

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE PACIFIC COUNTY
SHORELINE MASTER PROGRAM**

SMP Submittal accepted December 16, 2016, Resolution No. 2016-036
Prepared by Kim Van Zwalenburg – September 21, 2017

Brief Description of Proposed Amendment: Pacific County has submitted a comprehensive update to their Shoreline Master Program (SMP) for review and approval by the Department of Ecology (Ecology). The master program contains locally tailored shoreline management policies, regulations, an environment designation map and administrative provisions. To protect critical areas, the county is adopting the Critical Areas and Resource Land (CARL) regulations (Ordinance No. 180) by reference into the SMP. Additional reports and supporting information and analyses as noted below, are included in the submittal.

Need for amendment: The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the County's Shoreline Master Program pursuant to RCW 90.58.080 and 100. The amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27 and to address land use and regulatory changes that have occurred.

SMP provisions to be changed by the amendment as proposed: The proposed updated SMP is intended to entirely replace the county's existing SMP which dates back to 1975. The county amended the existing program seven times, most recently in 2000, but it has never been comprehensively updated. The SMP will regulate approximately 680 miles of freshwater shorelines and 490 miles of marine shorelines including the Pacific Ocean and Willapa Bay, numerous rivers and creeks including the Columbia, Willapa, Naselle and North rivers and ten lakes.

The following elements outline some of the differences between Pacific County's proposed SMP and the existing master program:

The County's original SMP was adopted in 1975 and amended seven times, most recently in 2000. It has never been comprehensively updated. The current SMP applies jurisdiction across the entire 100 year floodplain. The proposed SMP is county-specific and jurisdiction is limited to the minimum allowed by statute except along the eastern shoreline of the Long Beach peninsula where jurisdiction is extended to include buffers necessary to protect Willapa Bay (Section 3.1.A(8)). The proposed SMP also includes policies related to sea level rise.

Newly recognized shorelines of the state: Based on updated streamflow data from the U.S. Geological Survey study¹ and updated methodologies for assessing lake size, the SMP includes seven new lakes (and removed two listed in WAC 173-20²) and 20 additional streams are now recognized as shorelines of the state and within shoreline jurisdiction.

Shoreline Environment Designations (SEDs): The existing SMP uses four upland shoreline designations: Urban, Rural, Conservancy, and Natural with subcategories in the Columbia River

¹ 1998. U.S. Geological Survey. Determination of Upstream Boundaries on Western Washington Streams and Rivers Under the Requirements of the Shoreline Management Act of 1971. Water-Resources Investigations Report 96-4208.

² WAC 173-20 lists Espy and Breaker lakes which were determined to fall below the 20-acre size criterion.

segment. Nearly all shorelines have parallel designations, with boundaries commonly located at mean high water, tree lines or grass lines, or road and dike alignments.

The proposed SMP establishes 11 environment designations. The SMP contains two unique upland designations: Coastal Conservancy and Willapa Bay Conservancy, in addition to four SEDs recommended by the SMP Guidelines: Natural, Rural Conservancy, Shoreline Residential and High Intensity³. Five aquatic designations are proposed: Coastal Ocean, Coastal Ocean High Intensity, Willapa Bay Estuary, Columbia River Estuary and Freshwater Aquatic.

