

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the SMA at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2019 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

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

At the **beginning of the periodic review**, use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

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

At the end of your review process, use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.

March 2021 ECY feedback provided via Track Changes

Prepared By	Jurisdiction	Date
Judy Surber, Planning Manager	City of Port Townsend	5/20/21

Row	Summary of change	Review	Action
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	Not applicable; Port Townsend has two freshwater lakes regulated under the SMP: Chinese Gardens and Kah Tai Lagoon. Both waterbodies are designated "Natural" by Appendix A Official Shoreline Environment Designations (SED) Map. SMP DR 5.7.1(f) and Table 5 both prohibit overwater structures and docks, piers and floats in the Natural Designation.	No action required to comply with WAC.
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (applies to 9 jurisdictions)	Not applicable. SMP 9.5 addresses Dredging & Dredge Spoil Disposal, but Port Townsend is not one of the local jurisdictions affected by this requirement.	No action required.
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.	SMP 2.4 Exemptions from SSDP; Item D(13) is generally consistent with RCW 90.58.147. Local jurisdiction does not have authority to modify exemptions; consider exact language from state statute or a simple reference to RCW 90.58.147 and WAC 173-27-040	Amended Section 2.4 D(13) Exemptions with specific citations to RCW 90.58.147 and WAC 173-27-040.
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	The following sections use outdated dollar amount of \$5,000: Section 2.4 D(1) Exemptions from SSDP; DR 8.5.3 Development Regulations for Boat launches	Amended Sections 1.6 C(2); 2.4 D(1); DR 8.5.3 and 15.6 Definition 'Substantial Development' to replace specific dollar value with reference to RCW90.58.030(3)

Row	Summary of change	Review	Action
		and SMP 15.6 Definition for 'Substantial Development' and are therefore not consistent with the current standard.	threshold to avoid future amendments each time OFM adjusts the threshold amount.
b.	Ecology permit rules clarified the definition of "development" does not include dismantling or removing structures.	In Chapter 15.3 definition of "Development" does not include the new clarification See ECY example language	Amended Chapter 15.3 Definitions to add clarification: "development" does not include dismantling structures; corrected RCW citation.
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	Section 2.2 does not address these exceptions established by statute. SMA exceptions apply regardless of inclusion in the SMP but amendment is recommended -Add ECY example language to help clarify for implementation	Amended Section 2.2. (Note: Slight modification to first paragraph of ECY's sample language).
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	Repetitive language in 10.6.6 Filing CUPs; 10.7.5 Filing Variances and 10.13.5 Final Decisions. Term 'date of filing' is correct but SMP fails to require submittal to ECY by return receipt mail. SMP 10.11 Multiple Permits - does not address concurrent filing with ECY Amend for consistency with WAC 173-27-130 per the ECY Checklist Guidance pg. 6.	Deleted SMP 10.6.6 and 10.7.5 to remove repetitive language in. Amended SMP 10.13.5 Transmittal of Final Decision, including addition of SMP 10.13.5.2 Filing with Dept of Ecology provisions consistent with WAC and Ecology Guidance example language (XX) – (i). Distinguished SMP 10.13.5.1 distribution of local decision from SMP 10.13.5.2 filing with ECY. Date of Filing at SMP 10.16 Appeals Added Ecology example language (ii)(A – C) to describe the different 'date of filing' descriptions by permit type as part of the judicial appeal process with SHB.
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves	SMP does not include any Forest Practices provisions. No commercial timber lands	

Commented [A1]: See related corrections to RCW and WAC citations

Commented [A2]: See related edits to clarify distinction between WAC 173-27-044 and -045 exceptions as separate from WAC 173-27-040 SDP exemptions.

Commented [A3]: See related comments & suggested edits to better clarify these provisions in the SMP

Commented [A4]: 8/6/21 Emailed Ross Goodwin, DNR, for assistance. See his 8/9 response and MODIFY our amendments**

Row	Summary of change	Review	Action
	<p>timber cutting are not SMA "developments" and do not require SDPs.</p>	<p>are known to exist within the city. In 2003, the City assumed jurisdiction over Class IV – General forest practices and adopted PTMC 19.06 Tree Conservation Ordinance. DNR is no longer involved in any forest practices in the city; any harvest would now be per city ordinance. Staff does not recall receiving questions about forest practice. Clearing for conversion is addressed in the SMP.</p> <p>SMP 15.3 Definitions – Clearing - this definition includes 'clear cutting and selective harvest', terms typically limited to commercial forest practices. This confounds forest practices with other vegetation clearing & tree removal activities.</p> <p>SMP 9.3 Alteration of Natural Landscape - Clearing, Grading and Vegetation Removal - Policy 9.3.1 Prohibit speculative clearing, grading or vegetation removal. As implemented by DR 9.3.1.</p> <p>Per ECY Checklist Guidance "It is not necessary to amend local SMP forestry regulations to reflect this [timber-cutting] clarification. However, it could be helpful for jurisdictions with extensive commercial forestry, if questions about applicability of forest practices</p>	<p>Chapter 15 Definitions – Revise 'Clearing' to remove "forest practices" terms.</p>

Commented [A5]: Request Planning Staff review – JOHN MCDONAGH/DNR Review

Row	Summary of change	Review	Action
		laws and rules arise frequently”.	
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	Not applicable; City has no lands under exclusive federal jurisdiction. NOTE: Exclusive federal jurisdiction (e.g. Rainier & Olympic Nat’l Parks, and some military bases) is separate & different from the more general limit of SMP applicability to federal actions on federal lands, and from the SMP 2.2.F citation regarding CZMA federal consistency.	No Action required.
g.	Ecology clarified “default” provisions for nonconforming uses and development .	Chapter 11 addresses Nonconforming Development (uses, structures & lots). Local discretion to establish such provisions is allowed, and the provisions of WAC 173-27-080 only apply in the absence of such local provisions.	Staff recommends amending Sections 11.2 Nonconforming Uses, and 11.3 Nonconforming Structures, and Chapter 15 Definitions (nonconforming use, nonconforming development/structure to improve consistency with PTMC 17.88 Nonconforming Lots, Structures and Uses and better reflect Ecology’s example language.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	SMP 13.1 addresses Periodic Review, including citation to WAC & most of the 3 review categories.	To improve clarity & aid implementation: <ul style="list-style-type: none"> • 13.1 Add missing category “consistency with City Comp Plan and development regs; Rephrase “and changes in State statutes laws and regulations guidelines.” • 13.1, 13.2.2: More precise citations to the authority of RCW 90.58.080(4) & process of WAC 173-26-090;
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows	SMP Amendments are addressed in SMP Section 13.2 and PTMC 20.01.040 (Type V-Legislative). It does not	Added mention of optional shared comment period to SMP 13.2.1.

Row	Summary of change	Review	Action
	for a shared local/state public comment period.	appear there are any impediments to using this option. Section 13.2.1 addresses SMP amendments with adequate reference to WAC 173-26. The specific RCW references (.120 & .200) are inaccurate/misleading, better to simply refer to Chapter 90.58 RCW.	Corrected WAC/RCW references in 13.1 and 13.2.
j.	Submittal to Ecology of proposed SMP amendments.	Section 13.2.1 Addresses amendments in general terms including adequate reference to WAC 173-26.	SMP not required to include submittal process/ requirements. No Action required.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the Americans with Disabilities Act .	Section 2.4 lists exemptions but does not include this ADA exemption. Amend 2.4 to include new exemption.	Added ECY recommended language to SMP 2.4 D(16)
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	Section 6.5.3 incorporates the 2018 CAO (PTMC 19.05) by reference and identifies exceptions for its implementation in shorelines (i.e. critical area permits, reasonable use exceptions, definitions, wetland provisions). PTMC 19.05.020 Definitions - Wetland Rating and 19.05.110(B.4) Wetlands - Classification both specify use of the 2014 Rating System; SMP 6.9 Wetlands also requires use of the 2014 Rating System in shoreline jurisdiction at DR-6.9.1 and 6.9.3.b, which are duplicative of .110(B.4). The SMP is consistent with this aspect of the most current technical guidance.	Revise SMP 6.9 Wetlands to delete provisions that are now/will become duplicative based on the concurrent CAO amendments intended to address the ECY 2018 recommended language for PTMC Section 19.05.110 Wetlands. See also related PTMC 19.05 Additional Amendment items detailed below that incorporate ECY's 10/30/18 edits to the CAO. These corollary revisions are anticipated to maintain/improve SMP consistency with the most current technical guidance.

Row	Summary of change	Review	Action
		<p>When City's CAO was updated in 2018 (Ord. 3198), Ecology submitted recommended edits <u>after</u> adoption that address other wetland issues. Therefore, because other details of 19.05.110 did not reflect the most current technical guidance, SMP 6.9 at DR-6.9.3(a – f) provides shoreline-specific modifications re: coastal lagoons; exemption based on habitat score; wetland use for stormwater management; habitat scores for buffer widths; limit for buffer reduction; and the mitigation sequence.</p>	
2015			
a.	<p>The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.</p>	<p>SMP 8.15 Transportation Facilities does not reference this timeline target; SMP Section 10.2.3 defers to PTMC 20.01. WAC 173-27-125 applies regardless of SMP inclusion.</p>	<p>The provision is specific to WSDOT projects in shorelines jurisdiction; therefore, the ECY sample language was added to SMP 10.2.3 rather than the general procedures in PTMC 20.01. Added courtesy reference at 8.15</p>
2014			
a.	<p>The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.</p>	<p>DR 8.8.1 prohibits "floating houses". No definition is provided. .DR9.4.1 prohibits piers, docks, boat houses and floats for residential purposes.</p>	<p>To clarify related terms, Chapter 15 Definitions: Amended definition of "Boathouse" added "floating homes" and "FOWR" consistent with RCW 90.58.270 as amended by ESSB 6027 See also Checklist items #2011.c, 11, 15 and 32 below</p>

Commented [A6]: See related comments & edits to SMP 15.2 Boathouse, and 15.3 Definitions for Floating Home, and FOWR to clarify related terms that are similar but different. Could also address separate 'liveaboards' here to better differentiate

Row	Summary of change	Review	Action
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	Section 13.2 addresses SMP Amendments, but references statute & rule citations rather than detailing SMP appeal process. According to ECY Guidance, SMPs do not typically outline SMP appeal procedures. Provisions are adequate as is. Section 15.6 Definition of "Shoreline Hearings Board" incorrect; appeal of City's SMP would be heard by GMHB. Any appeal would be coordinated with ECY.	Correct 15.6, Definition of "Shorelines Hearings Board".
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	Policy 6.5.3 incorporates the City's 2018 CAO (PTMC 19.05) by reference and identifies exceptions for its implementation in shorelines. Section 6.9 provides additional shoreline-specific wetland provisions. PTMC 19.05.110 C(3) and 19.05.020 associated definitions for Delineation, Hydric Soils, Wetland Classification, and Wetland Edge, all require use of the current federal manual. The SMP is consistent with this requirement.	No action required. The concurrent CAO revisions, and related SMP revision to incorporate by reference the 2021 CAO are anticipated to maintain this consistency. See also related PTMC 19.05 Additional Amendment items detailed below.
b.	Ecology adopted rules for new commercial geoduck aquaculture . **See Item 2011b supplemental table	Table 5 lists Mechanical Geoduck Harvest as a P use in Aquatic in DNR tracts only, X in Natural and N/A in other designations. Table 5.12-1 Boat Haven District 5 lists Mechanical Geoduck Harvest as n/a	See related checklist #9a Aquatic DR 5.6.3 revised to allow new commercial shellfish aquaculture with a CUP Revised Use Tables:

Row	Summary of change	Review	Action
		<p>SMP 8.4 Aquaculture Policies & Regulations establish general and geoduck-specific provisions: Shellfish aquaculture is allowed only in the uplands of the Boat Haven District SED; Policy 8.4.1.a, DR-8.4.1.c, and DR-8.4.3 – 6 establish an allowance, application requirements and operational standards for geoduck harvest in DNR tracts</p> <p>SMP requires revision for WAC consistency:</p> <ul style="list-style-type: none"> • new Geoduck proposals require CUP; • SDP required for substantial interference w/ normal public use of surface water. <p>SMP 15.2 Definitions – Aquaculture does not specify the exclusion of wildstock geoduck harvest.</p>	<ul style="list-style-type: none"> • Table 5.12-1 Boat Haven District – deleted reference to Mechanical Geoduck Harvest and footnote 2. Aquaculture “P” upland “C” in-water. • Table 5.13-1 Point Hudson “C” in marina subdistrict • Table 5 – deleted Mechanical Geoduck Harvest and added New Commercial Shellfish (including geoduck) as CUP in Aquatic and prohibited in all upland Designations. <p>Revised Section 8.4 Aquaculture to improve consistency with WAC 173-26-241(3.b) and Checklist Guidance. Eliminated provisions for geoduck harvest in DNR tracts. Geoduck allowed as commercial shellfish aquaculture with a CUP in the Aquatic designation. The WAC’s geoduck-specific provisions are integrated into the Shellfish Aquaculture regulations at 8.4.1 – 8.4.9.</p> <p>Section 15.2 definition of Aquaculture- amended to improve consistency with WAC and exclude harvest of wildstock geoduck.</p>
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	DR 8.8.1 and DR 9.4.1 prohibit floating homes. No definition is provided.	Chapter 15 Definitions revised for clarity of related terms. “Boathouse” “floating homes” and “FOWR” consistent with RCW 90.58.270 as amended by ESSB 6027

Commented [A7]: See related comments & edits to SMP 15.2 Boathouse, and 15.3 Floating Home, and FOWR definitions to clarify related terms that are similar but different.

Row	Summary of change	Review	Action
			See related checklist items: 2014a, 11, 15, 32
d.	The Legislature authorizing a new option to classify existing structures as conforming.	SMP not required to include this optional provision. Section 11.3 addresses Nonconforming structures.	No action required.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.	Key issues of consistency include: 1. Critical Areas & No Net Loss (NNL): SMP 6.5 Critical Areas General Policy #3 first sentence reliance on ‘equal level of protection’ is out of date from the newer NNL standard; SMP 6.8 Geohazard Policy #4, Wetland Policies 6.9.1 & 2, and Wetland Regulation 6.9.3.c establish additional specific no net loss requirements. 2. Separate or Referenced Critical Areas Protections: SMP 6.1, Policy 6.5.3, DR-6.5.1 and DR-6.5.3 all establish that the SMP relies on the City’s 2018 CAO (PTMC 19.05); Sections 6.5 – 6.9 appropriately specify exceptions & modifications for applying the CAO in shoreline; 3. 14-day Effective Date: SMP 13.2.1 notes Ecology approval is required for SMP to be effective but does not specify that SMP amendments are effective 14 days from ECY notice of final action.	1. Critical Areas & NNL: <ul style="list-style-type: none"> SMP Policy 6.5.3 revised to reflect NNL. 2. Revision to Policy 6.5.3 to accurately reference the pending 2021 CAO. Based on previous Ecology input re: SMP – CAO consistency, the City is proposing separate CAO revisions in concert with the SMP periodic review, detailed below as Additional Amendments. 3. 14-day Effective Date: 13.2.1 and 13.4 amended accordingly.
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a	RCW 90.58.580 and WAC 173-27-215. Provision may be used even if not in the SMP. Section 4.8 Restoration Goals &	Replaced Policy 4.8.3*, uses Ecology’s example language referencing the WAC that

Commented [A8]: Discuss with staff

Commented [A9R8]: City has discretion whether to include this optional provision or not. To clarify, it’s only applicable to residential structures & appurtenances, and only unless/until such an existing home proposes any new use/development, at which time the SMP provisions including Chapter 11 Nonconforming would then apply. Even without including this option, existing structures may still be maintained/enlarged per the limits of the SMP (e.g. SDP Exemption, Nonconforming, vegetation mgmt., etc.) so really it’s often just a matter of interim terminology/semantics for existing homes during the time when they’re not seeking any additional development. There had been some concern that becoming labeled as ‘non conforming’ affects property insurance cost/availability and potential real estate sell-ability, but I’m not sure we’ve ever seen actual proof of such happening...

Commented [A10]: See related comments/edits to only ‘incorporate by reference’ once at 6.5.3 and remove other duplicative language for internal consistency and clarity to aid implementation;

See related comments/edits that City needs to address these corrections prior to SMP approval/adoption (not rely on Code Publishing to do so after the fact)

Commented [A11]: See related comments/edits re: deleting text duplicative of 13.4

Row	Summary of change	Review	Action
	shift in Ordinary High Water Mark.	Policies, and Section 14 Shoreline Restoration Plan do not include this relief provision.	allows relief for restoration projects.
b.	Ecology adopted a rule for certifying wetland mitigation banks .	SMP 6.3 Impacts, Mitigation, Bonding and Monitoring - Regulation DR-6.3.6 allows use of certified wetland mitigation banks; SMP 6.5 Critical Areas – General - Policy 6.5.3 incorporates the City’s 2018 CAO by reference; the CAO at PTMC 19.05.060C and .110(D)(5) allow for mitigation banks certified under WAC 173-700, and SMP 6.9 provides additional shoreline-specific wetland mitigation provisions. These provisions are consistent with RCW 90.84 and WAC 173-700.	No action required. See also #2016.b above and Additional Amendments below about other SMP 6.9 and 19.05.110 revisions related to wetland mitigation.
c.	The Legislature added moratoria authority and procedures to the SMA.	SMP does not have provisions for moratoria and is not required to include this authority/procedure. City has local discretion to rely on state statute.	No action required.
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.	Not applicable. There are no riverine systems in the city limits. However, Section 15.3 Definition of Floodplain includes a riverine graphic that shows the floodway as narrower in relation to the broader floodplain.	No action required.
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.	Section 2.3 (A) lists the marine shorelines and lakes in PT under shoreline jurisdiction. Section 5.4 establishes the Official Shoreline Environment	No action required.

Commented [A12]: See related comments about SMP 15.3 Definition - Floodplain graphic

Row	Summary of change	Review	Action
		Designations map provided in Appendix A	
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	Section 2.4 D(13) addresses projects to improve fish or wildlife habitat or fish passage and is generally consistent with RCW 90.58.147 which cross-references RCW 77.55.181.	Amended Section 2.4 D(13) abbreviated with specific citation to RCW 90.58.147 and WAC 173-27-040(2)(p). See also 2019.c above.

DRAFT

Additional amendments

This section summarizes additional SMP amendments the City is addressing for issues of consistency related to the Comprehensive Plan and Development regulations, changes to local circumstance, new information, or improved data and to facilitate SMP implementation. Also detailed below are the corollary amendments to the CAO (PTMC 19.05) proposed concurrently with the SMP Periodic Review to ensure mutual consistency.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
Improve Consistency with Adopted Local Plans/Regulations				
1	Chapter 6 Environmental Protection: 6.1 Introduction; 6.5 Critical Areas – General; 6.6 Critical Saltwater Habitat/ FWHCAs; and 6.9 Wetlands	<p>Related to but separate from above items #2016.b wetland guidance; 2011.a wetland delineation manual; 2010.a SMA-GMA; and 2009.b wetland mitigation banks.</p> <p>SMP 6.5.3 incorporates the City's 2018 CAO (PTMC 19.05) by reference for application in shoreline jurisdiction with some limitations/ exceptions to ensure consistency with SMA. The City's SMP was also amended in 2018 but some inconsistencies/ redundancies between the two sets of regulations remain.</p>	<p>1) 6.5 Critical Areas – General: Policy 6.5.3 CAO incorporation by reference language should reflect the correct date & ordinance # for the concurrent 2021 CAO Update; Also, Ecology advises to either 'incorporate by reference' or use 'direct incorporation' by appendix, not both, to avoid duplicative language and streamline the document construct.</p> <p>2) Avoid duplicative critical areas regulations. Staff prefers merging all development regulations into CAO.</p>	<p>1) Throughout – Eliminate all references to 'Appendix E' due to singular CAO 'incorporation by reference' at 6.5.3.</p> <p>SMP 6.1 Introduction – and Policy 6.5.3 Correct/ clarify 'incorporation by reference' language;</p> <p>2) Move SMP critical areas development regulations into CAO. Cross reference 12, 48b Geo hazards; 46b F&W; 1e Wetlands.</p>
	1a	WAC 173-26-201(2)(e) Mitigation sequencing is cited but not included in the development regulations	For better consistency with with the WAC move the mitigation sequence text from Chapter 15 Definitions to a stronger position as an actual regulatory provision.	DR 6.3.1 add mitigation sequence

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
	1b	Check DRs 6.4 for consistency with minimum requirements in WAC 173-26-221(1)(c)	DR 6.4.2 does not address site inspection	Revise DR 6.4.2 to include site inspection per WAC
	1c	Policy language contains regulatory provisions	Policy 6.5.3 contains language best addressed as regulatory provisions	Moved exceptions/modifications language to DR 6.5.1
	1d	Critical Saltwater Habitats 1) incorrect citations, 2) reliance on outdated Appendix F Critical Saltwater Habitats	1) SMP 6.6 Critical Saltwater Habitats – Fish & Wildlife Habitat Conservation Areas reference citation needs correction for accuracy: WAC 365-190-080(5)(a)(6) -130 2) Delete Appx F - rely on Ch 15 definitions for FWHCAs and Critical Saltwater Habitats, which cite to RCW/WAC and the most up to date PHS data, RATHER THAN SMP reliance on potentially out of date 2002 info in Appendix F.	In Section 6.6 Critical Saltwater Habitats (FWHCAs): 1) Correct WAC citations 2) Delete reference to Appendix F. Delete Appendix F Critical Saltwater Habitats Table of Contents – Delete Appendix F.
	1e	SMP 6.9 Wetlands - During the 2018 CAO Update, ECY comments on the wetland provisions were received too late to include. For SMA consistency, the SMP included wetland provisions that modify how the CAO applies in shoreline jurisdiction. If/when the CAO wetland provisions become SMA-consistent, the SMP will not need such CAO modifier provisions.	SMP 6.9 Wetlands - Resolve issues from 2018 CAO and SMP Updates. Move previously approved ECY critical areas language from SMP to PTMC 19.05. so that SMP incorporation by reference of CAO provisions requires fewer exceptions for implementation in shoreline jurisdiction (i.e. 6.9.3.a-f).	6.9 Wetlands - Remove redundant exception/modification provisions as unnecessary and address same issues with related but separate revisions to PTMC 19.05.110 described as items #39 – 49 below.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
2	Throughout	Implement climate mitigation/adaptation per recent changes to Comp Plan Chapter 4. Land Use Element - Air Quality Management, Climate Mitigation & Adaptation Goal 8: Policy 8.8.1: Consider projected climate change impacts and adaptation strategies when investing in public projects and updating disaster preparedness plans, land use plans, and regulations.	Staff reviewed ECY 2017 Sea Level Rise guidance and suggestions from Local 2020 (see staff response to SMP scoping comments); 2018 State SLR projections and existing City flood damage prevention methods (PTMC16.08). and identified numerous opportunities for policy revision throughout SMP Chapters 4, 5, 6, 8, 9, 13 and 15 to better reflect Comp Plan's climate change goals & policies. This is only a first step as the City will seek to address climate change planning more broadly recognizing that not all future mitigation/ adaption strategies will be appropriately addressed by the SMP alone.	<p>New/amended policies: Chapter 2 Scope, Jurisdiction and Amendments 2.3 B extent of shorelines jurisdiction.</p> <p>Chapter 4 Master Program Elements at Shoreline Use Policies 4.2.6 and 4.2.7, Restoration & Adaptive Management Policies 4.8.2 and 4.8.6;</p> <p>Chapter 5 Shoreline Environments at Natural Policy 5.7.1, Conservancy Policy 5.8.4, Shoreline Residential Policy 5.9.6, Historic Waterfront Policy 5.11.1, Boat Haven Policy 5.12.15, Point Hudson Policies 5.13.9 and 5.13.15;</p> <p>Chapter 6 Environmental Protection at Impacts, Mitigation, Bonding and Monitoring Policy 6.3.6, Critical Saltwater Habitats Policy 6.6.5, Frequently Flooded Areas and Tsunami</p>

