manages uses or resources; the extent to which the proposed change impacts the national interest reflected in the CZMA (e.g., outer continental shelf oil and gas development, energy facility siting, water and air quality, etc.); and the extent to which the proposed change is similar to past program change requests by any state that were treated as amendments.

The Washington Coastal Zone Management Program (WCZMP) was originally approved in 1976 under the federal CZMA of 1972. The WDOE submitted a request to amend their program by incorporating revised guidelines (WAC 173-26) developed pursuant to the Washington SMA of 1971. The new guidelines require local governments located in the designated coastal zone to revise their SMPs to achieve the new standards contained in the guidelines. WDOE considers the new guidelines to be a significant enhancement over the original guidelines and capable of filling gaps found in the original guidelines that allowed continued degradation of coastal environments. The original guidelines did not incorporate new scientific information on resource management, provisions of new laws dealing with rapid growth management, new growth patterns, economic expansion, and land use changes. The Washington State Legislature required that the guidelines be updated and improved if SMA objectives were to be achieved. The guidelines, when incorporated into SMPs, will guide growth management in a more informed manner, taking into consideration ecological functions, cumulative impacts of many small scale developments, and greater efforts to restore environments. Periodic updating of the guidelines is also required.

Based on the scope of these changes, OCRM has determined that Washington's program submission qualifies as a substantial change to the WCZMP, and therefore OCRM is required under the CZMA to conduct a review and approval process for Washington's program change submission as an amendment, which includes the production of an EIS.

## **3. DESCRIPTION OF THE PROPOSED ACTION**

This section describes the proposed action that requires preparation of an EIS under NEPA; i.e., OCRM's approval of the WDOE's amendments to the WCZMP. Through its designated agent,

the WDOE, Washington submitted a request to OCRM to incorporate revised guidelines to local governments into its federally-approved WCZMP. This action satisfies a federal requirement under the CZMA for states to submit, in an expeditious manner, appropriate revisions to their programs (16 USC 1455(e)(1)). The change completely replaces Chapter 173-16 of the WAC “Shoreline Management Act Guidelines for Development of Master Programs,” that has been repealed and replaced with state-adopted Chapter 173-26 “Shoreline Master Program Guidelines.” The guidelines (WAC 173-26-171 through 251 and related definitions in WAC 173-26-020) were adopted by the WDOE on December 17, 2003, and became effective January 17, 2004. This is the first comprehensive update to the guidelines since their original adoption in 1972. Table 1 depicts how the topical shoreline management issues of the original guidelines continue to be addressed in the new guidelines and where the new guidelines are expanded to more directly address additional issues.

Table 1. General Table Showing Management Issues Addressed by the Original vs. the New Guidelines.			
Old WAC 173-16 Guidelines	New WAC 173-26 Guidelines		
Use Activities	Master Program Provisions	Shoreline Modifications	Shoreline Uses
Agricultural Practices			Agriculture
Aquaculture			Aquaculture
Forest Management Practices			Forest Practices
Commercial Development			Commercial Development
Marinas			Boating Facilities
Mining			Mining
Outdoor Advertising, Signs, Billboards			
Residential Development			Residential Development
Utilities			Utilities
Ports & Water-Related Industry			Industry
Bulkheads		Shoreline Stabilization	
Jetties and Groins		Breakwaters, Jetties, Groins & Weirs	
Landfill		Fill	
Solid Waste Disposal			
Dredging		Dredging & Dredge Material Disposal	
Shoreline Flood Protection	Flood Hazard Reduction		
Road and Railroad			Transportation &

Design & Construction			Parking
Piers		Piers & Docks	
Archeological Areas & Historic Sites	Archeological and Historic Resources		
Recreation			Recreational Development
	<b>New Provisions in Guidelines</b>		
	Critical Areas: - Wetlands, - Geologically Hazardous Areas, - Critical Saltwater Habitats, - Critical Freshwater Habitats	Beach & Dune Management	Instream Structural Uses
	Public Access	Shoreline Habitat & Natural System Enhancement Projects	
	Shoreline Vegetation Conservation		
	Water Quality, Storm Water, & Nonpoint Pollution		
This simplified table reflects only the distribution of titles of the old and new guideline provisions and not the substance of what is covered under each title.			

