

ATTACHMENT B: Snohomish County SMP adopted October 13, 2010

Ecology Required Changes

Revised July 6, 2012. Additional changes are underlined in bold.

The following changes are required to comply with the SMA (RCW 90.58) and the SMP guidelines (WAC 173-26, Part III);

ITEM	Draft SMP Provision (Cite)	TOPIC	BILL FORMAT CHANGES (underline-additions; strikethrough-deletions)	DISCUSSION/RATIONALE
1	SCC 30.44.040	Tracking all Shoreline Exemptions	<p>Add the following to SCC 30.44.040:</p> <p><u>(3) All shoreline exemptions shall be tracked within the County AMANDA data base tracking system.</u></p>	<p>Difficult to evaluate updated SMP standards for achieving no net loss of ecological functions and cumulative impacts under WAC 173-26-191 (2) (a) (iii) (D) and WAC 173-26-201 (3) (d) (iii), , unless all shoreline development activities including “development exempt from permitting” are tracked and documented.</p> <p>Public comment #8 (People for Puget Sound), # 31 (Futurewise), #58 (Everett Shoreline Coalition)</p> <p>Originally proposed as County Council SMP amendment #16A as Tracking of Exempt Activities. Originally, the County Council rejected this item.</p>
2	SCC 30.67.060 (2) (Relationship to Critical Areas Regulations)	Limiting Allowances for Critical Areas Buffer Reductions. (25% Buffer Reduction	<p>Add the following Critical Areas Regulation exception to SCC 30.67.060 (2):</p> <p><u>When buffer reduction provisions of SCC 30.62A.320 (1) (f) or (g) are utilized for a project proposal, the maximum allowed reduction is 25 percent of the standard buffer width contained in SCC 30.62A.320 (1) (a). Buffer width reductions in excess of 25 percent of the standard buffer width require a shoreline variance permit.</u></p>	<p>Critical areas best available science and application of scientific and technical information to SMP updates (WAC 173-26-201(2)(a) shows that significant buffer degradation occurs when</p>

		Threshold)		buffer reductions exceed 25%. This maximum buffer reduction threshold has been accepted by other local jurisdictions. Originally proposed as County Council SMP amendment #6 which was originally rejected.
3	SCC 30.67.060 (2) (Relationship to Critical Areas Regulations)	Regulating Isolated Wetlands	Add the following Critical Areas Regulation exception to SCC 30.67.060 (2): <u>The provisions in 30.62A.630 (1) (c) (i) & SCC 30.62B.530 (1) (c) (i) do not apply within shoreline jurisdiction.</u>	County referenced CAO regulations exempts agricultural activities in wetlands listed in section 404(f) of the Clean Water Act (CWA). GMA requires local governments to protect all wetlands included hydrologically isolated wetlands and prior converted croplands listed under CWA 404 (f). Originally proposed as County Council SMP amendment #9. County Council rejected item.
4	SCC 30.67.515 (1) Boathouses private noncommercial	Modify Boat House regulations	(ii) The total roof -area (including building and possible pier walkway) of covered overwater structure shall not exceed 1000 <u>500</u> square feet. (iii)The entirety of the over-water structure shall have a width no greater than 33 <u>25</u> percent of the width of the lot at the natural shoreline upon which it is located; (iv) No over water structure shall extend beyond the mean low water mark a distance greater than the average length of any existing over water structures within 300 feet of each of the subject property's upshore and downshore boundaries. Where no such existing structures exist within 300 feet, the pier length shall not exceed 50 feet; <u>(iv) Maximum extent for any boathouse is 25 feet beyond the mean low waterline.</u> <u>(v) Structures permitted hereunder shall not be used as a dwelling, nor shall any 22 boat moored at any wharf be used as a dwelling while so moored, except as provided in SCC 23 30.67.570(2)(g); and</u>	Proposed standards don't meet no net loss of ecological functions (WAC 173-26-186 (8). Shoreline aesthetics and views are also common related impacts. WAC 173-26- 241 (3) (c)(iii) & (vii) Public Comment #20 (Futurewise), size and placement. Most SMP updates are prohibiting boathouses. The