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
				<p>Inundation Areas Policy 6.7.2, and Wetlands Policy 6.9.1;</p> <p>Chapter 8 Specific Use Standards at Agriculture Policy 8.3.2;</p> <p>Chapter 9 Specific Modification Standards at General Policies and Regulations Policy 9.2.1, Shoreline Stabilization Measures and Flood Protection Works Policy 9.7.8;</p> <p>Chapter 13 Master Program – Review, Amendments and Adoption at Amendments to Master Program 13.1(a) Master Program Periodic Review; and</p> <p>New/amended regulations:</p>

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				Shoreline Residential Designation DR 5.9.5, Urban Designation DR-5.10.4(g.ii.6), and Table 5 Height Limit in Shoreline Residential: cross reference to DR-5.9.5 that allows increased height for primary residence to 35 feet where necessary to avoid flood damage, and Point Hudson Designation DR 5.13.4(d.ii.1)
Address New Information, or Improved Data				
3	Throughout	New FEMA Flood Insurance Rate Maps (FIRMs) became effective 6/7/2019, and map the VE Zone and Coastal AE Zone floodplain areas of the City. See also FEMA Map Service Center (https://msc.fema.gov/portal/home) and Coastal FIRMs webpage (https://www.fema.gov/flood-maps/coastal/insurance-rate-maps)	SMP Policy 6.5.3 incorporates the City's CAO (PTMC 19.05) by reference; PTMC 19.05.090 Frequently Flooded Areas provisions rely on City's Flood Damage Prevention Ordinance (PTMC 16.08); SMP 6.7 Frequently Flooded Areas and Tsunami Inundation Areas Policy 6.7.1 and Regulation DR-6.7.1 both cite to the PTMC 16.08 Flood Ordinance. PTMC 16.08.070 Basis for establishing the areas of special flood hazard establishes the June	No amendments needed.

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			2019 FEMA FIRMs as the effective maps. Therefore, SMP adequately relies the newer flood maps.	
4	3.6B Summary of Inventory & Characterization - Kah Tai Trough	Kah Tai Lagoon wetland rating has changed since 2007 SMP Comprehensive Update. SMP assumes Type I; Rick Mraz, Wetlands Policy Lead for ECY conducted an analysis and concluded it's actually a Type II Coastal Lagoon under a newer rating system (7/6/06)	Ecology advised City not to revise the Chapter 3 summary of the 2002 Shoreline Inventory/ 2004 Characterization absent an addendum to those Inventory and Characterization Reports, which is beyond the scope of this periodic review.	No action.
Facilitate Local Implementation				
5	Throughout	SMP 2.4.B requires a Letter of Exemption only for projects that are also subject to a federal USACE Section 10 or Section 404 permit, but other provisions are unclearly worded to imply written authorization is required for all SSDP Exemptions. To better reflect common practice, and to help streamline the application & review process, clarify, Director may waive separate application and written SSDP Exemption when review can be conducted in conjunction with an underlying permit. Require written exemptions for bulkhead construction/repair; projects requiring	Unclear wording in multiple provisions including, but not limited to: Chapter 2 , Table 5.13-1 (temporary use), 8.13, 9.7, and Chapter 10). Revise these sections, and any others throughout SMP to specify that written is only required when Critical Areas Review or federal 401 or 404 permit applies, per WAC 173-27-050. Consistent with SMP 2.4(B) Staff recommends written Letter of Exemption be required for shoreline armoring. See also SMP 9.7	Eliminate implied "written" exemption as follows: <ul style="list-style-type: none"> • Applicabilty 2.2.C delete as duplicative of 2.4; • Exemptions form SDP 2.4.A and E • Point Hudson Subdistrict Table 5.13-1 (temporary use), • Residential Development 8.13 Intro, • Shoreline Stabilization & Flood Protection 9.7 Intro,

Commented [A13]: The current wetland rating system is 2014; does this mean Rick used the rating system that was in place in 2006? Consider rephrasing here for clarity/accuracy.

Note: The Chapter 3 summary of I & C is not a required part of an SMP, but was commonly included during comprehensive updates.

See also related comments/edits at SMP 3.1

Commented [A14]: Only SDP exemptions per WAC 173-27-040 may be authorized; City does not have discretion to establish additional exemptions.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
		Critical Areas review or federal review/approval.		<ul style="list-style-type: none"> Procedures for Processing Shoreline Permits 10.2.3A, Administrative Authority and Responsibility 10.14.1. b <p>10.3.2 Process – require written exemption if critical areas review/federal permit/bulkhead work; otherwise Director may waive written and address in underlying permit</p>
5a	Throughout	Scientific, cultural and educational facilities. Review for consistency with RCW 90.58.100 requires that each Shoreline Master Program (SMP) developed by local jurisdictions include “An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values”. DAHP guidance in https://dahp.wa.gov/project-review/shoreline-management-act	<p>SMP appears consistent with the RCW in Sections :4.9 Historic, Cultural, Scientific and Educational Element and 8.14 Scientific, Cultural and Education Facilities. However, the definition (Chapter 15); Chapter 5 Environmental Designations text and use tables appear to allow NEW construction of these facilities which has caused confusion. New uses/ construction should be limited to water-oriented.</p> <p>Inconsistent use of “research use” vs. “facility”. Should consistently use “facility” as per definition and 8.14</p>	<p>a. Natural designation Policy and DR 5.7.3 amended to clarify permitted use: restoration of existing and new <i>water-oriented</i></p> <p>b. Conservancy designation DR 5.8.3 amended to clarify permitted use: restoration of existing and new <i>water-oriented</i></p> <p>c. Residential designation DR 5.9.2 and 5.9.10 clarify restoration of existing</p> <p>d. Urban DR 5.10.10 “facility”</p>

Commented [A15]: City must institute a tracking mechanism WAC173-26-191(2)(a)(iii)(D) for determination of SSDP exemptions

Commented [A16R15]: Perhaps your existing permit tracking system can be used/modified? WAC requires tracking of ‘all project review actions’ including exemptions, SDPs, CUPs, and VARs not just ‘permits issued’ See suggested provision added at 10.14.1.e

Commented [A17]: City’s overall approach to exemption approvals needs further consideration and possible additional/different text revisions to ensure the ‘tracking & monitoring’ requirement of WAC 173-26-191(2.a.iii.D) is met, if not already specified. See also related comments

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
				e. Table 5 Restoration "P" in all; new row for "New" facilities. f. Chapter 15 definition: modified to improve consistency with RCW 90.58.100
6	Throughout Appendix G Public Access Enhancement Projects	Search and delete reference to Urban Waterfront Plan and Comprehensive Public Access Plan Consider removing Appendix G Public Access Enhancement Projects from the SMP to become a separate stand-alone document	1) These plans were superseded by the 2007 SMP update; however, remaining references have been retained for historical context 2) Consider removing Appendix G Public Access Enhancement Projects from the SMP to become a separate stand-alone document as it appears to provide supplemental guidance but does not have regulatory effect and should be updated as needed per City discretion without a formal SMP Amendment; potentially to be titled the "2007 Shoreline Public Access Enhancement Project Recommendations" See related comments/edits at 1.5.A; 7.2; 7.3.5; and 7.3.15..	References retained at 1.5, Deleted from 5.13 intro; Clarification in 7.2 2) Appendix G deleted to become a separate stand-alone document
6a*	2.3 Port Townsend Shoreline Jurisdiction	RCW 35.21.160 establishes the City's jurisdiction extends to adjacent waters out to the mid-point line of County/State/US boundary.	This section does not define the City's jurisdiction waterward	Amend to address jurisdiction waterward extent per the RCW.
6b*	2.4 Exemptions from Substantial	When an SMP lists SDP Exemptions, Ecology recommends using the full,	While the SMP mostly presents the full text from the WAC, there are	Full WAC text is provided for common exemptions in

Commented [A18]: HG: Will Ordinance need to recognize the stand alone document if it has no regulatory effect?

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
	Development Permit	exact WAC language, or limited abbreviations thereof with specific citations -	some items paraphrased or locally tailored.	City of PT; abbreviated with reference to WAC for rarely used exemptions. Amended 2.4.D.6 - inserted WAC 173.27.040 (2.g) (Note: while state statute refers to 35-foot height limit, the City's SMP and Zoning Code may further limit the maximum height of single-family residences)
6c*	Table 2.5-1 Other Commonly Applicable Regulations/Permits	Incorrect reference/circular reference	The City's Flood Damage Prevention regulations are codified in Chapter 16.08 PTMC which requires a flood development permit or flood development review in conjunction with the underlying permit. Table reference to shoreline permit/critical areas is circular.	Correct flood damage prevention references; delete circular references.
6d*	Chapter 3 Summary of Inventory and Characterization	Technical information from the comprehensive update is nearly 20 years old.	3.1 Introduction - It seems helpful to provide more current context for this Chapter 3 summary of shoreline conditions. Since not required as part of a Periodic Review and perhaps beyond the scope of this PR, the City may consider a future SMP amendment to remove/more thoroughly revise this chapter since the available scientific & technical data sets and analyses are always	3.1 amended to clarify City will rely on most current, accurate and available information.

Commented [A19]: If City's intent is to ensure all of 2.4(D)(1 – 13) shows the complete WAC text it should be addressed separately as an Additional Amendment. See the attached examples of three shortened options we prefer to help avoid erroneous/misleading paraphrasing, including:

1. Full list summarized;
2. Short list examples;
3. All topics paragraph.

Commented [A20]: This 'height' item is not part of DR 8.13.1 so should be addressed elsewhere. Be sure the RCW height exceedance criteria are met. See also related comments/edits re: overall list of Exemptions strategy.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
			changing over time to reflect the dynamic conditions of shoreline ecological systems.	
7	Chapter 5 Shoreline Environments	In some cases, CUP adds extra process and cost for bulkheads and revetments without any additional environmental protection criteria.	Consider removing CUP requirement for bulkheads and revetments in the Main Boat Basin and Northeast Boat Basin sub-districts of the Boat Haven District, as consistent with the 5.12 Designation Criteria and Management Policies. Standards in 9.7 Shoreline Stabilization, apply; including "Structural stabilization has been demonstrated, through a geotechnical report, to be necessary to support or protect a legally established, inhabited structure or ongoing shoreline use that is in danger of loss or substantial damage".	To allow bulkheads with an SDP, revised "C" to "P" Use for Shore Defense Works, as follows: Table 5 Table 5.12-1. Boat Haven Marina and Marine Trades District Add a row to Table 5.13 Point Hudson 9.6.1 Landfill
8	Table 5 Permitted, Conditional & Prohibited Uses & Developments	Inconsistencies between Use Table and text. Formatting errors - text location in rows/columns based on topic.	For accuracy, Setback text should not be in the Height row; Improve internal consistency 1. Mooring buoys Table 5 says P for public buoys, while DR8.8.2 says a new mooring buoy field requires a CUP. (Now DR8.10.1, see item 13 below) 2. Public Access in Aquatic CU/H Improve consistency with DR- 5.6.6 c	Move Setback text to Setback – Notes 1. Amended Table 5 mooring buoys 5 or more = CUP Added note: See 8.10 Mooring Buoys 2. Amended Table 5 Public Access to P/CU see DR 5.6.5 and 5.6.6

Commented [A21]: We are proposing to remove CUP requirement in all designations as reflected in Table 5

Commented [A22]: Optional not required - See related comments/edits to replace this term with 'Fill' per SMA & WAC;

Commented [A23]: Generally the construct should be that the Use Table serves as a 'quick glance' summary of the provisions established by text; it's best if the table is not the only place allowances/prohibitions are described; Typically include an overall statement that in the event of conflict between text and Table the text shall prevail. Conserve overall approach to Use Tables 5.12-1, 5.13-1, and 5.