### 3.1 Updating Local Shoreline Master Programs

Washington’s new guidelines will govern the development requirements and adoption of local jurisdiction SMPs. The guidelines advise local jurisdictions to undertake a number of specific tasks to ensure that their SMPs comply with state SMA goals and policies. The guidelines also require local jurisdictions to seek public involvement in the SMP update process and to maintain ongoing coordination with relevant local, state, federal, and tribal agencies throughout the shoreline SMP planning process. A brief summary of this planning process is provided below (*see* Figure 2).

The first step in the update process is to review and revise existing SMP goals. Local governments are also expected to review and revise local permit administrative procedures to help integrate SMP administration with other regulatory processes and improve efficiency. Local jurisdictions are then required to complete a thorough inventory of their shorelines to characterize shoreline ecological processes and functions found there. This inventory is intended to synthesize all available information about a jurisdiction’s shorelines and to characterize existing shoreline conditions. While the original guidelines required a land use inventory of the shoreline, this requirement to inventory and characterize existing coastal physical and biological

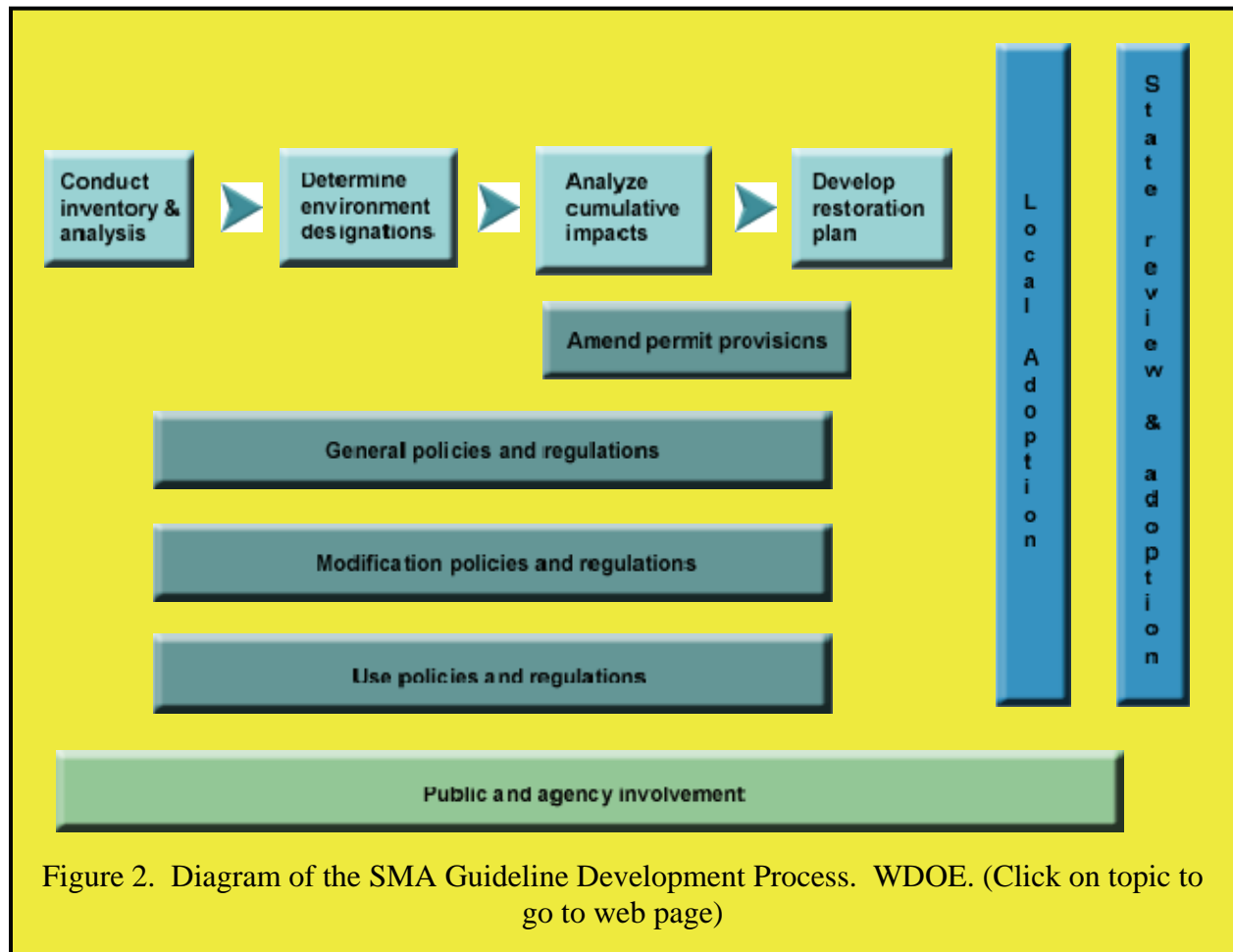


Figure 2. Diagram of the SMA Guideline Development Process. WDOE. (Click on topic to go to web page)

processes and functions represents an entirely new requirement for local SMP updates. This information is overlain with the land use information to characterize existing coastal conditions. The inventory also results in a spatially specific map portfolio.

Local governments are tasked to complete their inventories on two scales: a broader, more inclusive ecosystem or watershed scale, and a narrower, more focused reach (or drift-cell) scale. The broader analysis identifies the processes influencing or driving the biophysical conditions of shorelines within the jurisdiction’s planning area. It encourages jurisdictions to coordinate with neighboring jurisdictions to understand the wider context of their planning efforts. This scale of analysis can help identify historic or ongoing cumulative shoreline impacts that can be addressed through the SMP, restoration planning, or other mechanisms (e.g., existing management programs, volunteer activities, and other planning efforts). The more detailed reach or drift cell

scale identifies ecological functions provided by shoreline segments within the local government's planning area.

Steps in the detailed mapping process include:

- Mapping preliminary shoreline jurisdiction boundaries;
- Determining shoreline jurisdiction boundary;
- Determining shoreline types based on inherent physical characteristic;
- Mapping reach boundaries and refining with other zoning and planning information;
- Documenting rationale used for defining reaches;
- Overlaying biological features and critical areas; and
- Overlaying shoreline structures and modifications to identify impairments to ecological function.

