

OCEAN MANAGEMENT CHECKLISTS

(ORMA Requirements of WAC 173-26-360 and MSP Requirements)

PERIODIC REVIEW CHECKLIST

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**TABLE OF DRAFTED AMENDMENTS FOR
WESTPORT SMP PERIODIC REVIEW**

for

**CITY OF WESTPORT
SHORELINE MASTER PROGRAM
2023 Periodic Review**

Prepared For:

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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\(4\)](#). 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](#)). 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](#) for more information on how to use this checklist and conduct the periodic review.

| | | |
|-------------|--------------|----------------|
| Prepared By | Jurisdiction | Date |
| AHBL, Inc. | Westport, WA | March 14, 2023 |

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 | | | |
| a. | The Legislature amended floating on-water residences provisions | Floating homes are not allowed in Westport. 5.07.02(B)(8) | N/A |
| b. | The Legislature clarified the permit exemption for fish passage projects | Section 7.04.04 references WAC 173-27-040 for exemptions. WAC 173-27-040 includes this exception. | No action needed |
| 2019 | | | |
| a. | OFM adjusted the cost threshold for building freshwater docks | Section 1.06.02(C) says that the city will review all development proposals within shorelines of statewide significance for consistency with RCW 90.58.020. | No action needed |
| 2017 | | | |
| a. | OFM adjusted the cost threshold for substantial development to \$7,047. | The cost threshold is outdated. Cost threshold should be updated in SMP Section 8 – Definitions. | Updated threshold to \$8,504 (the value effective July 1, 2022 per OFM filing with the State Register). |
| b. | Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures. | The existing definition for “development” does not include this clarification. The definition should be updated according to the language in the checklist guidance. | Updated the definition of “development” according to the language in the checklist guidance. |
| c. | Ecology adopted rules clarifying exceptions to local review under the SMA. | The 2017 SMP does not include these exceptions. Section 1.05 should be updated according to checklist guidance. | Updated Section 1.05 to include item “F”, which outlines the exceptions to local review. |
| d. | Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute. | The 2017 SMP includes “date of filing” instead of “date of receipt” for shoreline permits sent to Ecology, as required. | No action needed |

| Row | Summary of change | Review | Action |
|------|--|---|--|
| | | <p>The 2017 SMP includes requirement for simultaneous filing of Substantial Development, Conditional Use Permits, and/or variances in Section 7.02.03.</p> <p>The 2017 SMP does not go into detail into permit procedures so no review is needed to ensure consistency with required permit procedures in RCW 90.58.140(6).</p> | |
| 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. | Forest practices are prohibited in all shoreline environmental designations in Westport. | Not applicable. |
| f. | Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction | Update Section 1.05 Applicability to include this information (The Coast Guard station would be considered to be under exclusive federal jurisdiction) | Updated Section 1.05 Applicability to include this information |
| g. | Ecology clarified “default” provisions for nonconforming uses and development . | The 2017 SMP does not include separate definitions for nonconforming use, nonconforming development/structure, and nonconforming lot. However, these changes are optional because the 2017 SMP includes provisions to address nonconforming uses. | No action needed. |
| 2016 | | | |
| a. | The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the Americans with Disabilities Act . | Section 7.04.04 references WAC 173-27-040 for exemptions. WAC 173-27-040 includes this exception. | No action needed. |
| b. | Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system. | Section 2.03 states wetlands shall be rated in accordance with Washington State Wetlands Rating System for | No action needed. |

| Row | Summary of change | Review | Action |
|------|--|--|---|
| | | Western Washington: 2014 Update, 2014, Ecology Publication No. 14-06-029 as revised and approved by Ecology. | |
| 2015 | | | |
| a. | The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects. | 2017 SMP does not include this provision or reference to 90-day target. | Optional amendment – no action recommended. |
| 2012 | | | |
| a. | The Legislature amended the SMA to clarify SMP appeal procedures . | The 2017 SMP does not include SMP appeal procedures. Checklist guidance says that no change is necessary if SMP appeal process is not outlined. | No action needed. |
| 2011 | | | |
| a. | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual . | SMP Appendix 2 (Critical Areas Regulations) Section 2.02 indicates this | No action needed. |
| b. | Ecology adopted rules for new commercial geoduck aquaculture . | The 2017 SMP includes the required rules for commercial geoduck aquaculture in Section 5.06.02(D) including siting considerations and permit requirements. The definition of “aquaculture” does not include wild geoduck harvest. | No action needed. |
| c. | The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011. | Floating homes are not allowed in Westport. 5.07.02(B)(8) | N/A |