	<p>SCC 30.67.430 Shoreline Use and Modification matrix</p>		<p>(vi) (vii) <u>All Boat houses shall consist of a roof and support beams and necessary pier walkways and piling supports. Side walls are prohibited.</u></p> <p>(vii) (viii) <u>Translucent boat canopies shall be used when possible in lieu of constructing a new boathouse.</u></p> <p>(viii) (ix) <u>When a new boathouse is constructed, mitigation sequencing for shoreline ecological impacts shall be required per SCC 30.62A.310. (3) (a) .</u></p> <p><u>SCC 30.67.430 (Boathouses)</u> <u>Urban Conservancy: change from conditional use to prohibit</u> <u>Resource: change from permitted to conditional use</u></p>	<p>proposed King County SMP update does not permit covered moorage structures, including boathouses.</p> <p>WA State Dept of Fish and Wildlife has permitted boathouses with translucent canopies, skylights and no sidewalls.</p> <p>Lakes Stevens proposed SMP update only allows temporary boatlift canopies.</p> <p>Also consulted boat house builders to gauge current construction standards.</p> <p>Additional language is proposed in SMP section Snohomish County Code (SCC) 30.67.515(2) (environment specific regulations) to correspond to the required changes in the SMP Shoreline Use and Modifications Matrix (SCC 30.67.430) to fully implement intent.</p>
<p>5</p>	<p>SCC 30.44.120 (1) (e) (i)</p>	<p>Agricultural exemption definition</p>	<p>(e) (i) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including, but not limited to, head gates, pumping facilities, and irrigation channels. and including alteration of the contour of the shorelands by leveling or filling which results from normal cultivation or as needed to accomplish the foregoing activities provided the alteration is the minimum necessary; and</p> <p>(ii) A feedlot of any size, all processing plants, all other activities of a commercial nature and alteration</p>	<p>Strike out statement inconsistent with Shoreline Management Act Definition RCW 90.58.030(3)(e)(iv). Ecology requested SMA definition incorporation into the adopted SMP. County</p>

			<p>of the contours in excess of the provisions described in (e)(i) of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary for farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;</p> <p>This bolded statement goes beyond the definition of agriculture in RCW 90.58.030(3)(e)(iv):</p>	<p>Council originally rejected item (Council SMP amendment #14).</p> <p>Three key words were inadvertently omitted from the original required change. This omission incorrectly reverses the meaning of the code. The alternative proposal would re-insert the missing words, “other than that” between the words “filling” and “which” in subsection (ii) of the required change.</p>
6	Shoreline Designation map 59-T27N R05E	Hooven Bog lake designation west of Crystal Lake in South County. Between 242 nd St. SE and 238 th St. SE	Ecology Wetland staff analysis of Hooven Bog discovered that 24.4 acres of open water are present, thus classifying the bog as a shoreline of the state. County SMP draft designation maps do not have the bog mapped as a shoreline. County staff initially assessed the bog as having 17 acres of open water. However site visits in 2008 confirmed a large area of floating vegetation on top of the water. This area is still considered open water under SMA jurisdiction. Nearby little lake and wetlands are designated natural. Natural is also recommended for this intact lake and large wetland complex.	New information provides justification to designate Hooven Bog a lake shoreline of the state.
7	Shoreline Designation map 47-T28N R04E	Picnic Point shoreline environment designation	Change current Urban shoreline designation to Urban Conservancy	<p>Unlike most of the adjacent shoreline that is impacted by the BNSF railroad; Picnic Point has intact shoreline vegetation on both sides of the RR right of way. The fish bearing creek and the vegetated point area on water ward side of railroad makes it particular unique.</p> <p>An Urban Conservancy designation is more appropriate</p> <p>The area is located within the Mukilteo UGA. The City SMP update has designation Picnic</p>