By combining map portfolio and cultural resource information, jurisdictions will be able to complete detailed analyses of their shorelines, allowing them to identify potential opportunities and issues, including:

- Areas critical for ecological protection;
- Areas where development might occur in the future;
- Areas where water dependent uses could be supported and public access improved;
- Potential shoreline environment designation boundaries;
- What restrictions on development should be required; and
- Restoration opportunities.

These information, inventory, and graphic analyses support the development of master program policies and regulations designed to achieve *no net loss of ecological functions*, and serve as the basis of a shoreline restoration plan. The restoration plan should include the following:



- Clearly identified degraded areas;
- Goals and priorities for restoration of areas with impaired ecological functions;
- Descriptions of existing programs that contribute to restoration goals;
- Descriptions of additional programs needed to meet restoration goals;
- A schedule for implementing restoration projects and programs and for achieving restoration goals; and
- A detailed strategy outlining how the program is to be implemented and monitored for effectiveness.

The process is likely to be costly and time consuming. It will likely place additional burdens on state and federal resource agencies, university experts, and others who can assist in providing the best available science, engineering, and planning expertise. Acknowledging these issues, the State Legislature designated extra monies and will allow the use of CZMA funds to assist in the process. To ensure these burdens are manageable, jurisdictions will stagger the process according to a WDOE timescale. WDOE is giving priority to jurisdictions that are experiencing the greatest rate of growth and coastal counties.

When the shoreline inventory and analysis are complete, local governments must determine their final shoreline designations. Once these designations are established, jurisdictions can complete final modifications to SMP policies and regulations and can determine use policies, modification activities, and standards.

Once a SMP has been developed and approved locally, it is submitted to the WDOE for review and further public comment. The overall regulatory structure of SMPs involves classification of areas under shoreline jurisdiction into various designations called *environments* (see Table 2). The SMP guidelines specify general master program *provisions* that must be addressed generally or in shoreline areas that meet the specified criteria. Policies and regulations vary among shoreline environment designations and determine the type and character of *modifications* and *uses* that are allowed or encouraged within shoreline areas. Through changes in shoreline environmental designation, jurisdictions can achieve larger policy goals for both growth and ecological protection. This overall process of program development is not a new or significant change from the old system. However, various requirements are more specific and concepts for planning more defined.