| Row | Summary of change | Review | Action |
|------|---|---|-------------------|
| d. | The Legislature authorizing a new option to classify existing structures as conforming . | The 2017 SMP does not include this classification. The checklist guidance says it is optional to include. | No action needed. |
| 2010 | | | |
| a. | The Legislature adopted Growth Management Act – Shoreline Management Act clarifications . | The 2017 SMP includes a separate appendix for critical areas and shoreline areas. | No action needed. |
| 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. | Section 6.06.02 of the SMP references these procedures. | No action needed. |
| b. | Ecology adopted a rule for certifying wetland mitigation banks . | Critical Areas Ordinance (adopted by reference) states in 15.34.570(5)(D)(ii) (ii) Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument. | No action needed. |
| c. | The Legislature added moratoria authority and procedures to the SMA. | The 2017 SMP does not include the moratoria procedures. The checklist guidance says that adding them is not necessary. | No action needed. |
| 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. | Section 1.06.01 includes floodways as areas established by FEMA. The definition of “floodway” in Section 8 also references areas established in effective FEMA flood insurance rate maps or floodway maps. | No action needed. |
| 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 2017 SMP includes a list of waterbodies subject to the SMP (Section 1.06). Included in Appendix 1 is a map of shoreline environment designations. | No action needed. |

* 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

| Question | Answer | | Discussion |
|--|-------------------------------------|-----|--|
| Have you had Comprehensive Plan amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | <input type="checkbox"/> | Yes | |
| | <input checked="" type="checkbox"/> | No | |
| Have your had Development Regulations amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | <input type="checkbox"/> | Yes | Ord. 1591 added §§ 17.36.060 and Ord. 1612 amended §§ 17.36.060(1), (3)(N) and (3)(P), temporary homeless encampments – No bearing on the SMP No other changes. |
| | <input checked="" type="checkbox"/> | 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? | <input checked="" type="checkbox"/> | Yes | The CAO was updated in 2018 and it appears that the updates were made to mirror what is included in the SMP CARs, with language that only applied in Shoreline Jurisdiction were not included. No changes trigger a need for an SMP amendment. |
| | <input type="checkbox"/> | 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? | <input type="checkbox"/> | Yes | CAO provisions are not incorporated by reference except that WMC 15.12 – Flood Damage prevention has been traditionally. Per guidance from Ecology we are changing the “incorporation by reference” statement to instead say that the critical areas provisions relating to the city’s flood damage prevention ordinance (at WMC 15.12) shall apply. |
| | <input checked="" type="checkbox"/> | No | |
| Has any new shoreline area been annexed into your jurisdiction since your SMP was updated? If yes, were these areas pre-designated? | <input type="checkbox"/> | Yes | N/A |
| | <input checked="" type="checkbox"/> | No | |
| Other | <input type="checkbox"/> | Yes | N/A |
| | <input type="checkbox"/> | 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 |
|-------------|----------------------------|---------------------------------------|--|
| | | | |

Changes to local circumstance, new information, or improved data

| 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? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <p>The city is experiencing significant events and is separately looking to study and consider impacts of sea level rise; could it be related to water inundation and flooding differences which have occurred. (King tide, high ground water levels, astronomic low pressure systems, etc. have all caused flooding.)</p> <p>However, no SMP amendments are necessary due to these factors at this time.</p> |
| 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? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | We reviewed the new FEMA maps and no changes are triggered. |
| Have you issued any formal SMP Administrative Interpretations that could lead to improvements in the SMP? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| Are there any Moratoria in place affecting development in the Shoreline? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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. | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| Are there other changes to local circumstances, new information, or improved data that need to be addressed in your SMP? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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 data. 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 |
|-------------|----------------------------|---------------------------------------|--|
| | | | |