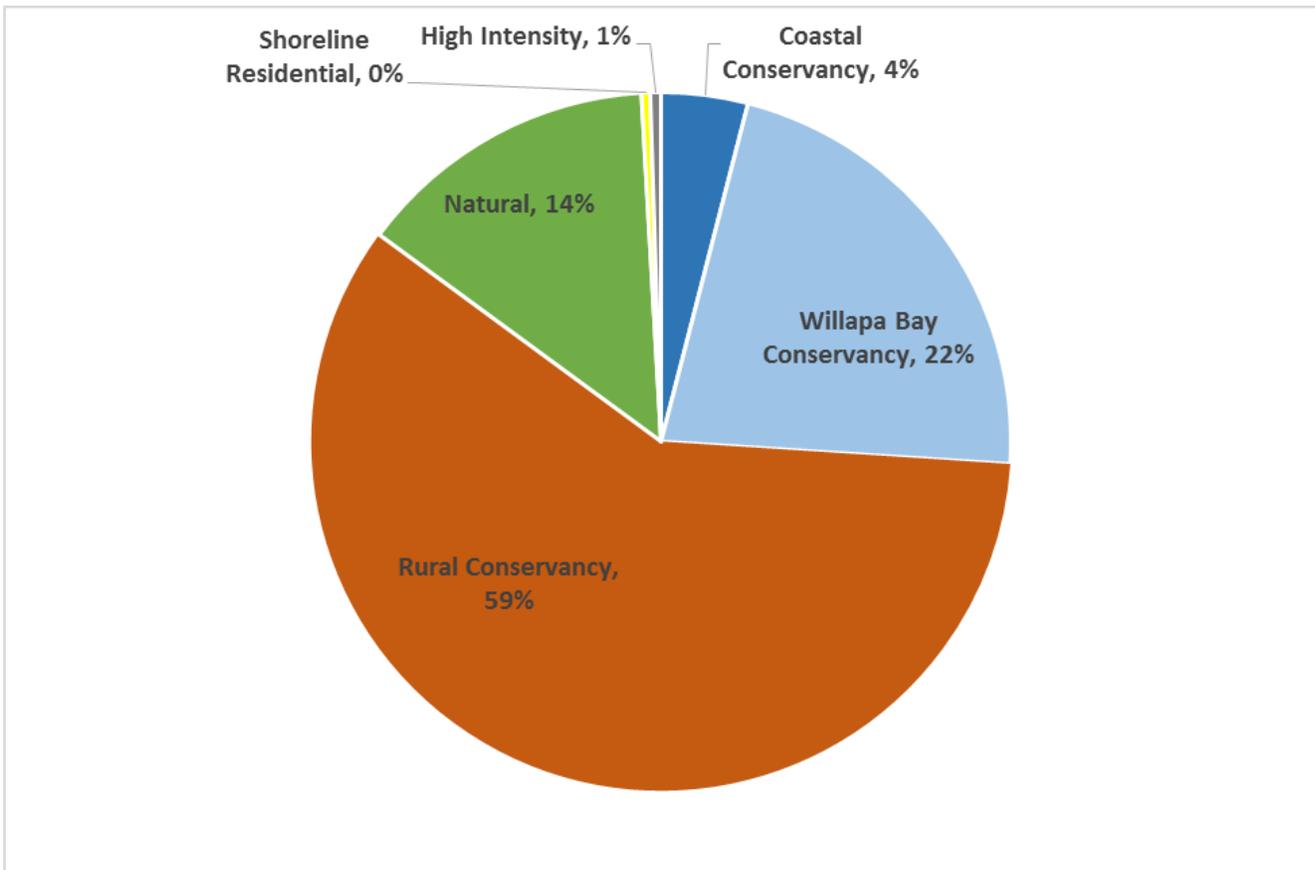


Figure 4-1 Distribution of upland environment designations on Pacific County shorelines.⁴
(Shoreline Analysis Report, 2015)

General Provisions: The SMP includes new provisions addressing archaeological, historic and cultural resources, vegetation management, protection of critical areas and shoreline ecological functions including the use of mitigation sequencing, water quality and specific public access requirements.

³ The High Intensity designation criteria in the SMP Guidelines has been modified for use in the county.

⁴ There is a typographical error on the chart. Shoreline Residential comprises approximately 0.4% of the county's shorelines.

Shoreline Uses and Modifications: The proposed SMP expresses a preference for water-oriented activities over nonwater-oriented developments and limits development waterward of the OHWM to water-dependent uses. New development is to be located and designed to avoid the need for future stabilization. The SMP specifically addresses overwater residential uses, acknowledging the floating home community on the North River and allowing maintenance and repair while prohibiting increases in the overwater footprint or any new overwater residential uses.

Development Standards: The existing SMP includes setbacks (but no buffers) established by use category ranging from 100' for Commercial down to 25' for Residential and Recreational. Many use categories have no explicit setbacks. Along Willapa Bay tidal waters, the setback was measured from the "forest line", while along the ocean coast, a 100' protective strip to protect the primary dune, and building setbacks which often exceeded shoreline jurisdiction.

In addition to critical area buffers set forth in the critical areas ordinance, the proposed SMP establishes shoreline buffers, which apply to all but water-dependent uses, ranging from 10' in High Intensity to 200' in the Natural SED. A 15' building setback from the edge of the buffer is also established. Along the eastern shoreline of Long Beach peninsula, Highest Astronomical Tide (HAT)⁵ is used as the mark from which buffers are measured, and the SMP extends shoreline jurisdiction to include these buffers.