Table 2. Summary list of the SMA guideline environments, provisions, modifications, and uses.

<p><b>Shoreline environments</b></p> <ul style="list-style-type: none"> <li>• Natural</li> <li>• Rural conservancy</li> <li>• Aquatic</li> <li>• High intensity</li> <li>• Urban conservancy</li> <li>• Shoreline residential</li> <li>• Other</li> </ul>	
<p><b>Regulated master program provisions</b></p> <ul style="list-style-type: none"> <li>• Archaeological and historic resources</li> <li>• Critical areas: wetlands; areas with a critical recharging effect on aquifers used for potable waters; fish and wildlife habitat conservation areas; frequently flooded areas; and geologically hazardous areas.</li> <li>• Flood hazard reduction</li> <li>• Public access</li> <li>• Shoreline vegetation conservation</li> <li>• Water quality, stormwater, and nonpoint source pollution</li> </ul>	
<p><b>Shoreline modification activities</b></p> <ul style="list-style-type: none"> <li>• Shoreline stabilization</li> <li>• Piers and docks</li> <li>• Fill</li> <li>• Breakwaters, jetties, groins, and weirs</li> <li>• Beach and dunes management</li> </ul>	

- Dredging and dredge material disposal
- Shoreline habitat and natural systems enhancement projects

**Shoreline uses**

- Agriculture
- Aquaculture
- Boating facilities
- Commercial development
- Forest practices
- Industry
- Instream structural uses
- Mining
- Recreational development
- Residential development
- Transportation and parking
- Utilities



### 3.2 Description of Changes Proposed Under the New Guidelines

The overall purpose of the guidelines is to maintain or improve environmental conditions of the shorelines within local jurisdictions (WAC 173-26-186 (8)(b), (8)(c), (8)(d)). The guidelines allow continued growth for a wide range of purposes while simultaneously protecting overall habitat integrity, natural character, and shoreline ecology and resources. The role of local governments is to achieve the goals of the guidelines with state oversight.

The guidelines introduce the standard of *no net loss of ecological functions* (WAC 173-26-186 (8)(b)(i-ii)). Local governments must achieve this standard through a combination of regulations requiring the avoidance and mitigation of impacts, individual permit decisions, and non-regulatory activities (WAC 173-26-186(3), (4), (5)). To ensure that this standard is met, specific and measurable criteria must be established on a reach scale, and monitored over time.

The SMA guidelines also require local governments with functionally ecologically impaired shorelines to include goals and policies that provide for *restoration of such impaired ecological functions* (WAC 173-26-186 (8)(c)). To ensure restoration over time, jurisdictions are required to identify shoreline areas with existing degraded functions, prioritize restoration opportunities, coordinate with existing restoration projects and programs, and to prepare a comprehensive restoration strategy (WAC 173-26-201). Local strategies should also outline how non-regulatory actions contribute to restoration objectives over time.

Policies and regulations developed under the shoreline SMA guidelines must be designed to achieve the following (WAC 173-26-186; WAC 173-26-201):

- Achieve no net loss of ecological functions necessary to sustain shoreline natural resources;

- Use the most current, accurate, and complete scientific and technical information for development of policies and regulations;
- Ensure that each permitted development causes no net loss of ecological functions;
- Ensure that exempt development in the aggregate causes no net loss of ecological functions;
- Address and fairly allocate the burden of mitigating cumulative impacts of development among development opportunities;
- Plan for restoration of ecological functions where they have been impaired;
- Promote restoration of ecological functions through a combination of regulatory and non-regulatory programs by a combination of public and private actions;
- Prioritize reservation of areas for protecting and restoring ecological functions over provision for water-dependent uses and other uses, and limit non-water-oriented uses in the shoreline;
- Require mitigation of adverse impacts of individual developments in accordance with the following sequence:
  - Avoidance of impact
  - Minimization of impact
  - Rectification of impact
  - Reduction or elimination of impact over time
  - Compensation with substitute resources
  - Monitoring
- Require mitigation in proportion to and not in excess of that necessary to ensure no net loss of ecological functions;
- Provide preference for compensatory mitigation, when mitigation is required, to be located within the immediate vicinity of the impact;
- Ensure that new development meets vegetation conservation objectives; and
- When there is uncertainty about the extent or condition of an existing ecological resource, ensure that the resource is protected.