Commented [A24]: Checklist #8 and 13: Overall approach to SMP 8.8 Marinas and 8.10 Mooring Buoys is not clear - this is more than just a correction between text & table and should be presented separately to address to conflicts.

Need to better clarify public and private facilities in both text and tables for consistency;

Rationale for why the existing threshold for # of buoys in a mooring field is changing from 6+ to 4 or fewer/5 or more?

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
			<p>requires CUP for public access does not limit to historic structures.</p> <p>3. Utilities - Primary in Natural limited allowance as a conditional use Per DR 5.7.3f</p> <p>4. Table 5 prohibits Associated Parking in Natural except for ADA; but DR 5.7.3f allows a limited parking as a conditional use.</p> <p>5. Table 5 Commercial; Industrial & Port; Recreation; and Transportation allow limited w/r and w/e uses; Aquatic Policy 5.6.2 allows water-enjoyment uses per specific criteria, and DR-5.6.2 allows water-dependent uses per specific criteria; both are silent on w/r.</p> <p>6. Aquatic Policy 5.6.3 and Table 5 Commercial; Docks, Piers & Floats; Transportation; and Utilities limit new o/w structures to PT Bay. Aquatic – New Overwater Structures DR 5.6.6 allowed as a conditional use needs clarification.</p> <p>7. DR 8.5.4 Reconstruction of existing boat launch (except the</p>	<p>3. Revised Table 5 “Primary Utilities” from X to CU</p> <p>4. Amended DR 5.7.3f deleted parking - improves consistency with Table. Divided 5.7.3 into Permitted and Conditional uses</p> <p>5. Amend Policy 5.6.2 to include limited w/r in Aquatic.</p> <p>6. DR 5.6.6 clarified – new o/w structures only in PT Bay.</p> <p>7. Add note in table referring to DR 8.5.4; Modify DR 8.5.4 “functional launch”</p>

Commented [A25]: See related comments re: possible elimination of CU/H to use C/AU instead

Commented [A26]: #3 Review and Action say nearly the same thing. This shows addition of C, but related amendments show deletion of X and replacement with CU. This Additional Amendments checklist does not need to show the underline/strikethrough edits proposed, rather describe the effect, such as “Delete the prohibition to allow as a conditional use for internal consistency with Natural DR-5.7.3”

Commented [A27]: Policy 5.6.2 reads as a regulation; consider how this interacts/conflicts with DR5.6.2, and overall approach to use preference per WAC 173-26-201(2.d) ; ECY seeks to better understand how SMP addresses these related issues.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
			North Beach launch that has been identified as a restoration site) is a Permitted Use	
9	5.6 Shoreline Environments - Aquatic	<p>1) Clarify height limit for over-water structures in the historic downtown: Aquatic vs. Special Height Overlay District (SHOD (Directors Interpretations ADM20-003007; ADM20-027). 2) Clarify how height is measured.</p> <p>Ensure consistency with RCW 90.58.320 which limits height for any new or expanded building or structure to not more than thirty-five feet above average grade level if it <i>"will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served."</i></p>	<p>1) . Aquatic DR-5.6.23 limits <i>new or expanded</i> in-/over-water structures to 18' 6"; however, In Table 5 "Height limit" for Aquatic, note 3 New or expanded structures w/in the SHOD - height limits of the SHOD apply. In Historic Waterfront (landward of OHWM): DR 5.11.9, height limits for new or expanded structures are subject to the Special Height Overlay in PTMC 17.28 (up to 50').</p> <p>2) While structures over 35 feet may be permitted in Aquatic DR 5.6.23; Historic Waterfront DR 5.11.9 and Point Hudson DR 5.13.16, none address criteria for structures over 35 feet per RCW 90.58.320</p> <p>3) DR 5.6.24 says measured from the deck surface while RCW 90.58.320 says measured "from adjacent grade"</p>	<p>1) Amended/added DR 5.6.23-25; adjusted foot notes in Table 5 "height limit" to clarify height limits for new or expanded structures inside and outside of the Special Height Overlay.</p> <p>2) New DR 5.6.26, modify DR 5.11.9 and DR 5.13.16</p> <p>3) Revise DR 5.6.23, add DR 5.6.24, 5.11.9 revised to improve consistency with the RCW "average grade of adjacent street level".</p>
9a	5 Shoreline Environments –	Public comment requesting the city allow more aquaculture. Consider	Aquaculture for restoration is currently listed as a permitted use in	In the Aquatic designation, allow for limited

Commented [A28]: Ask John to proof

Commented [A29]: 17.28.020 Boundaries of district – Height overlay subdistricts. The special height overlay district shall extend from the waterfront to the top of the bluff...

Does this mean SHOD only applies landward of OHWM? ECY needs to review the Admin Interpretations to fully consider the proposed revisions.

Commented [A30R29]: ADM20-003 sent 6/18. Also note Table 5 "Height limit" existing Note 3

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
	8.4 Aquaculture	<p>recent case law. (See Scoping Period Comment letters from Taylor Shellfish and Jamestown S'Klallam; WAC173-26-020 & 241(3)(b)).</p> <p>1/14/21 Planning Commission recommended the City allow commercial shellfish aquaculture limited to:</p> <ul style="list-style-type: none"> • native and naturalized species • allow in existing marinas • if waterward of the OHWM must be subsurface (i.e., no rafts) 	<p>the uplands in: Natural, Conservancy, Residential, Urban, Historic Waterfront, and Boat Haven marina (Table 5 Shoreline Permitted, Conditional and Prohibited Uses and Developments and DRs).</p> <p>5.6 Aquatic Designation</p> <p>Table 5.12 Boat Haven uses and Table 5.13 Point Hudson</p> <p>Section 8.4 Aquaculture</p>	<p>commercial shellfish aquaculture (including geoduck) in Aquatic with a CUP per WAC 173-26-241(b)(iv).</p> <ul style="list-style-type: none"> • Section 5.6 Aquatic Designation (DR 5.6.2 and 5.6.3) and • Table 5 - added New Commercial Shellfish as CUP in Aquatic and prohibited in all upland Designations; <p>Allow aquaculture for enhancement</p> <ul style="list-style-type: none"> • Table 5.12 Boat Haven uses • Table 5.13 Point Hudson uses <p>Allow limited in-water aquaculture in existing marinas with CUP;</p> <ul style="list-style-type: none"> • Table 5.12 Boat Haven uses and

Commented [A31]: Ask LB to review closely

Commented [A32]: Other non-geoduck Aquaculture issues should be addressed as Additional items below

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
				<ul style="list-style-type: none"> Table 5.13 Point Hudson Section 8.4
9b	5.9 Shoreline Environments - Shoreline Residential	Design Elements DR 5.9.12 impervious surface limits differ from the 19.05.060(D.4) General Performance Standards adopted by reference as part of Chapter 6 critical area provisions.	Clarification is needed	DR 5.9.12 modified to improve consistency with CAO revisions. See also related edits at CAO Item #44 below.
10	5.13 Shoreline Environments – Development Regulations - Point Hudson District	Internal inconsistencies: 1. Point Hudson East Sub-District DR 5.13.5 does not specify “in eligible buildings” whereas DR 5.13.4 does, and contains an incorrect reference. 2. Marina Sub-District DR-5.13.8 vs. Table 5.13.1 Docks and piers: appears to limit docks, piers in the marina to pleasure craft and then only on the marina side of PH East?	1. The SMP allows unlisted non-water oriented uses as a conditional use in this district <i>within eligible buildings</i> . Improve consistency between DR 5.13.4d and DR-5.13.5. 2. Marina Sub-District DR-5.13.8 limited allowance for water-dependent, water-related, and public access uses does not specify the Table 5.13-1 restriction for docks & piers only for pleasure craft.	1. Amended DR 5.13.5 to clarify, “in eligible buildings” and corrected reference to DR 5.13.4 Adaptive reuses criteria (d.i – ii) 2. Table 5.13.1 Clarify docks, piers floats are allowed in marina, pleasure craft limited to the side abutting PH East
11	5.13 Shoreline Environments – Development Regulations – Point Hudson District	Internal inconsistencies: Maritime Heritage Corridor Sub-District 1) DR 5.13.7 lists conditional uses; item b is out of place. Item b. <i>exterior modifications for life/safety or building code compliance</i> is a permitted use 2) DR 5.13.7 possible inconsistencies with table 5.13-1 under “Unlisted Non-water oriented uses”	1) Move item 7.b to 5.13.6 permitted uses. Clarify: Exterior modifications are permitted, <u>provided they are</u> limited to those necessary for life/safety improvements and/or compliance with building codes. 2) DR 5.13.7 Transient accommodations/caretaker’s residence are permitted as “C” use in Point Hudson East <i>not jut expansions</i> .	1) Minor text amendment, Move item 7.b to DR 5.13.6.d Permitted uses in Maritime Heritage Corridor subdistrict. 2) Modify DR 5.13.7 3) Replace “boat storage facilities” with “boathouses

Commented [A35]: This edit was missing at DR-5.13.5

Commented [A33]: Why specify type of vessel? Do the proposed changes mean that commercial or agency craft (e.g. DFW or Sheriff) could only moor in slips along the Maritime Heritage Corridor side of the marina? Deleting the ‘pleasure craft’ limitation makes sense, but ECY seeks to better understand the whole issue/proposed edits.

Commented [A34]: Docks & Piers are water-dependent, and in this marina provide public access. Not clear the intent or justification for ‘pleasure craft only on PHE side of marina’? Seems out of sync with current practice of pleasure craft moored on both sides. Why does City want? Port? Let’s discuss

Commented [A36]: Where is this singular CU in the MHC Sub-District addressed in the Table? Is there a conflict between the DR-5.13.7 CU allowance and Table 5.13-1 Unlisted Non water-oriented uses shown as prohibited on the ground floor, but allowed as CU in upper floors of MUD?