				Point Urban Conservancy. Public Comment #8 (People for Puget Sound), # 50 (Smith), #62 (Everett Shoreline Coalition)
8	Pier and Dock Requirements for Lake Shorelines. SCC 30.67.515 (k) & (F) (II)	Require four foot pier/dock width standard for first 30 feet	<u>SCC 30.67.515 (k) & (F) (III) The maximum width for piers and docks shall be four feet for the first 30 feet from the OHWM of any lake identified as salmonid habitat.</u>	US Army Corps of Engineers Regional General Permit standard-3 (Pier and Dock Standards for Lake Washington and Sammamish) limit pier and dock walkway width to 4 feet. Both lakes have significant salmonid habitat. King County has similar four foot requirement
9	Shoreline Designation map 38-T29N R05E	Spencer Island shoreline environment designation	Change current Resource shoreline environment designation to Natural for Spencer Island.	WA DFW identified the map area labeled Spencer Island as restored tidal estuarine area owned by WA DFW and Snohomish County. Other maps have this area as the South end of Spencer Island. Aerial photos confirm that most of the Island with the exception of the northern tip is tidal estuarine habitat.
10	SCC 30.67.505 (1) (b) (iii)	Manure lagoon setback for new agricultural activities	(iii) Unless the conditions in SCC 30.67.505 (1) (b) (i) and (ii) apply, the toe of the dike of a manure lagoon shall be setback from the water bodies used for recreation as much as possible and at a minimum shall maintain a 30 150 foot setback from any water body, river creek or wetland <u>Shorelines of the State as defined in RCW 90.58. river, stream, lake, marine waters or estuary regulated under the Shoreline Management Act.</u>	Manure lagoons are not water dependent or water oriented uses. A 30 foot setback would impact shoreline ecological functions (WAC 173-26-186 (8). 150 setback is consistent with SMP/CAO buffers/setbacks in SCC 30.62A.

				Change would require that manure lagoons be setback 150' from any Shorelines of the State. "Shorelines of the State" is defined as the entirety of the lands, floodplains, wetlands and waters under jurisdiction of the SMA. However, Ecology's intent was to increase the required setback to 150' from the water body, not from the entirety of the shoreline jurisdiction. The following language accurately reflects Ecology's original intent.
11	SCC 30.67.505 (2) (b) (ii) Urban Conservancy:	Manure Lagoons prohibition	(ii) Manure Lagoons <u>are prohibited</u> and livestock sanctuaries are conditional approved.	Use not consistent with Urban Conservancy designation. Shoreline Use & Modification Matrix (30.67.430) already prohibits use in Urban Conservancy. Standards should be consistent.
12	Shoreline Designation map 47-T28N R04E	Meadowdale Park shoreline environment designation	Change current Urban shoreline designation to Urban Conservancy	Like most of South Snohomish County marine shoreline; the railroad has significantly altered ecological functions. With the exception of the RR this shoreline is an undeveloped park with significant vegetation. It meets the intent of the Urban Conservancy designation. Similar high bluff shoreline north of park has been designated Conservancy.

				Public comment # 50 (Smith). #62 (Everett Shoreline Coalition)
13	SCC 30.67.510 (1) (a)	Aquaculture: Critical Salt water habitats	<p>(a) 30.67.510 (1) (a) New aquaculture operations shall not be located in nearshore critical saltwater habitats or within accretion areas such as sandflats, mudflats, and pocket estuaries.</p> <p><u>New shellfish aquaculture activities shall not be located in nearshore critical saltwater habitats except for in existing commercial shellfish beds, nor in accretion areas such as sandflats, mudflats, and pocket estuaries.</u></p> <p><u>New finfish aquaculture activities shall not be located in nearshore critical saltwater habitats nor in accretion areas such as sandflats, mudflats, and pocket estuaries.</u></p>	<p>Standard is inconsistent with WAC 173-26-221 (2) (c) (iii) A) Critical Saltwater Habitats- Applicability, and SCC 30. 91C.362 “Critical Saltwater Habitats”.</p> <p>Required changes avoid circular reasoning created by “subsistence, commercial and recreational shellfish beds” being included in the definition of critical saltwater habitats (WAC 173-26-221(2)(c)(iii)(A).</p> <p>Inserting the word, “in” into the provision in SCC 30.67.510(1)(a) to read, “New shellfish aquaculture activities shall not be located in nearshore critical saltwater habitats except for <u>in</u> existing commercial shellfish beds, . . .” This provides better regulation clarity.</p>
14	30.91C.362 “Critical saltwater habitats”	Definitions	<p>“Critical saltwater habitats” include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats and intertidal habitats with vascular plants, <u>and areas with which priority species have a primary associations.</u></p>	<p>Snohomish County definition is inconsistent with WAC 173-26-221(2)(c)(iii)(A), Applicability.</p> <p>Add language to end of</p>