As land use plans, SMPs contain both a planning element and specific development regulations (minimum standards). The planning element specifies how local government plans for future development and uses of particular shorelines (e.g., natural, residential, commercial). This has potential for long-term environmental consequences as it relates to protection and development potential. The regulatory elements provide implementing regulations that limit development and define uses consistent with the plan for the area. They are incorporated through local land use codes and authorities and serve as measures to protect the environment or allow changes to the landscape that meet development objectives. For example, the new guidelines state that, “vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit” (WAC 173-26-221(5)(a)). Governments can achieve this objective through a variety of measures (e.g., clearing and grading regulations, setback and buffer standards, critical area regulations, condition use requirements for specific uses or areas, mitigation requirements, incentives and non-regulatory programs). WDOE will use a checklist filled out by local jurisdictions to ensure these provisions have been met and documented (*see* Appendix C).



Rapid population growth and its corresponding demands on the ecosystem have resulted in a need for programs that can help decision-makers understand and address the environmental, social and economic implications of growth. The need for sound data and the requirement to use such data are called for in the new guidelines. The comprehensive process to conduct inventories and analyses of the shoreline conditions (WAC 173-26-201(3)(c)-(d)) will serve multiple management purposes. The new guidelines encourage the participating SMP jurisdictions to:



Figure 3. Example of shoreline residential use on sand/gravel island with erosion protective structures.  
Source: WDOE

Gather and incorporate all pertinent and available information, existing inventory data and materials from state agencies, affected Indian tribes, watershed management planning, port districts, and other appropriate sources. Ensure that, whenever possible, inventory methods and protocols are consistent with those of neighboring jurisdictions and state efforts.

Jurisdictions must collect information on critical areas, including wetlands, aquifer recharge areas, and frequently flooded areas. They must also create a list of additional uses and resources important for planning and management purposes, including environment designations.

As the SMPs are revised, the new guidelines suggest standards to protect the shoreline conditions. For example, comparing wetland conditions with the causes related to their degradation could encourage a review of the new guidelines to look for measures that may help reduce future wetland losses.

Specific provisions of the new guidelines address all the major issues and have the overall goal of no net loss of wetland areas and their functions. The new guidelines recommend creating buffers and planning for mitigation, including compensatory mitigation as appropriate. The new guidelines also identify specific provisions in four major categories that will help in the long run to reduce losses. Following are some examples:

1. Urban Expansion

Greater requirement to establish water-dependent need for commercial and industrial development, establish no net loss for plats and subdivisions.

## 2. Forestry

When there is a likelihood of conversion to non-forest uses, assure no net loss of shoreline ecological functions and maintain the ecological quality of the watershed's hydrologic system.

## 3. Agriculture Practices

New agricultural development will require a substantial development permit, be consistent with environment designation and assure no net loss of ecological function.

## 4. Invasive Species

Vegetation conservation includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas.

Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.

Collectively, the new guidelines and their subsequent implementation by local governments will facilitate a more informed understanding of shoreline conditions and managing land uses in order to reduce adverse affects. Significant growth is anticipated during the next 10-15 years that will continue to cause a shoreline change. Local governments will play a central role in determining how that growth meets the policy goals of the SMA.

All of the new WDOE-adopted guidelines (WAC 173-26) that would be incorporated into the WCZMP through OCRM approval under the provisions of the CZMA are included in Appendix A. The following summarizes the changes to the WCZMP that must be considered by OCRM under the CZMA.