Along the Pacific Ocean shoreline, in the Coastal Conservancy designation, the SMP establishes a "primary dune buffer" measured from the OHWM⁶ landward 200 feet. There are some limited allowances for dune modification activities. In addition, the SMP prohibits any structures waterward of the setback line which is defined in the Pacific County Zoning Ordinance No. 178.⁷

FINDINGS OF FACT

Amendment History, Local Review Process: The record shows the proposed SMP update originated in a local planning process that began in 2014 with the signing of a grant contract (#G1400525) with Ecology.

A community workshop was held on April 2 and 3, 2014 to introduce the update process and solicit participation by interested stakeholders. Two visioning meetings were planned, but only one held on December 18, 2014⁸. The record indicates the county held topic-specific open houses over the course of the SMP update including May 2, 2014, November 5 and 12, 2014 (shoreline analysis report), and August 5 and 6, 2015 (early draft SMP). Initial work was done by the Shoreline Planning Committee (which included a number of subcommittees). The Planning Commission began reviewing the draft documents in the Fall of 2015.

⁵ A tidal datum based on a 19 year tidal epoch at a specific tide station, in this case Toke Point (as defined by NOAA). The elevations are corrected to the Nahcotta tide station.

⁶ The primary dune buffer is measured from the "winter grass line" defined in the SMP as the "line that marks the waterward extent of dune grass on the primary dune, as measured during December, January, or February." This line is effectively the OHWM.

⁷ The county's zoning ordinance establishes Ocean Coast setbacks landward of shoreline jurisdiction. These setbacks are similar to those in the existing SMP.

⁸ The December 11, 2014 meeting was canceled due to inclement weather.

The record shows the Planning Commission held public hearings December 3, 2015, January 7 and 21, 2016, February 4 and 18, 2016 and March 3, 2016 at which time a recommendation was made to the Board of County Commissioners (BOCC). Notice of the hearing was published December 23, 2015 in the Chinook Observer. The BOCC held a closed record hearing on August 23, 2016. On September 27, 2016, the BOCC adopted Resolution No. 2016-036, authorizing county staff to forward the proposed amendments to Ecology for formal review.

Documentation of Current Conditions: Documentation of current shoreline conditions informs the development of the SMP, including environment designations, policies and regulations, to ensure the SMP can meet the no net loss of shoreline ecological functions goal of the state SMP Guidelines. The city hired a consultant to produce the *Shoreline Analysis Report*, (June, 2015).

Most of the county lies within the Willapa watershed⁹ running from the Willapa Hills into Willapa Bay. Streams include the Cedar, North, Willapa, Palix, Nemah and Naselle. Many are characterized by dikes and tide gates along the lower reaches, often constructed for agricultural purposes. In the upper reaches, forest cover has been cleared for rural residential and agricultural development. There are large wetland complexes, fresh and tidal, along the lower reaches of the Willapa River, Naselle and Bear rivers. Forest cover is highest along Ellsworth Creek, which is largely protected, portions of Bear River, Dell Creek and the Naselle. Much of the watershed is characterized by forestry activities. In addition, there are 26 existing floating homes located along the North River.

The Chehalis basin (WRIA 22/23) is a large watershed with only a relatively small area in the eastern portion of the county along the eastern side of the Willapa Hills including Rock Creek, Crim Creek and Elk Creek. Much of the watershed has been logged historically and 80% of the land remains in forestry.

The Grays/Elochoman (WRIA 25) is in the southeastern corner of the county, with short coastal streams, such as the Chinook and Wallacut rivers, ultimately draining into the Columbia River. The predominant land use is forestry.

Marine/Estuarine shorelines: The County borders the lower reach of the Columbia River, from Wahkiakum County to the mouth, and fronts on the Pacific Ocean from Cape Disappointment north to the border with Grays Harbor County just north of Grayland Beach State Park and including Willapa Bay. The Columbia River has been significantly impacted by multiple dams which have significantly reduced the sediment transport which helps feed the beaches along the Long Beach peninsula. The Columbia River mouth is heavily managed, with three jetties and a navigation channel, dredged annually by the Army Corps of Engineers. Numerous fish runs have been placed on the Endangered Species List.