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
		<p>3) Table 5.13.7 “boat storage” not defined</p> <p>4) DR 5.13.1 reads like policy and appears inconsistent with policy</p> <p>5) Table 5.13.-1 Docks, piers <i>and floats</i>?</p>	<p>5.13.7 allows minor expansion of existing non-water oriented uses in Marina and on ground floor of Maritime Heritage Corridor where otherwise prohibited in Table.</p> <p>3) Boat house is defined and addressed in DR 9.4.1. Overwater bathhouses are prohibited</p> <p>4) DR 5.13.1 inconsistent with policy</p> <p>5.13.6 <i>water dependent and water related uses are priority uses</i> and 5.13.5</p> <p>5) by definition, float is not attached to shoreline which, in PH would impede navigation. Clarify pleasure craft on PHE side of marina – PHE supports w/e uses while MHC prioritizes w/d and w/r uses.</p>	<p>and covered moorage” and prohibit in Point Hudson Marina consistent with DR9.4.1</p> <p>4) Delete DR 5.13.1 <i>Water-oriented uses are priority uses in this district</i></p> <p>5) Table 5.13-1 Point Hudson: Docks, piers, floats table revised to delete “float” and clarify location of pleasure craft..</p>
12	6.8 Environmental Protection - Geologically Hazardous Areas – Development Regulations	DR 6.8.1 and 6.8.2 appear duplicative of Critical Areas provisions in PTMC 19.05.100 F Buffers and Setbacks (2) and (3) .	Having duplicative shoreline language in both the CAO and SMP is not preferred/ recommended.	Duplicative language deleted: DR6.8.1 and 6.8.2 deleted. Merge with 19.05.100 E&F Cross reference #1, 48
12a	7.4 Public Access Development Regulations	Design section appears to mix topics.	DR 7.4.19 Materials and no net loss should be two separate standards. ECY recommends Table 5 note 10 be revised and listed as a development regulation.	Amended 7.4.19 – separated net loss from materials and added note 10 as a DR 7.4.xx

Commented [A37]: .100(F)(3) only applies to landslide hazard areas, but .100(B) and (C) classify and designate both landslide and erosion hazards. Are all marine bluffs in shoreline jurisdiction landslide hazards only or are some erosion hazards? ECY seeks to better understand this situation & City's intent for buffer reductions in shoreline.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
13	8.8 Marinas, 8.10 Mooring Buoys, 9.4 Docks, Piers & Floats, and Table 5	Numerous internal inconsistencies between related terms and provisions make implementation complex and confusing. re: number of boats/buoys that constitutes a marina and what provisions apply to each specific use.	<p>1. Current SMP uses inconsistent threshold for number of vessels served: 8.8 Marinas intro text defines marinas as serving “five or more” watercraft;</p> <p>8.10 Mooring Buoys intro text refers to 8.8 Marinas if “six or more” buoys are proposed;</p> <p>15.4 Definition of Marina states “six or more” watercraft; and</p> <p>DR 9.4 Docks, Piers and Floats intro text states that docks/piers/floats serving “five or more” boats are considered a marina.</p> <p>2. The current SMP blurs the terms & applicable standards for ‘mooring buoy fields’ and ‘marinas’</p> <p>3. While Use Table 5 lists Marinas and Mooring buoys separately there is some inconsistency between the ‘public’ and ‘private’ distinctions in the table and the text. Public Mooring buoys are listed as “P” in Aquatic. DR 8.8.2 requires CUP for</p>	<p>Simplified by eliminating overlap between Mooring Buoys and Marinas: Still requires CUP if serving 5+; still limits to “transient” “public” (DR 8.10.1 and 2)</p> <p>Added to Table 5: Mooring buoy serving 5 or more vessels = “C” 8.10 – Remove introductory clause with cross reference to Marinas</p> <p>Move CUP requirement for mooring buoy fields (5+) from Marinas DR 8.8.2 to Mooring Buoys DR 8.10.1.</p> <p>Expand DR 8.10.1 to “transient” consistent with policy 8.10.1 and require maintenance plan to address waste and spills (similar to marinas).</p> <p>8.10 intro delete language that classifies mooring buoys (5+) as marinas</p>

Commented [A38]: Get input from Port and PC.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
			<p>mooring buoy field, a term that is not defined.</p> <p>Buoys are also included in definition of "over-water structures" which would require buoys to comply with performance standards in 5.6 as well as 8.10 Mooring buoys which is unnecessary.</p> <p>Policy 8.10.7 implies only applies to mooring buoy "fields"</p>	<p>Revised use table and definitions</p> <p>1. Marina: "A dock or basin providing secure moorings for boats and often offering supply, repair, and other facilities"</p> <p>2. "over-water structure" delete buoys.</p> <p>Policy 8.10.7 Clarify "...mooring buoy fields..."</p>
14	8.13 Residential – Development Regulations	<p>1) Introduction – compare accessory and appurtenant structures to definition</p> <p>2) DR-8.13.1 Possible internal conflict - Compare 1.b. 'Grading does not exceed 250 cubic yards'; SMP 2.4 .D Exemptions from SDP; and SEPA exemption for clearing and grading associated with single-family residence</p>	<p>1) Consistent with the WAC, Chapter 15 defines garage, driveway, and fence as appurtenances; the intro in 8.13 is inconsistent.</p> <p>2) DR 8.13.1 is consistent with SEPA categorical exemptions; however ECY commented SEPA exemption does not guarantee SDP exemption.</p> <p>The SDP Exemption for construction of a single-family residence is already addressed at SMP 2.4.D.6. Local Gov does not have discretion to modify the exemptions listed by statute/WAC."</p>	<p>1) Intro revised consistent with definition of appurtenance.</p> <p>2) Deleted DR 8.13.1</p>

Commented [A39]: based on Merriam Webster definition

Commented [A40]: Check with ECY

Commented [A41R40]: SEPA exempt activities may not qualify as SDP exempt under SMA/WAC; and all SMP provisions must be consistent with SMA/WAC.

See related comments/edits re: 2.4 and 8.13

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
14a	SMP 9.3 Alteration of Natural Landscape - Clearing, Grading and Vegetation Removal	Staff seeks clarification re: Forest Practices vs. Clearing vegetation and what triggers a permit.	Policy 9.3.1 Prohibit speculative clearing, grading or vegetation removal. DR 9.3.1 and preceding Intro could be expanded to provided needed clarity and consistency with Policy 9.3.1.	Expand intro for clarity. Modify DR9.3.1 consistent with Policy 9.3.1 Related checklist items 2017e and 31a.
15	9.4.1 Docks, Piers & Floats - Development Regulations Section 5.6 Aquatic Environment Section 5.12 Boat Haven Section 5.13. Point Hudson Chapter 8 Specific Use Policies	<p>Improve internal consistency and reduce overlap for various over water structures.</p> <p>There is significant overlap in the City SMP between Chapter 8 Specific Use Policies for Marinas and Mooring Buoys and Chapter 9 Specific Modifications for Docks, Piers & Floats. In addition, given the unique historic over-water structures in PT, there is overlap in Section 5.6 Aquatic Environment</p> <p>Designation and Sections 5.12 Boat Haven and 5.13 Point Hudson</p> <p>These multiple overlaps can complicate implementation. Consider options to streamline text now or defer to a future SMP amendment.</p> <p>The SMP Guidelines address Piers & Docks separately as shoreline modifications (WAC 173-26-231), and</p>	<p>1. Liveaboards: Policy 9.4.2 prohibits docks/piers/floats used for moorage of liveaboards except in existing marinas.. DR9.4.1 prohibits piers, docks and floats for "residential purposes"; however, Boat Haven (DR 5.12.2) and Point Hudson (Table 5.13-1) allow limited liveaboards.</p> <p>Section 5.6 Aquatic is silent on liveaboards.</p> <p>2. Boathouses/covered moorage are prohibited overwater per DR 9.4.1: ensure consistency in Section 5.12 and 5.13</p> <p>3. Per Section 9.4: docks, piers and floats that serve 4 or fewer boats are reviewed as "recreational facilities"</p>	<p>1. Modify Policy 9.4.2 "discourage" vs. prohibit. Modified DR 9.4.1 with courtesy reference to Chapter 5 on liveaboards. Added to DR 5.6.1 Aquatic - liveaboards prohibited outside of existing marinas.</p> <p>2. DR 5.12.2 and Table 5.12-1 Prohibited uses in Boat Haven: Add boathouse/covered moorage waterward of OHWM. (See checklist 11-3)</p> <p>3. Revise 9.4 delete reference to 8.12 Recreational. DR 5.6.2 clarify mooring buoys vs. generic "moorage"</p>

Commented [A44]: If time, consider additional revisions e.g. MMC: As related, consider expanding DR 9.4.1.a to include SMA/WAC terminology (floating home, FOWR) noted at 2014.a and 2011.c above &/or courtesy reference to 8.8 Marinas and 8.13 Residential re liveaboards and overwater residential.

Commented [A42]: Consider Move DRs in 5.6 "Design Elements for all over-water structures" to 9.4 and cross-reference it here?

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
		Boating Facilities as a type of shoreline use (WAC 173-26-241). Local government has discretion for how their SMP groups/presents the various types of moorage and access use & development, as long as all minimum standards are met. Ecology's SMP Handbook Chapter 12 provides additional guidance.	(Section 8.12); however regulations in 8.12 do not address docks, piers, floats while the development regulations in 9.4 are relevant. 4. Inconsistent use of terms. Policy 5.6.6 says "rebuild"; DR 5.6.18 "redevelopment" 5. 5.6.11 - .16 Aquatic includes Design Elements for all over-water structures which would include docks, piers, and floats. 6. Compared Section 9.4 to WAC173-26-241 Boating Facilities and WAC 173-26-231 b. Piers and docks and Section 5.6 Aquatic – overwater structures 7. Intro in 9.4 Docks, Piers and Floats is inconsistent with definitions in Chapter 15 8. Term "required" in Policy 9.4.1 and DR 9.4.1(e) may not accurately reflect WAC 173-26-241 (3c) "new piers and docks shall be allowed only for water-dependent uses or public access.	4. Policy 5.6.6 revised to "redevelop" 5. DR 9.4.3 add reference to Design Elements for all over-water structures in Section 5.6 6. Revised Section 9.4 to improve consistency with WAC173-26-231 and 241. DR 9.4.2 streamlined and reference to 5.6 7. Delete firsh paragraph of introduction 8. Policy 9.4.1 and DR 9.4.1(e) revised to improve consistency with WAC 173-26-241 (3c) See related checklist items 2011c, 2014a, 11 and 32

Commented [A43]: See the matrix version provided separately to help compare/contrast minimum requirements for residential/non-residential moorage & access use & development.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
16	9.7 Shoreline Stabilization	Change in local conditions - Due to ongoing SLR and new projections, applicant requests for increased bulkhead height are more frequent.	Consider allowing increased height of shoreline stabilization as an exemption. SMP 9.7 says additions to or increases in size of existing = new structure	No change. SSDP Exemptions can only be revised by state legislature.
17	9.7.1 Shoreline Stabilization - Development Regulations	Clarify permit process and applicable standards for when structural stabilization requires SSDP vs. exemption <i>See related Checklist Item 7</i>	SMP 9.7 addresses the WAC 173-27-040 exemption for construction of the normal protective bulkhead to protect existing single-family residence also addressed at SMP Section 2.4 Exemptions from Substantial Development Permit is inconsistent with the WAC. While the 2.4 SDP exemptions determine the permit process, the provisions of 9.7 still apply.	2.4D(3) replace exemption text with specific WAC language. Modify intro to 9.7
18	9.7.1 Shoreline Stabilization - Development Regulations, 9.7.7 Shoreline Stabilization - Additional Regulations for "Hard" Stabilization Structures	Clarify regulations for stabilization measures based on type of proposed action: new, expanded/enlarged, replacement, or repair	Need to improve consistency with WAC 173-26-231 (3), eliminate redundancy, and group like provisions to aid both applicants & practitioners.	Revised Section 9.7 to reduce redundancies, improve consistency with WAC 173-26-231 (3); group similar regulations