TABLE OF DRAFTED AMENDMENTS FOR WESTPORT SMP PERIODIC REVIEW

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|--------------------------------------|---|--|--|
| Various, including Appendix 2 | Various grammatical improvements | N/A | N/A - The changes don't change the meaning and increase readability |
| Section 8 – Definitions | Minor change to the definition of adjacent to remove reference to bald eagle nests | Bald Eagle delisted from State Sensitive - February 4, 2017 a. 2011: Downlisted from State Threatened to Sensitive (this ended the requirement to develop Bald Eagle Protection Plans per WAC 220-610-100) b. 2007: Delisted from federal Threatened (but still covered by the federal Bald and Golden Eagle Protection Act) | This amendment does not change implementation of the SMP or conflict with the SMA |
| Section 8.02 – Definitions | Updated the cost threshold for substantial development in the definitions section. | OFM adjusted the cost threshold for substantial development effective July 1, 2022 | The cost threshold was outdated. |
| Section 8.02 – Definitions | Updated the definition of “development” to not include dismantling or removing structures. | Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures. | The existing definition for “development” does not include this clarification. The definition should be updated according to the language in the checklist guidance. |
| Section 8.02 – Definitions | Updated the definition of the following per Ecology’s Guidance document: <ul style="list-style-type: none"> • Isolated Wetlands • Mature and Old-Growth Forested Wetland • Native Vegetation | N/A | The updated definitions are per Ecology guidance document and therefore should comply with the SMP and Rules. |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|-----------------------------------|---|---|--|
| Section 8 – Definitions | Removed the definition for Priority Species, Threatened Species Sensitive Species, and Endangered Species; updated the definition for “Proposed, Threatened, Sensitive and Endangered Species” and for “Species, Priority” and so forth | WAC 232-12-014, 232-12-011 and 232-12-297 all no longer exist WAC 220-610-010 is now cited | N/A |
| Section 8.02 – Definitions | Removed the definition for Wetland Mosaic because the term is not used in the SMP | N/A | N/A |
| Section 8.02 – Definitions | Updated the definition for Wetland or Wetland Areas | RCW 36.70A.030 and WAC 365-190-030 | “If permitted by the county or city” added for aligning with WAC 365-190-030 |
| Section 8.02 - Definitions | Added definitions for all of the following: <ul style="list-style-type: none"> • Ocean Use • Oil and gas uses and activities • Ocean mining • Energy production. • Ocean disposal • Transportation • Ocean research • Ocean salvage | WAC 173-26-360 | Per ORMA |
| Section 8.02 - Definitions | Added definitions for all of the following: <ul style="list-style-type: none"> • ISUs • New Ocean Uses • The MSP | N/A | Per MSP |
| 1.04 | Added information about the 2023 periodic review process. | N/A | N/A; this simply describes the process used for the 2023 periodic review. |
| 1.05(F) | Added an outline of the exceptions to local review. | Ecology adopted rules clarifying exceptions to local review under the SMA. | The 2017 SMP did not include these exceptions and should be updated according to checklist guidance. |
| 1.07 | Added “Compliance with the provisions of the Chapter does not | N/A | This sets out how the shoreline permitting process through the SMP does not necessarily take care of |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|----------------------------------|--|---------------------------------------|---|
| | constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, shoreline substantial development permits, HPA permits, Army Corps of Engineers Section 404 permits, NPDES permits). The applicant is responsible for complying with these requirements, apart from the process established in this plan.” | | other approvals which must be obtained. This language is not a requirement of the SMA, but it does not conflict with the SMA and is added to increase understanding as to applicability of the SMP. |
| 4.07 | Refined the language about Ocean Management and listed that the MSP is addressed in the SMP. | WAC 173-26-360 | Per ORMA and MSP |
| 4.07.02 (A) | Added detail on ORMA geographical area description | WAC 173-26-360(2) | Per ORMA |
| 4.07.02 | Added MSP applicability language and policy reference, ISU protection standards references and fisheries protection standards | N/A | Per MSP |
| 4.07.02 (C) | Added language about MSP for project review | N/A | Per MSP |
| 4.07.02 (N)(O)(P) and (Q) | Added ISU information including Fisheries Protection standards | N/A | Per MSP |
| Table 4-3 | Removed “Shoreline” from the table name and added a footnote listing that regulations apply to ocean uses and the associated on-shore facilities that directly support them | WAC 173-26-360 | Per ORMA |
| 7.06.02 | Edited as follows: | WAC 173-27-100 | The phrase “was conditioned by Ecology” should not be there |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|--|---|--|
| | <i>If the revision involves a shoreline variance or conditional use, which was conditioned by Ecology, the revision must be reviewed and approved by Ecology under the SMA.</i> | | because anything that was a shoreline variance or condition use that has a revision needs to be reviewed and approved by Ecology. |
| 7.03(G) | Added info about 90-day target for local review of WSDOT projects. | The Legislature adopted a 90-day target for local review of WSDOT projects. | This is not included in the 2017 SMP. Checklist guidance says it is not necessary to include in the SMP and reference is optional. |
| Appendix 2 Section 2.06 | Table 2-1 updated (and Table 2-3 added) per Ecology's Guidance document | N/A | The edits will ensure improved conformance to the SMA and use of Best Available Science. |
| Appendix 2 Table 3-1 | We updated various references to state statutes and regulations and added "Spills and discharges to the environment" | N/A | N/A |
| Appendix 2 Section 3.05 (3) | We updated the references to underground injection wells per changes to state statutes | N/A | N/A |
| Appendix 2 Section 6.04(B)(1) (c) | Removed references to Bald Eagle habitat | N/A | Bald Eagle delisted from State Sensitive - February 4, 2017 a. 2011: Downlisted from State Threatened to Sensitive (this ended the requirement to develop Bald Eagle Protection Plans per WAC 220-610-100) b. 2007: Delisted from federal Threatened (still covered by federal Bald & Golden Eagle Protection Act) |
| SMP Appendix 2: Table 6 1: Riparian Habitat Area Buffers | Consolidated buffer width recommendations for Type F-A and F-B waters to only list Type F water | WAC 222-16-030 | N/A |