Willapa Bay is quite shallow with extensive tideflats. While water quality is generally good, there are areas of impairment for temperature, fecal coliform bacteria, dissolved oxygen and pesticides. The bay also has extensive tidal wetlands which have been impacted by invasive species including *Spartina alterniflora* (largely controlled) and *Zostera japonica* (a non-native eelgrass). Commercial shellfish beds (approximately 17,000 acres are cultivated) have been impacted by native burrowing shrimp.

⁹ Water Resource Inventory Area (WRIA) 24

Residential and recreational development, particularly along the eastern shoreline of the Long Beach peninsula, is of concern to the shellfish industry because of the potential impacts to water quality from onsite sewage systems. Other developed areas are focused in Bay Center and Tokeland. The Port of Peninsula and the Port of Willapa both maintain small marina facilities on the bay, and there are a number of shellfish processing operations scattered along the shoreline.

Much of the Pacific coastline is characterized by coastal dunes and interdunal wetlands. Residential development is interspersed with a number of state parks. The beach is in public ownership and supports high rates of recreational use and most development is set back more than 200' from the OHWM. The Long Beach peninsula has been affected by the reduced sediment load coming out of the Columbia River, and while there are still some areas accreting, the rates have slowed. There are a number of shoreline segments now experiencing significant rates of erosion including Cape Disappointment and Leadbetter Point though nothing quite like North Cove (Washaway Beach) on the north side of the Willapa Bay entrance which has been losing a hundred feet per year, on average, since the late 1800s.

The county's shoreline jurisdiction extends 3 nautical miles west, to the state boundary on the Pacific Ocean, and supports numerous commercial and recreational fisheries including crab and salmon fishing. Other activities include dredging and dredge disposal off the mouth of the Columbia River and major shipping lanes supporting national and international trade bound to and from Columbia River ports. Future potential ocean uses could include wind, wave or tidal energy and aquaculture among other activities.

Shorelines of Statewide Significance (SSWS): The following waterbodies, and their associated shorelands are identified as SSWS: Pacific Ocean, Willapa Bay, Columbia River, Willapa River downstream of the confluence with the South Fork Willapa River, and North River.

Finding: Ecology finds that the Shoreline Analysis Report adequately inventoried and analyzed the current conditions of the shorelines located in Pacific County. The report synthesized existing information and was used to inform the master program update as well as provide a basis for future protection and restoration opportunities in the county's shoreline jurisdiction (WAC 173-26-201(3)(c)).

Cumulative Impacts Analysis: The *Cumulative Impacts Analysis* (2016) indicates potential development will occur at a low rate, likely concentrated near existing developed areas and port facilities. The report notes other challenges the county faces in maintaining shoreline ecological functions including needed adaptations to sea level rise, ocean acidification and climate change, coastal erosion issues related to reduced sediment supply and controlling invasive species. Despite these challenges, the report finds that implementation of the proposed SMP should achieve no net loss of ecological functions.

Finding: Ecology finds that the county's *Cumulative Impact Analysis (CIA)* provides an accurate examination of anticipated development and potential effects to shoreline ecological functions per WAC 173-26-201(3)(d)(iii).

Restoration Plan: Local governments are directed to identify restoration opportunities as part of the SMP update process and to include policies that promote restoration of impaired shoreline ecological functions. The *Shoreline Restoration Plan* identified programmatic and site specific restoration opportunities based on existing regional plans. Programmatic opportunities include improving fish passage by removing or replacing culverts and other barriers, protecting and restoring riparian forests, restoring floodplain connectivity, and restoring estuarine habitat. The SMP includes policies and regulations in Section 5.20 that permits and promotes restoration efforts and links restoration actions to the Restoration Plan.

Finding: *Ecology finds that the county’s Shoreline Restoration Plan is based on appropriate technical information available during the SMP update and meets the requirements of WAC 173-26-201(2)(c) and (f).*

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The county has also provided evidence of its compliance with SMA procedural requirements for adopting their SMP contained in RCW 90.58.090(1) and (2).

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III): The proposed SMP has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist submitted to Ecology for review.

Consistency with SEPA Requirements: Evidence of SEPA compliance was provided in the record in the form of a SEPA checklist and a Determination of Non-Significance (DNS) for the proposed SMP amendments which was issued on June 30, 2016. Notice of the DNS ran in the Chinook Observer on July 6, 2016. Ecology did not comment on the DNS.