				definition to create consistency.
15	Sec. 3.2.5.2 Aquaculture Policy #4	Aquaculture	4. Aquaculture or fisheries enhancement facilities and operations should be consistent with the standards and requirements of the applicable state and /or federal agency responsible for regulating the organism cultivated.	<p>To ensure consistency with all applicable state and federal standards and requirements, add “and” to Policy 4.</p> <p>Both state and federal agencies regulate aspects of aquaculture and fisheries enhancement. For example, both US Department of Agriculture and Washington Department of Fish and Wildlife regulate shellfish and fin fish grown for human consumption.</p>
16	30.67.440 (4) Reference notes for shoreline use and modification matrix.	Aquaculture	(4) Uses or modifications are not allowed in critical salt water habitats other than subsistence, existing commercial and recreational shellfish beds , unless in conjunction with ecological restoration or enhancement projects.	<p>Per WAC 173-26-221(2)(c)(iii)(A), Applicability, critical saltwater habitats includes “subsistence, commercial and recreational shellfish beds;...”</p> <p>SCC 30.67.440 (4) does not allow subsistence, commercial and recreational shellfish beds to occur within themselves.</p> <p>Language change is required to allow water-dependent shellfish aquaculture.</p>

				<p>inserting the word, “existing” into the footnote for the use and modification table 1 in SMP section 30.67.440(4) to read, “Uses or modifications are not allowed in critical saltwater habitats other than <i>existing</i> commercial shellfish beds, . . .” This provides better regulation clarity.</p>
17.	30.67.430 - Table 1, Shoreline Use and Modification Matrix.	Shoreline Use and Modification Matrix: Aquaculture	<p>Land Use or Modification</p> <p>Aquaculture ^{4, 12}</p> <p>Facilities ⁴ Non-Commercial Activities (non-processing) ^{36, 4}</p> <p>Harvest</p> <p>Commercial Activities (non-processing)</p> <p>Processing ^{4, 7}</p>	<p>The intent of the codes is unclear.</p> <p>Facilities: Per Snohomish County code 30.91A.255, Definitions, Aquaculture, “Facilities” as used in Table 1 is not defined. The term “Facilities” should be changed to “Activities (non-processing)” to include cultivation methods and other activities defined in SCC 30.91A.255, but not processing.</p> <p>Cultivation methods are not addressed in the use matrix. Cultivation as defined in Snohomish County code 30.91A.255 includes net pens and other types of aquaculture that can have significant impacts on</p>

				<p>ecological functions and critical saltwater habitats.</p> <p>Harvest: Ecology assumes that Snohomish County's intent is to issue permits that address all phases of new commercial aquaculture together, and avoid requiring a permit every time food fish or shellfish is harvested for sale, or harvested for subsistence, recreational, or personal consumption.</p> <p>As currently written, the code requires permits every time aquacultural products (food fish, shellfish, or other aquatic plants and animals) are harvested for commercial market, for subsistence and recreational purposes, for harvest on state-owned aquatic lands, and for personal consumption on personal property.</p> <p>In combination with replacing "Facilities" with "Activities (non-processing)", deleting the "Harvest" land use and modification requirements</p>
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				<p>in Table 1 will still provide review of commercial aquaculture harvesting at the time the new project is permitted, but not require permits for subsistence and recreational harvesting, harvesting on state-owned aquatic lands, harvesting for personal consumption on private property, and harvesting of products prior to each individual sale.</p> <p>Ecology's original required changes to the SMP use & modification matrix (30.67.430) did not match the language used in the required changes to the specific use regulations for aquaculture in required change #18. Alternative language clarifying commercial and non-commercial activities, avoids this internal inconsistency within the code by using the same terms in the matrix as used in required change #18.</p>
18.	SCC 30.67.510 (2)	Aquaculture: Environment specific regulations.	<p>(2) In addition to general regulations contained in SCC 30.67.510(1), the following shoreline environment designation – specific regulations for new aquaculture activities in shorelines apply:</p> <p>(a) Urban: Aquaculture is facilities, harvest activities and processing of aquaculture products are allowed permitted permitted:</p> <p>b) Urban Conservancy:</p>	<p>The intent of the codes is unclear. As interpreted, the codes do not address potential significant impacts on ecological functions from certain types of aquaculture, and interferes</p>

