

**2011 Legislation amending the
Shoreline Management Act (RCW
90.58)**

Effective July 22, 2011

SSB 5192 - Notification And Appeal Timelines Under the SMA

SMP amendment effective date and appeal period:

- Returns to **published notice** to trigger SMP appeal period (fixes 2009 HB 2935 “multiple triggers” confusion).
- **Ecology to publish** notice of final Ecology SMP amendment approval/rejection (rather than publication by local government).
- “**Effective date**” of SMP amendments is now 14 days after Ecology’s written notice of final action. Requested by local governments to allow time to prepare for implementation of new SMP.

SSB 5192 - Continued

Shoreline permit appeal periods:

- Returns to “**date of filing**” to start appeal period for shoreline permits.
- Local government decision on Shoreline permits must be transmitted by **return receipt requested mail**. (This ensures prompt initiation of the appeal period.)
- Ecology action on CUP/VAR transmitted to government & applicant by “telephone or electronic means” in addition to written notice.

ESHB 1478 – City/County Fiscal Relief (SMP Review Delayed)

Multiple deadlines for local planning delayed, including SMP reviews:

- **Future SMP review schedules revised (Sec. 13).** SMP reviews start in 2019 (*no change to deadlines for the current cycle of comprehensive SMP updates*):
 - “Review & revise as necessary” every 8 years (was 7 years.) SMA deadlines alternate with (offset by) GMA updates. Better fit with State budget cycle.
 - Deadline is June 30 (rather than Dec. 1.)
 - Groups of counties revised to equalize grant funding and technical assistance needs. (Previous groupings were very uneven.)
- **Target for Ecology final action on SMPs (Sec. 14):** Ecology must “strive” for final action within 180 days of local submittal. Annual website-based performance update will be provided by Ecology.

SHB 1783 – Floating Homes & Floating Home Moorages

The Seattle floating home community raised concerns regarding preserving historic floating home communities. Bill applies statewide. Provisions need to be included in SMP updates where relevant.

- A floating home permitted or legally established prior to January 1, 2011, is classified under the SMA as a “conforming preferred use.”
- Reasonable regulatory conditions and mitigation can be applied, but must not “effectively preclude” maintenance, repair, replacement, and remodeling.

SSB 5451 – Existing Shoreline Residences May Be “Conforming”

Responds to concerns that new SMP standards will make residences “nonconforming”, potentially affecting access to financing and insurance costs. Permissive, rather than required.

- New/amended SMPs may classify legally established residential structures as conforming, even if they do not meet updated standards.
- Redevelopment, expansion and replacement allowed, consistent with the local SMP and No Net Loss.
- Appurtenant structures included (ex. garages and sheds.) Bulkheads and other shoreline/over-water structures are excluded.
- SMPs may place limits on existing structures over water or in hazardous areas. Application of other federal, state, or local regulations not affected.

Proposed 2012 Ecology request bill: Update RCW 90.58.190 (SMP appeals)

- SMA does not consistently reflect updated appeal procedures (ex. Use of GMHB for SMP appeals)
- One open question: Should appeals on Shorelines of Statewide Significance (SSWS) be based on “compliance” with SMA (like all other GMHB appeals), or on “consistency” with SMA? Why two different tests?

Potential 2012 streamlining bill: Cut or amend 90.58.150 re: timber harvest on SSWS?

- Do any jurisdictions use this standard to regulate timber harvest on Shorelines of Statewide Significance?
- Creating some axle-winding for applicants (DNR requires applicants to confirm compliance with 90.58.150, but counties say “we do not regulate forest practices.”)

Questions?

- 2011 SMA amendments: Contact Ecology's Regional Office shoreline planner working in your jurisdiction.
- 2012 potential legislation on SMA, SEPA and related issues: Contact Tom Clingman at tom.clingman@ecy.wa.gov or 360-407-7448