Studies or Analyses supporting the SMP update: Ecology reviewed the following reports, studies, map portfolios and data prepared for the county in support of the SMP development:

- *Public Participation Plan, February 2014*
- *Shoreline Analysis Report, June 2015*
- *Cumulative Impacts Analysis, September 2016*
- *No Net Loss report, September 2016*
- *Shoreline Restoration Plan, June 2015*
- *Shoreline Jurisdiction Letter, October 2014*
- *Supplementation of the Record Memorandum, October 2016*

Ecology Review Process: The proposed SMP was received by Ecology for state review on December 5, 2016 and verified as complete in a letter sent to the county on December 16, 2016. Notice of the state comment period was distributed to state task force members and interested parties identified by the county on January 4, 2017 by mail and email, in compliance with the requirements of WAC 173-26-120. Four tribal governments: the Cowlitz, Yakama, Grand Ronde and Shoalwater Bay tribes were individually and specifically notified and invited to comment.

Notice of the comment period, including a description of the proposed SMP and the authority under which the action is proposed along with the manner in which interested persons may obtain copies and present their views was provided on Ecology’s website:

<http://www.ecy.wa.gov/programs/sea/shorelines/smp/mycomments/PacificCounty.html>

The state comment period began on January 23, 2017 and continued through February 22, 2017. Ecology received comments from 26 different individuals and/or organizations.

Summary of Issues Raised During the Public Review Process: Ecology received comments on a range of topics and prepared a comment summary which was forwarded to Pacific County on March 14, 2017¹⁰. The county provided responses to these comments on April 3, 2017. Issues raised during the comment period include:

- SMP update process and public participation opportunities;
- Oysterville Cannery and the proposed shoreline designation;
- Use of Highest Astronomical Tide to establish buffers
- Achieving no net loss;
- Ocean Resources Management Act;
- Coastal Ocean SED prohibitions on fixed structures and aquaculture;
- Aquaculture;
- Buffers;
- Sea Level Rise;
- Critical aquifer recharge areas

Attachment D provides a summary of comments along with responses from the county and Ecology.

Summary of Issues Identified by Ecology as Relevant to Its Decision: Ecology identified a handful of issues that need to be addressed: shoreline jurisdiction, shoreline maps, and aquaculture provisions.

- Shoreline jurisdiction and shoreline maps: For consistency with the statute, a correction is necessary to clarify the size criteria used to determine shoreline lakes. Corrections are also needed to the shoreline waterbody list set forth in Table 3-1, and language is needed to clarify that the shoreline maps are part of the SMP. Another change requires the removal of language that states Ordinary High Water Mark (OHWM) determinations remain valid for a period of five years. OHWM lines are not static nor are they elevations. In addition, the OHWM can sometimes shift dramatically in a relatively short timeframe such as during flood events or along highly erosive shorelines. In practice, a technically-sound OHWM determination documented during a permit process is valid upon issuance of a permit which will typically extend for five years. However, there may be circumstances where either an applicant, Ecology, or the county may find ordinary high water determinations should be revised. This change ensures the county does not inadvertently limit the ability to revise determinations when or if the line shifts.

¹⁰ Scanned copies of all comments received, including attachments, were sent to Pacific County on March 6, 2017.

- Aquaculture prohibitions in the Pacific Ocean: The Coastal Ocean Shoreline Environment Designation (SED) applies to all but a small portion of the county’s Pacific Ocean waters. This designation extends west three nautical miles to the outer extent of state waters¹¹. The Pacific Ocean is a Shoreline of Statewide Significance and the legislature, in RCW 90.58.020, “declares that the interest of all of the people shall be paramount in the management” of these shorelines. Additionally, the statute requires the SMP give preference to uses in the following order:
 - (1) Recognize and protect the statewide interest over local interest;
 - (2) Preserve the natural character of the shoreline;
 - (3) Result in long term over short term benefit;
 - (4) Protect the resources and ecology of the shoreline;
 - (5) Increase public access to publicly owned areas of the shorelines;
 - (6) Increase recreational opportunities for the public in the shoreline;
 - (7) Provide for any other element as defined in RCW [90.58.100](#) deemed appropriate or necessary.