		<p><u>(i) Non-commercial aquaculture is permitted; and</u> (i) (ii) Non-commercial aquaculture is harvest activities are allowed permitted permitted; and (ii) Commercial aquaculture and processing is facilities, and processing of aquaculture products are are prohibited.</p> <p>(c) Rural Conservancy: (i) <u>Non-commercial aquaculture is allowed permitted;</u> harvest activities are permitted in the Rural Conservancy environment and (ii) Aquaculture facilities and processing of aquacultural products are conditionally permitted in the Rural Conservancy environment <u>(ii) Commercial aquaculture and processing are conditionally permitted.</u></p> <p>(iii) Commercial aquaculture, including processing, is Facilities and processing of aquacultural products are allowed subject to a conditional use permit and a substantial development permit as applicable permitted in the Rural Conservancy environment.</p> <p>(d) Resource: (i) Harvest activities and Pprocessing of aquacultural products are allowed permitted; and <u>(i) Non-commercial aquaculture and processing are permitted;</u> (ii) Commercial aquaculture, with the exception of processing, is allowed subject to a conditional use permit and a substantial development permit as applicable; and facilities are conditionally permitted <u>(ii) Commercial aquaculture is conditionally permitted; and</u> <u>(iii) Aquaculture processing is permitted;</u></p> <p>(e) Municipal Watershed Utility: <u>Activities and facilities related to aquaculture are prohibited. Commercial aquaculture is not permitted on Spada Lake. Non-commercial aquaculture along with any associated processing activities on Spada Lake are limited by the utility purveyor's Federal Energy Regulatory Commission (FERC) 3 license.</u></p> <p>(f) Natural. (i) Commercial aquaculture, with the exception of processing, is allowed subject to a conditional use permit as applicable; and <u>(i) Non-commercial aquaculture is permitted; and</u> (i) Harvest activities are conditionally permitted; and (ii) Aquaculture facilities and processing of aquaculture products are prohibited. <u>(ii) Commercial aquaculture and processing are prohibited.</u></p>	<p>with reasonable and appropriate uses and private property rights.</p> <p>This section of the SCC needs to be adjusted to be consistent with required changes made to SCC 30.67.430, Allowed and conditional uses and modifications, Table 1, Aquaculture.</p> <p>Ecology assumes Snohomish County's intent is to limit commercial aquaculture in certain designations that are more environmentally sensitive, and discourage all aquaculture (including all harvesting for human consumption) in the Municipal Watershed Utility designation where environmental contamination poses a potential human health risk.</p> <p>There is not a distinction made in the proposed codes regarding commercial and non-commercial (harvesting for subsistence, recreational and personal consumption, and research and</p>
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			<p>(g) Aquatic.</p> <p>(i) <u>Commercial aquaculture is allowed subject to a conditional use permit and a substantial development permit as applicable; and</u></p> <p><u>(i) Non-commercial aquaculture is permitted;</u> Harvest activities are permitted;</p> <p>(ii) Aquaculture facilities are conditionally permitted; and</p> <p><u>(ii) Commercial aquaculture is conditionally permitted; and</u></p> <p>(iii) No processing of any aquaculture product, except for the sorting and culling of the cultured organism and the washing or removal of surface materials or organisms, shall be permitted water-ward of the ordinary high water mark unless fully contained within a tending boat or barge.</p>	<p>restoration) activities.</p> <p>To clarify the intent of the regulations, the term “commercial aquaculture” should be used when only referring to commercial aquaculture activities.</p> <p>Alternative language reflects the environment-specific use regulations as required, but uses the term “permitted” instead of the term “allowed” to maintain internal consistency between SCC 30.76.510 with the use and modification matrix SCC 30.67.430). Because non-commercial/ recreational aquaculture is specifically addressed in the required code changes, the alternative language also clarifies provisions for the recreational fishery on Spada Lake in the Municipal Watershed Utility environment in SCC 30.67.510 (2) (e). Recreational opportunities and access to the lake are required as part of the utility purveyor’s Federal Energy Regulatory Commission (FERC) license.</p>
19.	Shoreline Master Program section 1.2.1:	Shoreline Water Bodies List.	Under section 1.2.1: Shoreline Jurisdiction. Incorporate an SMP appendix that lists out all shorelines within Snohomish County including all freshwater and marine shorelines. List marine shorelines by location. Lakes, rivers and streams can be listed by name.	WAC 173-18-044 (Review and Update of

	Shoreline Jurisdiction			Designations) Each local government master program shall include a list of streams constituting shorelines of the state within the jurisdiction of the master program that complies with the requirements of RCW 90.58.030 (2)(d). When such master program is approved by the department, subsequent to the effective date of this provision, the list within the master program shall be the official list for that jurisdiction and shall supersede the list contained herein.
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