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19	DR 9.7.11-9.7.13 Siting and Design for Hard Stabilization	Terminology used is imprecise/internally inconsistent. Section and related use tables refers to bulkheads and in some places bulkhead and revetments. Regulations apply to the full suite of shoreline stabilization structures.	WAC 173-26-231 (3.a) uses the term "shoreline stabilization structure."	Throughout Section 9.7 replaced "bulkhead" "bulkhead and revetment" with "shoreline stabilization structure"
20*	10 Administration & Permit Procedures; and PTMC 20.01.290	Throughout 10.3 – 10.8; 10.13; and 10.15: SMP consistency with SMA/WAC, and for internal consistency between SMP and PTMC - Correct existing appeals procedures as needed. Consider clarifying footnotes in Table 10.8.1 Organization needs improvement. Repetitive language/language out of place.	The SMA establishes permit appeal procedures (RCW 90.58.140 and .180), therefore any local administrative appeals that would occur prior to the Ecology date of filing are not required and up to local discretion.-The SMP addresses permit appeals at 10.15 and several other parts of Section 10. 1. Sections 10.6, 10.7 & Table 10.8-1 - Local process for CUP/Variance currently allows for an administrative appeal prior to ECY approval, and then a second 21-day state appeal period (required). This local appeal step is optional and staff considers it duplicative/excessive. 2. Error- Type IA Shoreline Exemptions are administrative decisions appealable to Superior Court under LUPA (RCW 36.70C)), not to Shorelines Hearings Board. 3. Final local decision on both Type II and III SSDPs is appealable to SHB	1. Delete local administrative appeal for CUP/Variations: 10.1, 10.6.3, 10.6.4 and 10.7.2, 10.7.3; Table 10.8-1 2. Shoreline Exemption LUPA appeal process added to 10.3.2 3. Correct appeal process for SSDP in 10.5.2 4. Appeals <u>to SHB</u> added in 10.15 (now renumbered as 10.16) 5. Amended 10.18.4 (now renumbered as 10.19) to include basis of appeal.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
			<p>4. Appeals section 10.15 lacks detail in addressing Shoreline Hearings Board</p> <p>5. Permit revisions in 10.18 add basis of appeals per ECY Shoreline permitting manual.</p> <p>20.01 lists Revisions to shoreline permits as a Type II; while SMP simply says notice to Parties of Record. Consider footnote in 20.01.</p> <p>e.g. 10.14.2a decision of Hearings Examiner may be further appealed <u>as per 10.5 Appeals</u>; delete PT City Council</p>	<p>6. Reorganized to improve implementation</p> <p>7. Deleted repetitive language; moved out of place language.</p>
21	10.3 Shoreline Exemptions	Clarify expiration and filing of written Letter of exemptions	<p>1. While the WAC does not establish a time period for SDP exemptions; City SMP Section 2.4A states “a letter of exemption expires in one year unless otherwise specified in the Letter of Exemption”.</p> <p>2. Per WAC173-27-050; if federal Section 10 or 404 permit review also required, local government shall prepare and send a copy of a letter of exemption to ECY (Cross-reference #33)</p>	<p>1. 10.3.2 Added exemption language consistent with 2.4A</p> <p>2. Added requirement to send letter of exemption if federal permit also required.</p>
22	10.3.2 Shoreline Exemptions - Process	Consider Type II for a Shorelines Exemption involving critical areas review. Resolve inconsistency in permit	Pursuant to SHB1653 the city can no longer require a separate critical area permit. What to do when SSDP	No Action.

Commented [A45]: Basic construct question: better to establish shoreline provisions primarily in the SMP and provide courtesy references at PTMC as needed to help avoid circular authority/references

Commented [A46]: Nuanced terminology – the requirement is for the Letter to be addressed to the applicant and ECY; this is different/separate from ‘filing’ as a trigger for SHB appeals.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
	(PTMC 20.01.040 Table 1)	type (and thus public noticing requirements).	Exemption (Type IA) involves critical areas review that would otherwise require a Type II permit? 9/24/20 PC did not seem inclined to amend SMP but rather to make CAO Type IA?	
23	10.14 Administrative Authority and Responsibility	10.14.1.f lacks detail on process for Directors Interpretation for consistency with WAC requirements, and consistency with PTMC 20.01, 20.02.010, and 20.04.090	SMP gives DSD Director authority to interpret but process is not spelled out. PTMC 20.02.010 does not list SMP regulations May require corresponding edits to PTMC 20.01.20.02. ensure consistency with WAC 173-26-140	Added new 10.15 Administrative Interpretations provisions with reference to PTMC 2002 and Section 2.1 liberal construction
				Left on list to preserve numbering.
25	10.14.2 Hearing Examiner	Internal consistency - Minor SSDPs are Type II administrative decisions, while Type III SSDPs go to the HEx: Ensure consistency with 10.14.3 recently revised per Ord. 3062 to remove Council from decisions on HEx appeals?? Similar to checklist item 20.	10.14.2.a does not specify how appeals of a Hearing Examiner permit decision are addressed; Such decisions previously were decided by City Council.	Amended 10.14.2.a appeals of HEx. Decision go to SHB.
26	10.17 Duration of Permits	SMP lacks specificity re: time requirements of permit (i.e., expiration) and the need for an applicant to demonstrate action	Directors Interpretation ADM17-004; ECY Administrator's Manual- 1994 Edition M-82 "as a general matter this should be read to include administrative processes that are outside of the applicants control where the applicant can demonstrate that the project has been actively pursued."	10.17.1 and 10.17.2 added "The applicant may be required to demonstrate that the project and associated permits have been actively pursued." Added 10.13.6 Start of Construction per RCW 90.58.140(5)

Commented [A47]: Further discuss – when/where would there be a shoreline exemption proposal that *doesn't* involve FWPCA or other critical area?

Commented [A48]: Not sure I've got this right... the edit to 10.14.2.a doesn't relate to Minor SSDPs, so there's a disconnect between the Summary, Review and Action columns.

Commented [A49]: Need to review this Admin Interp

Commented [A50]: This seems like a separate issue better presented above

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
			WAC173-27-090. RCW 90.58.140(5) sets forth time limitations for start of construction; SMP is silent.	
27	10.17 Duration of Permits	SMP does not include language to address vested status and rescision of permits per SMA and case law and local government examples: <ul style="list-style-type: none"> • Potala Village Kirkland, LLC, v. City of Kirkland (2014); "Within the parameters of the doctrine established by statutory and case law, municipalities are free to develop vesting schemes best suited to the needs of a particular locality." • Erickson & Assocs., Inc. v. McLerran (1984). • Bellevue 20.25E.250 and Redmond examples on MRSC http://mrsc.org/Home/Explore-Topics/Legal/Planning/Vested-Rights.aspx 	RCW 90.58.140(8) allows for rescinding a permit, 10.14.1 gives the Shoreline Administrator authority for permit approvals and administrative decisions, but 10.17.3 Permit Extension lacks specificity re: permit vesting and rescision. Ecology's Shoreline Permitting Manual also provides guidance.	10.17.3c Vesting – partially addressed . (Consider additional future amendmenst to PTMC 20.01). Added new 10.20 Permit Rescinding provision to allow that Shoreline Administrator may rescind a permit.
28	10.17Duration of Permits	10.17.2 Permit Extension- Allows for a single extension up to 1-year but lacks specificity on who has the authority to grant an extension; what are 'reasonable factors', timing of	RCW 90.58.143, WAC 173-27-090 and –100(4) establish limited allowances for permit extensions. Does a Type III extension go to Hearing Examiner or Director? Is	10.17.3 Permit Extension expanded to include more specific provisions

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
		construction commencement and completion; and the administrative process	there a comment period? See example Bellevue 20.25E.250	
29	10.18 Permit Revisions	Possible internal conflict between SMP 10.18, PTMC 20.01.040, WAC 173-27-100 and ECY Guidance.	SMP must be consistent with SMA & WAC, and avoid/minimize conflict with PTMC. 20.01.040 Table 1 identifies permit revision as Type II permit, which would require notice to APO's, on-site posting & a legal ad. SMP simply says that Revisions require notice to Parties of Record.	10.18.2 renumbered as 10.19.2 amended to Clarify Permit Revisions are processed as a Type I permit.
30	12 Enforcement & Penalties 10.2 Procedures for Processing Shoreline Permits	SMP does not specify that permit conditions run with the land and must be satisfied prior to use/occupancy	SMP 2.4.A allows the Shoreline Administrator to attach conditions to an SSDP Exemption; 10.6.1 allows special condition for a SUP; Ecology guidance clarifies that "conditions run with the land" and are in effect even after the project has been built and the five-year permit authorization has expired". (ECY <u>Shoreline Permitting Manual revised Nov. 2019 Publication No. 17-06-029</u>) Administrator's Manual - 1994 Edition M-82	New Section 10.2.4 Conditions
31	14 Shoreline Restoration	Restoration Plan does not have regulatory effect and should not be codified.	ECY strongly recommends removal from SMP to present as a stand-alone document; doing so also gives the City fore flexibility for future revisions to the Plan without triggering a formal SMP Amendment.	Modified Policy 4.8.1 to reflect stand alone Restoration Plan that may be updated without formal SMP amendment. Delete Policy 4.8.6

Commented [A51]: City needs to determine the process not leave unanswered questions here in the Checklist

Commented [A52]: Useful clarification – see related comments/edits re: possible relocation

Commented [A53]: Delete as duplicative; Already addressed by #2010.a above

Commented [A54]: Agree with removing Restoration Plan to be separate document, and related text edits to reflect such, but these revisions are not specific to the 2009.a item; See also related comments/edits about showing Chapter 14 text for deletion as strikethrough, and suggested addition of restoration goals to Chapter 4. I recognize my previous comments addressed this related but separate issue as part of 2009.a

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				Modified 5.7 Natural Designation Criteria #4 to reflect stand alone Restoration Plan. Delete Chapter 14 to present separately as a stand-alone document
31a*	15.4 Definitions: C-F	<p>a. "clearing" mixes forest practice terms.</p> <p>b. "critical saltwater habitat" not defined.</p> <p>c. "Dock" definition includes pier</p> <p>d. "feeder bluff" definition is outdated.</p> <p>e. "Floodplain" graphic is for floodways on a riverine system.</p> <p>f. "Forest Practice" is not defined</p> <p>g. "fill" is not defined</p>	<p>a. Clearing: Best to keep terms separate and distinct. Consistency with Section 9.3 Alteration of Natural Landscape- Clearing, Grading and Veg Removal could be improved.</p> <p>b. If deleting Appendix F, suggest adding definition of critical saltwater habitat.</p> <p>c. Pier is defined as a fixed pile supported structure. Delete "pier" from the definition of dock.</p> <p>d. Feeder bluff: Ecology suggested newer & more concise definition from our 2014 Puget Sound Feeder Bluff publication (pages iv and 20)</p> <p>e. there are no riverine systems in the city limit. Replace with marine graphic and add note to reference.</p>	<p>Revised/added definitions per ECY recommendation and to improve internal consistency</p> <p>a) See related Checklist item 2017e</p>

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
			f. Ecology suggests adding "Forest Practice" definition g. replace term 'landfill' with "fill" for better consistency with WAC 173-26-231(3.c)	
32	15.4 Definitions: G to O	a. "landfill" not in the WAC b. Add definition of "liveaboard" distinguish from floating home/FOWR	a. replace term 'landfill' with "fill" for better consistency with WAC 173-26-231(3.c) While staff is unaware of any floating homes or FOWRs in the city limits, we do have an allowance for a limited number of liveaboards (<i>on a vessel</i>).	a. Deleted definition of landfill. Added "fill" see 31a above. b. Definition of <i>liveaboard</i> added.
33*	15.4 Definitions: G to O	a. Definition of "100-year flood" duplicative of "floodplain" b. Modify definition of "Marine bluff" consistent with proposed revisions to CAO.	a. remove duplicate definitions. b. Comment letter C (McInvale 4/16/20) identifies possible loophole. Review and revise if necessary. (LEG Dan McShane for 61 Vista determined no wave action.)	A. refer to definition of "floodplain" b. Removed LSMT bluffs from 19.05.020 definition of "marine bluff". Cross-reference #48
34	15.4 Definitions: G to O	"Height, building" 'Building Height' above refers to this definition as 'Height'	For better internal consistency, and for consistency with RCW 90.58.320 that addresses 'structures' not only buildings, and because overwater structures are typically not 'buildings' revise this SMP definition to just 'Height';	Amended definition: Height, Building – for consistency with SMA, PTMAC, and internal consistency with other SMP terms/provisions.