The Legislature in 2010, adopted the Marine Waters Planning and Management Act¹², reiterating the state’s interest in its marine waters and noting the importance of these areas to Native American tribes and the connection of Washington waters to the larger marine ecosystem along the west coast. In addition, the state has had a long commitment “*to protecting the state’s marine waters, which are abundant in natural resources, contain a treasure of biological diversity, and are a source of multiple uses by the public supporting the economies of nearby communities as well as the entire state. These multiple uses include, but are not limited to: Marine-based industries and activities such as cargo, fuel, and passenger transportation; commercial, recreational, and tribal fishing; shellfish aquaculture; telecommunications and energy infrastructure; seafood processing; tourism; scientific research; and many related goods and services. These multiple uses as well as new emerging uses, such as renewable ocean energy, constitute a management challenge for sustaining resources and coordinating state decision making in a proactive, comprehensive and ecosystem-based manner.*”

Washington, along with the coastal communities, tribes, industries and environmental interests, has invested time and resources in a Marine Spatial planning effort that should provide a framework for future activities off the state’s coast. Along with other goals, “*the purpose of this chapter [is] to establish policies to guide state agencies and local governments when exercising jurisdiction over proposed uses and activities in these waters.*”

Uses in the Pacific Ocean received a great deal of scrutiny during the local update process. There is a high degree of concern in the county about the potential for conflicts between existing resource-dependent uses, such as recreational and commercial fishing and crabbing, and potential

¹¹ The cities of Ilwaco, Long Beach and Westport also have jurisdiction over those portions of Washington waters located between the westward extensions of each city’s north and south boundary lines (see RCW 35.21.160 which addresses jurisdiction over adjacent waters).

¹² RCW 43.372.

new ocean uses such as wind, wave, and tidal energy projects. During the local process, the focus was largely on alternative energy projects and a prohibition on fixed structures has been proposed. Ecology raised concerns with this approach and the county and Ecology agreed to include an allowance for temporary projects (such as research or pilot projects) for limited time periods. At the time these discussions were underway, the draft SMP proposed allowing aquaculture in the Pacific Ocean with a conditional use permit as currently required in the existing SMP. Later in the county's update process, the SMP was revised to prohibit all forms of aquaculture, except for live tanks and sink floats, in the Pacific Ocean. Comments were received from both shellfish and finfish growers related to these prohibitions.

Because the policy of the state is to plan for and foster all reasonable and appropriate uses, and aquaculture is called out as a preferred water-dependent use, Ecology is concerned about broad areal prohibitions on this activity. However, Ecology also recognizes the legislatively mandated marine spatial planning process under RCW 43.372 is still underway, and is intended to inform SMP amendments related to new ocean uses. The Legislature authorized and funded this planning process to address new ocean uses in a regional and comprehensive manner with analyses and recommendations to inform other authorities including the Shoreline Master Program. Ecology has included a proposed new policy in Attachment B to treat aquaculture activities in the Coastal Ocean SED in a similar fashion to fixed structures and to revisit this issue at the scheduled periodic review(s) of the SMP after the conclusion of the Marine Spatial Planning process. Ecology has also included a recommended change in Attachment C that would allow for aquaculture activities with a conditional use permit in the Coastal Ocean SED.

CONCLUSIONS OF LAW

After review of the complete record submitted and all comments received, Ecology concludes that the county's proposed comprehensive SMP update, subject to and including Ecology's required changes itemized in **Attachment B**, is consistent with the policy and standards of RCW 90.58.020, RCW 90.58.090, RCW 36.70A.480, and the applicable SMP guidelines (WAC 173-26-171 through 251) as well as the definitions in WAC 173-26-020. Ecology concludes that the proposed SMP, subject to required changes, meets the intent of the provision for no net loss of shoreline ecological functions provided in WAC 173-26-201(2)(c).

Ecology concludes that a separate set of recommended changes to the submittal, identified during the review process and itemized in **Attachment C**, would be consistent with SMA policy and the Guidelines and would be beneficial to SMP implementation. These changes are not required, but if accepted by the county, can be included in Ecology's approved SMP amendment.

As stipulated in RCW 90.58.610, RCW 36.70A.480 governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under chapter 36.70A RCW. Consistent with RCW 36.70A.480(4), Ecology concludes that that the proposed SMP meets the intent of the provision for providing a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the county has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the county has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the county has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the county has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the county's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes that the county has chosen not to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the county's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP are consistent with the policy of the Shoreline Management Act, the applicable Guidelines and implementing rules, once required changes set forth in **Attachment B** are accepted by the county. The county may choose to adopt the recommended changes in Attachment C. Pursuant to RCW 90.58.090(2)(e), the county must notify Ecology of the approval or denial of the recommended changes. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the county may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent

with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action.