### **3.2.1 Shoreline Boundaries.**

The new guidelines do not change the original jurisdiction of the SMA boundaries. Local governments may choose to address channel migration zone (CMZ or meander belt) issues within their SMPs and related programs (*see* description in Appendix A, p. A-27 on flood hazard reduction). This allows a flexibility not included in the original guidelines to deal with flood hazard issues. Additionally, when a critical area lies partially within an SMA jurisdiction limit and partially in an area regulated by the GMA under the Critical Areas Ordinance (CAO), the local government may extend the shoreline jurisdiction to include the entire critical area and all lands necessary to protect it (ESHB 1933 Sec. 2(2)(f)(ii) & RCW 90.58.030(2)(f)(ii)). If a local government does extend its jurisdiction, the critical area and its buffers are to be protected by the SMP. (*See* Department of Ecology and Department of Community, Trade and Economic Development: Questions and Answers on ESHB 1933 Critical Areas Protection Under the GMA and Shoreline Management Act.)

### 3.2.2 Program Authorities and Organization.

The new guideline changes do not alter the basic structure of the authorities and organization of the WCZMP. The new revisions do require more frequent inventories, updates, and changes to SMPs, taking into consideration new laws, science, and circumstances. Local governments will continue to implement the provisions of the guidelines in accordance with the SMA, with oversight responsibilities provided by state organizations. For cities and counties fully planning under the GMA, the Legislature transferred jurisdiction for appeals of SMPs from the Shorelines Hearing Board to the Growth Management Hearings Board. (RCW 90.58.190).

### 3.2.3 Preferred Uses.

The SMA establishes the concept of ‘preferred uses’ of shoreline areas. According to RCW 90.58.020, “uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state’s shorelines.” If alteration of the natural condition of the shorelines is allowed, priority is given to the following uses:

- 1) single family residences (*see* Figure 4);
- 2) ports;
- 3) shoreline recreational uses;
- 4) industrial and commercial developments that are particularly dependent upon their location on, or use of, the shorelines; (*see* Figure 5) and
- 5) other developments which will provide an opportunity for substantial numbers of people to enjoy the shorelines.

Preferred uses for shorelines of statewide significance are those that:

- 1) recognize and protect the statewide interest over local interests;
- 2) preserve the natural character of the shoreline;
- 3) favor long-term over short-term benefits;
- 4) protect the resources and ecology of the shoreline;
- 5) increase public access to publicly-owned shorelines (*see* Figure 6); and
- 6) increase shoreline recreational opportunities.



Figure 4. Single family homes along shore spit. Source: WDOE



Figure 6. Public access along shoreline. Source: WDOE

While the SMA does not categorically prohibit all non-water dependent uses, water-dependent uses are preferred. The concept of use preferences is particularly applicable to shorelines under intense development pressure for port and harbor-related industrial activity where shoreline is limited and extremely valuable.

As summarized in WAC 173-26-176 the Act establishes a preference for uses that are unique to or dependent upon a shoreline location. Consistent with this policy, these guidelines use the terms “water-dependent,” “water-related,” and “water-enjoyment” (as defined in WAC 173-26-020), when discussing appropriate uses for various shoreline areas.

Shoreline areas, a limited ecological and economic resource, are under pressure from competing uses including ecological protection and restoration activities. Consistent with RCW 90.58.020 and WAC 173-26-171, local governments shall, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction, apply the following preferences and priorities in the order listed below, starting with (i) of this subsection. For shorelines of statewide significance, local government must also apply the preferences as indicated in WAC 173-26-251(2).

- (i) Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
- (ii) Reserve shoreline areas for water-dependent and associated water related uses. Harbor areas, established pursuant to Article XV of the State Constitution, and other areas that have reasonable commercial navigational accessibility and necessary support facilities such as transportation and utilities should be reserved for water-dependent and water-related uses that are associated with commercial navigation unless the local governments can demonstrate that adequate shoreline is reserved for future water-dependent and water-related uses and unless protection of the existing natural resource values of such areas preclude such uses. Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.
- (iii) Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
- (iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.
- (v) Limit non-water-oriented uses to those locations where the above described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the SMA (WAC 173-26-201(2)(d)).

The concept of preferred uses is noted throughout the new guidelines. There are new definitions for “water-enjoyment uses,” “water-oriented uses,” and “water-related uses.” The original guidelines did not define these uses, however there was liberal direction that priority should be given to water-dependent industry and public uses, for use of community piers and docks.