Commented [A55]: OK here but could be relocated to #2014.a & #2011.c above as part of the Action description, to help consolidate content and keep related items together.

Commented [A56]: ECY seeks better understanding of overall marine bluff strategy – let's discuss.

Commented [A57R56]: Marine bluffs subject to wave action have higher erosion rate and instability than inland banks.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
			Clarify, for over-water structures, height is measured from the surface of abutting street grade	
35	15.4 Definitions: G to O	Internal inconsistency for definition of "Marina" and Section 8.8	Address inconsistency with definition of marina. As part of adoption, Ecology required City to modify 8.8 and 9.4 to "four or fewer" whereas definition of marina is 6. WAC173.26.241(3) (c) establishes that our boating facility standards do not apply to SFR docks for 4 or fewer homes; SMP needs to ensure clear definitions, consistent use of terms, and distinct provisions for all related uses/structures. ECY suggested 'friendly amendments' to better differentiate the primary & accessory parts common to a marina development.	Amended definition per ECY recommended edits deletes reference to number of boats.
36	Appendix C Special Height Overlay (Chapter 17.28 PTMC)	PTMC Chapter 17.28 Special Height Overlay District was revised in 2010 (Ord 3034)	SMP text relies on PTMC 17.28 Special Height Overlay District provisions; the 2007 version is included as Appendix C, but is now out-of-date	Delete Appendix C and rely on SMP text references to PTMC 17.28 to ensure most current version applies; and to avoid future SMP amendment when 17.28 is further revised.
37	Appendix E Critical Areas Ordinance (No. 3198, May 21, 2018)	Appendix E will become outdated with proposed 2021 amendments	SMP 6.1, Policy 6.5.3, DR-6.5.1, and DR-6.5.3 incorporate PTMC 19.05 by reference, with numerous additional cross references to 19.05 and inclusion as Appendix E. Concurrent	Delete

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
			revisions to 19.05 are being proposed - need to ensure SMP relies upon the most current version of the CAO to optimize consistency..	
	Appendix F Critical Saltwater Habitats	This 2007 era content limits the City from relying on the most current, accurate science & technical info as required by WAC 173-26-201(2.a)	While the 2002 era Shoreline Inventory, Characterization, and other related analyses and compilations of technical information still have merit, some data sets have been replaced with more current information; some resource agency web links may no longer be accurate/active. Consider deletion?	
38	Appendix H Permit Data Sheet (WAC 173-27-990, Appendix A)	This form is not required to be part of the SMP and this 2007 version may be out of date.	SMP text refers to 'WAC173-27-990 Appendix A' but also includes the form as SMP Appendix H. This approach is duplicative and does not ensure use of the most current version of the required form.	
	Appendix G. Public Access Enhancement Projects	This 2007 era evaluation and list of recommended projects is not required as part of the SMP; It's inclusion means it can only be updated by a formal SMP Amendment.	These recommended projects do not have regulatory effect, but are provided to help facilitate improvements to public access opportunities. If presented as a separate stand-alone document, the City could keep these recommendations up-to-date, as needed, without requiring a formal SMP Amendment.	
Companion PTMC Amendments				

Commented [A58]: See related comments/edits about overall approach to CAO integration – either incorporate by reference OR direct incorporation by appendix, not both.

Commented [A59]: ECY seeks to better understand the history and current purpose/utility of this appendix vs. reliance on WDFW's online PHS data and other current information from resource agencies.

Commented [A60]: Not required to be part of SMP, consider deleting and rely on WAC citation only.

Commented [A61]: As noted elsewhere, this list may be better provided as a separate stand-alone document since it does not have regulatory effect, and would give the City more flexibility to revise & keep it up-to-date, at will.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
PTMC 19.05 Critical Areas				
39	19.05.020 Definitions	Revisit CAO definition of "Critical facility" as compared to PTMC 17.08.030 "high impact use" to ensure no conflict of terms	A Critical facility may be a high risk use but not all high risk uses are critical facilities.	Definition modified.
39a*	19.05.020 Definitions	Add definition of "land area" "feeder bluff" - Ecology recommended newer & more concise definition from our 2014 Puget Sound Feeder Bluff publication (pages iv and 20) "Qualified wetlands consultant" ECY recommends edits	Land area is used in Section 19.05.060D(4); Feeder bluff is used in 19.05.080 B(9) Professional Wetlands Scientist is a title and recommend capitalizing it— While recommended by Ecology, it is not an Ecology-based program. website with the information: https://www.wetlandcert.org/	Add definition of "land area" and "feeder bluff" "Qualified wetlands consultant"
39b	19.05.020 Definitions	Definition of "development" includes circular reference to "shoreline substantial development permit"		Modified definition of "development"; deleted "shoreline substantial development permit"
39c*	19.05.030 General Provisions	SMA includes double cross-reference. Clarify regulatory hierarchy for critical areas in shorelines jurisdiction.	Ecology provided alternative language	Revised with ECY recommended language.
40*	19.05.040 Permit Requirements	D. Allowed Activities for Specific Critical Areas – Specific Performance Standards Apply: For certain projects, including those that only affect an aquifer recharge area, an administrative waiver of the application & delineation requirements and performance standards is allowed when the requirements/standards are already	19.05.070 C(1) requires a hydrogeological report for High Risk Uses but does not specify permitting.	No change. High risk uses are subject to review by agencies specializing in hazardous waste.

Commented [A62]: Similar to above, suggest these items be presented in strict numerical order of 19.05 sections; e.g. .050 and .060 items at the end of the list

Commented [A63]: Consider adding this clarification to the .020 definition?

Commented [A64]: *now suggesting we do not require CA permit.

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
		met. It is not clear if a high impact use in Aquifer recharge area requires CAO permit - possible conflict with .070.		
41*	19.05.040 Permit Requirements	E. Minor Critical Area Permits (Type I-A) - (1.a) specifies Type 1-A permit for proposals located outside the buffer, and requires proposals for reduced or averaged buffers to be processed as a Type II. Consider Type IA provided the minimum buffers established by the code are met and no mitigation is required.	.080(H)(3 & 4) allow FWHCA buffers to be increased or reduced; .100(F)(2 & 3) allow GeoHaz buffer reduction; and .110(G)(5 – 7) Wetland buffer reduction, averaging, and waivers are allowed. None of these administrative decisions specify permit type. 19.05.070 C(1) requires a hydrogeological report for High Risk Uses but does not specify permitting. 19.05.110 G – Ecology edits limit wetland buffer reductions	Amended 19.05.040A1(a) Type IA permit provided the consultant determines NNL is met through buffers; Type II permit required if mitigation is required.
42a	19.05.050 Permit Administration	A. Review of Critical Areas Permits and Reports.	19.05.050A1 states director “shall verify information submitted by the applicant” and “evaluate the special critical areas report”	Clarify, the Director has the authority to “accept special reports or remand for corrections”
42b	19.05.050 Permit Administration	D. Exceptions – Public Agency and Utility- E. Exception – Reasonable Use: allows an exception 1. <i>If the application of this chapter would prohibit a development proposal by a public agency or public utility may apply for an exception pursuant to this section.</i>	1. Current code does not address scenario where utility is installed by a private developer and dedicated to the public entity. 2. Item D2, D3 and E2, E3 should clarify variance is required if in shorelines jurisdiction	Modify to “development of utility by a public agency or public utility <u>or of a utility to be conveyed to a public agency or public utility....</u> ”

Commented [A65]: Is it limited to utilities within ROW or can it be within a dedicated easement?

Commented [A66R65]: See related comments/edits about shoreline specific provisions in the CAO

Commented [A67R65]: Currently limited to ROW

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
		...Public agency and utility exceptions shall be processed as a Type II permit...		2. Added: shoreline variance required if exception is in shorelines jurisdiction.
42c	19.05.050 Permit Administration	G. Appeals and Stay During Pendency of Appeals – (3) Clarify appeal process for Director’s finding that CAO applies.	Current code says appeal occurs before a permit decision has been issued; however, appeals cannot be heard until a decision is issued.	Striken.
43*	19.05.060 General Performance Standards	D. General Performance Standards – (1) Maximum Density - Consider deleting one dwelling unit per 10,000 sf of site area, and add new text to allow clustering of density	<ol style="list-style-type: none"> 1) 19.05.050 A4 Review Criteria requires finding of no net loss. 2) 19.05.060 D(4) Impervious surface limits apply in R-I and R-II 3) Oak Harbor Municipal Code 20.12.080 allows clustering density outside CA 	<p>Maximum density of 1/10,000 sf replaced with requirement to identify building pad outside of critical areas and buffers.</p> <p>Clustering added see: 19.05.060 D(4)</p>
43a*	19.05.060 General Performance Standards	Land Divisions – Building Pad. Current code allows Director to waive the requirements.	ECY notes: There is already included in the ordinance several remedies such as RUE and buffer reductions, mitigations, etc. The inclusion of this waiver without specifying process or conditions is problematic.	Deleted ability to waive
44*	19.05.060 General Performance Standards	D. General Performance Standards – (4) Impervious Surface Limits for Lots - Revisit maximum impervious/lot coverage 1. Why does it only apply for detached single-family? This was considered during 2018 CAO Update. Decision was	<ol style="list-style-type: none"> 1. Clarified all single-family development in R-I and R-II. 2. “land area” defined 3. Added requirement for documentation from consultant. 	<ol style="list-style-type: none"> 1. Delete ‘detached’ 2. See related Checklist item 9b. Modified c. in case of conflict greater limitation applies

Commented [A68]: Emailed HG for input

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
		<p>to retain existing language for single-family zones (however, in PT this includes duplex, triplex, fourplex).</p> <p>2. It is unclear if the calculation should use "Lot area" or "land area". "land area" is not defined.</p> <p>3. Director can grant waiver; staff suggests the applicant's qualified consultant provide supporting documentation.</p> <p>4. 19.05.080FGreater impervious surface limits apply to critical habitat in shorelines.</p>	<p>4. Modified c. clarify, in case of conflict, the more stringent limitation applies</p>	<p>3. Deleted "lot area" added definition of "land area" in 19.05.020.</p> <p>4. Modified waiver criteria to include applicant's qualified consultant provided supporting documentation.</p>
*44a.	19.05.060 General Performance Standards	<p>6. Alterations and Disturbance.</p> <p>c. Protection of Vegetation - requirement to revegetate is unclear.</p>	<p>Clarify – if damaged "in violation of this Chapter"</p>	
*44b	19.05.060 General Performance Standards	<p>Consider adding provisions for permanent fencing or markers to define edge of critical areas or buffers.</p>	<p>Property owners often encroach on critical areas/buffers over-time as it can be difficult to determine the boundaries in the field. Currently, the code only mentions fencing under Fish and Wildlife 19.05.080 I(3)</p>	<p>Added provision for permanent fencing/markers to define edge of critical area/buffer.</p>
*44c	19.05.060 General Performance Standards	<p>It is unclear whether an engineered stormwater plan is required in all cases. Per the City's Engineering Design</p>	<p>PTMC 19.05.040 Critical Area permit requirements...application requirements f. Stormwater</p>	<p>Modified 19.05.060 – deleting requirement for "technical report". An</p>

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		Standards (EDS), an engineered plan is required when more the proposal results in > 40% impervious surface	management plan pursuant to PTMC 19.05.060(D) (5). 19.05.060 General Performance Standards D.5.a (i). Stormwater management plans... " <u>must contain a technical report that identifies existing or predicted problems and sets forth solutions to each.</u> " City Engineer "whether it is an 'engineered' plan does not need to be stated. That is covered in other ways" (i.e., the EDS)	engineered plan may be triggered under the EDS.
45	19.05.070 Aquifer Recharge Areas	D. Performance Standards for Development - Add on-site sewage treatment standard to require County septic permit	C. Regulated Development (2) Other Uses regulates septic but D has no applicable performance standards.	Added as D(3)
46	19.05.080 Fish & Wildlife Habitat Conservation Areas	B. Classification. Delete reference to outdated resources.	GMA requires BAS, SMA requires the most current, accurate science & technical information. Data sources in 19.05.080 B seem outdated	Delete reference to outdated resources.
46b	19.05.080 Fish & Wildlife Habitat Conservation Areas	F. Additional Performance Standards for Shoreline Jurisdiction - Resolve possible inconsistency with DR 5.9.14 Shoreline Environments - Shoreline Residential – Development Regulations – Design Elements; DR 6.3.2 Impacts, Mitigation, Bonding and Monitoring – Development Regulations - General	1) SMP DR5.9.14 requires residential development provide a min. 15% native vegetation. SMP DR 6.3.2 calls for no net loss standard.	1) Minor modifications 19.05.080F to improve consistency. See related Item 9a DR 5.9.12 cross-reference.

Commented [A69]: See related comments/edits re: shoreline provisions in the CAO Better addressed in the SMP

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			<p>CAO 19.05.080F2 sets a higher standard for projects in shoreline jurisdiction that are <i>classified as terrestrial habitat</i> conservation areas: <i>At least 25 percent of the lot shall be required to be retained or replanted in native vegetation</i></p> <p>2) <i>SMP regulations for critical saltwater habitat (DR 6.6.1-6.6.5) and 19.05.080 G Marine habitat regulations.</i></p>	<p>2) Merged SMP critical saltwater habitat regulations into CAO F&W habitat regulations. Cross reference</p>
47*	19.05.100 Geologically Hazardous Area	Bluffs are listed as “erosion hazard areas” and “landslide hazard areas”	<p>19.05.100 C1 Erosion hazard areas 19.05.100 C2 Landslide hazard areas Bluffs are regulated as landslide hazard areas</p>	Delete reference to “bluff” under 19.05.100 C1.
47b	19.05.100 Geologically Hazardous Area	E(2)(f) Additional Standards for Landslide Areas - Allow some limited activities in 40% slope. Consider allowed activities in 19.05.040C. Consider man made slopes (e.g. street cuts) differently. Add “or qualifies for exception per 19.05.050D or E.”	Current limitation may be overly restrictive. Memo from David Peterson, City Engineer.	<p>19.05.040C (4)-Expand allowed activity in public rights of way to include road cut/fill slopes over 40% with engineered.</p> <p>Amended E (2)(f) d to allow activity in 40% slope where the Director, in consultation with the City Engineer, determines that the area of 40% slope is an</p>

Commented [A70]: Seek input from ECY – can we combine with G. Marine Habitats?

Item #	SMP Section	Summary of issue (i.e. what's new/different; errors/conflict)	Review (i.e. where we looked & what we found)	Action
				isolated man-made slope (this exception shall not apply to historically altered bluffs)
48	19.05.100F (2) and (3) Minimum buffers for Geologically Hazardous Area	1) SMP Section 6.8 Geologically Hazardous Areas DR 6.8.1 and 6.8.2 are duplicative. 2) Comment letter C (McInvale 4/16/20) identifies possible loophole. Review and revise if necessary. (LEG Dan McShane for 61 Vista determined no wave action.)	1) 19.05.100 F(3) refers to DR 6.8.1. Delete cross-reference and duplicative language 2) 19.05.100 F(2) and (3) provide specific minimums for "marine bluffs". 19.05.020 definition of "marine bluff" includes reference to LSMT; however, bluffs along LSMT are not subject to wave action.	1) Deleted reference to DR 6.8.1 at 19.05.100F(3); modified 19.05.100 E(2) to include language from DR6.8.2. (Cross reference #12). 2) Removed LSMT bluffs from 19.05.020 definition of "marine bluff". Cross reference #33
*48a	19.05.100F(3) Geologically Hazardous Area	Consider criteria for alterations of geologically hazardous slopes	19.05.100 Geologically Hazardous Areas G. Special Reports 3. A Geotechnical Report City Engineer recommends adding City of Olympia's criteria for alterations in geologically hazardous slopes.	Added criteria.
49	19.05.110 Wetlands	B. Classification (4.b.i) – not consistent with most current wetlands technical guidance	Need to ensure the provision also addresses coastal lagoons larger/smaller than 1/10 acre per Washington State Wetland Rating System for Western Washington—2014 Update (Ecology Publication #14-06-029, October 2014).	.110(B)(4.b.i) revised to include coastal lagoons

Commented [A71]: Peterson Memo?
See also related comments/edits re: shoreline specific provisions in the CAO better addressed in SMP

Commented [A72]: RE: 7 added rows for wetland issues - Ensure all items from ECY 2018 Attachment B Supplement (recommended redline) are addressed here. All of the .110 proposed revisions should be detailed here in this PTMC 19.05 sub-section of the Checklist, even if related to SMP issues/revisions addressed above.
Consider this alternative construct for presentation/organization of related SMP & CAO wetland items in this overall Checklist document:

- Specify only the SMP amendments in the 2016 - 2009 wetland items above & include there just a simple reference to the companion Additional 19.05 edits more fully described here.

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49a	19.05.110 Wetlands	Given today's GPS world, consider eliminating the need for "a certified survey" This would be less costly, but still dependable.	C(3)(a) currently requires certified survey	C(3)(a) replaced certified survey with an accurate, ground-verified, map (i.e., GPS) ...
49b	19.05.110 Wetlands	D. Performance Standards for Development (D)(5.a.iv) - not consistent with most current wetlands technical guidance	Need to ensure the scoring points accurately reflects the modified habitat ranges per Ecology's Wetland Guidance for CAO Updates: Western Washington Version; See July 2018 modified sections XX.040 and XX.050 - Western Washington; and Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands; See July 2018 Appendix 8-C with modified habitat score ranges.	.110(D)(5.a.iv) revised to reflect scoring range break at 6 or more points
49c	19.05.110 Wetlands	D. Performance Standards for Development (D)(6) – stormwater management standards are not consistent with most current wetlands technical guidance and current stormwater manual requirements	Need to better align stormwater management with Ecology's Wetland Guidance for CAO Updates, Western WA Version (2016). Current stormwater manual requirements do not allow the use of Category I or II wetlands for retention or detention. Where item 6.c addresses amphibian breeding populations, a qualified wetland scientist or a habitat biologist should be able to make this determination. And where item 6.b is similar to item 6.g, the latter	.110(D)(6) revised to replace existing standards (a) – (e) with new language for use of wetland for stormwater management

Commented [A73]: RE: 7 added rows for wetland issues - Ensure all items from ECY 2018 Attachment B Supplement (recommended redline) are addressed here. All of the .110 proposed revisions should be detailed here in this PTMC 19.05 sub-section of the Checklist, even if related to SMP issues/revisions addressed above. Consider this alternative construct for presentation/organization of related SMP & CAO wetland items in this overall Checklist document:

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			establishes a mitigation requirement not present in the former.	
49d	19.05.110 Wetlands	G. Buffers & Setbacks - Table 19.05.110 (A) Buffer Widths - not consistent with most current wetlands technical guidance	Need to ensure that Category I and II Wetlands scoring points accurately reflect the modified habitat ranges per the July 2018 modified sections XX.040 and XX.050 - Western Washington of the Wetland Guidance for CAO Updates: Western WA Version 2016	Table .110(A) revised to reflect scoring range break at 6 or more points
49e	19.05.110 Wetlands	G. Buffers & Setbacks - (5) Reduced Buffer Widths - not consistent with most current wetlands technical guidance; added clarity needed; and (6) Buffer Width Averaging - not consistent with most current wetlands technical guidance;	(5) Need to ensure at least 75% of the standard buffer width is maintained, per Ecology's Wetland Guidance for CAO Updates, Western WA Version (2016) that states (page 13): <i>We recommend that a request for buffer averaging include a wetland report. The report should be prepared by a qualified professional describing the current functions of the wetland and its buffer and the measures that will be taken to ensure that there is no loss of wetland function due to the buffer averaging. The width of the buffer at any given point after averaging should be no smaller than 75% of the standard buffer. If you choose to adopt narrower buffer widths than those supported by BAS, then further reductions to the buffer</i>	.110(G)(5) revised to include the 75% limit, punctuation to clarify, and clarification of degraded buffer for enhancement; .110(G)(6) revised to establish a 25% reduction limit.

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			width should not be allowed under any circumstances. (6) Allowance for 50% reduction is not supported.	
49f	19.05.110 Wetlands	G. Buffers & Setbacks - (7) Buffer Waivers – in situations where a wetland is voluntarily enhanced, the resulting improvements to functions & values could result in more protective limitations being required for subsequent use/development. This can be perceived as a deterrent to voluntary enhancement or restoration efforts.	To encourage voluntary wetland enhancement projects, add a Buffer Waiver option to allow “static” buffer widths for voluntarily enhanced Critical Areas. When determining the required buffer widths for a proposed development on wetlands that have been voluntarily enhanced, where such enhancement is <i>not</i> part of a required mitigation plan, the prescriptive buffer requirements determined prior to the enhancement activity, as based on the previously existing functions & values, will be retained or held ‘static’, rather than adjusted as based on the improved wetland functions & values. Additional future restrictions will not be placed on wetlands based on the increased functions and values resulting from the voluntary enhancement.	Amended: 19.05.110G(7)
49g	19.05.110 Wetlands	H. Compensatory Mitigation Requirements – (1) Compensatory mitigation pan requirements - citation to outdated draft guidance; additional clarity needed	Ensure the provision cites to the current guidance: Wetland Mitigation in Washington State - Part 2: Developing Mitigation Plans (2006).	.110(H)(1) revised to correct citation and other clarifying edits

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49h	19.05.110 Wetlands	H. Compensatory Mitigation Requirements – (2) Mitigation order of preference – is not fully consistent with SEPA and the Clean Water Act	Ensure full consistency with WAC 197-11-768, the Washington State Environmental Policy Act (SEPA) (RCW 43-21C), administered by Ecology, and Section 404 of the federal Clean Water Act (CWA) administered by the Army Corps and EPA. Both require that a specific sequence of actions be taken for proposals that will impact wetlands (i.e. ‘the mitigation sequence’). Applicants should also be required to demonstrate that they have taken these actions.	.110(H)(2) revised to require applicant demonstration, maintain over the lifetime of the action, monitor impacts and take corrective action.
PTMC 20.01 Land Development Administrative Procedures				
51	20.01/20.02 (*not in ECY purview)	Clarify process for Directors Interpretation – reference 20.01	Cross-reference SMP 10.14 Table 12 Move Shoreline Permit Revisions to Type I – WAC 173-27-100 only requires notice to parties of record. Check consistency with 90.58.190	