

Navigating the “Final Steps” in SMP Approval

1. Please remember: this is NOT GMA - there is no “presumed validity” in shoreline management. Locally submitted SMPs must be approved by Ecology before they become effective and before local statutory deadlines for SMP updates are satisfied. Ecology can either: approve SMP amendments “as submitted”, deny them outright, or require changes.
2. There is a “local” public process as well as a “state” public process required in approving an SMP.
3. Ideally, local staff work closely with Ecology regional staff to prepare a fully (Guidelines) compliant draft SMP, BEFORE it is locally approved and submitted to Ecology. This helps expedite the final approval process.

Serious discussion regarding SMP provisions that Ecology has problems or concerns with, should be clearly identified and resolved before local adoption, and ideally before local government begins the local public review and approval process.

4. For its part, this requires Ecology to be very clear, regarding what is specifically required and what is acceptable, depending on the topic.
5. SMP provisions that Ecology finds unacceptable and which remain unresolved through the process do not go away. They will surface again during Ecology’s formal review and approval process. An example would be Ecology concluding that certain specific policies, regulations, or shoreline environment designations in the SMP must be revised to satisfy SMA and/or guidelines requirements.
6. If changes are necessary, they will show up in Ecology’s Findings and Conclusions as “required” and “recommended” changes. Changes necessary to satisfy SMA policy or guidelines requirements are addressed as required changes. Changes addressing organization, graphics, typos, etc. that add clarity or aid in SMP implementation, are addressed as recommended (not required) changes.
7. Near the end of the state SMP approval process, Ecology required and/or recommended changes will be itemized as attachments to Ecology’s findings and conclusions, with the

actual corrective SMP-specific regulatory language Ecology finds acceptable, presented with rationale in a table or matrix. These documents are transmitted via a cover letter from Ecology's Director to the local government for consideration and action by local government.

8. Local governments have 30 days to respond to Ecology's required changes. They may either (formally, in writing) agree to the proposed changes OR submit an "alternative proposal".
9. If local government agrees to the changes, they must notify Ecology in writing. Please note, that once Ecology receives notice of local agreement to the changes, this is recognized as the local governments' final action regarding the amendment. Ecology promptly notifies the local government and interested parties that the approval incorporates the accepted changes, is final and effective 14 calendar days from Ecology's letter.

The process for determining what changes are acceptable to local government, and who makes that decision is local governments' business. Additional public hearings are not required but may be judged necessary by the local government. Who authorizes the local acceptance is also up the local government. Ecology accepts a letter from the mayor or commission chair, but a resolution or ordinance is ideal.

Remember, once Ecology is notified of the local acceptance of changes, no further changes can occur and the SMP amendment approval is final.

10. If an alternative to Ecology's changes is proposed by local government, Ecology must review the proposal and determine the alternative is consistent with SMA policy and the guidelines. In this case, the effective date of the SMP is 14 calendar days from the date Ecology's Director notifies the local government in writing that the alternative/s have been accepted.
11. In practice, required changes can cover a mix of topics and in some cases can be quite lengthy and complex. Ecology's required changes should not come as a surprise to local government.

12. All verbal approvals amongst staff ultimately need to be formalized in writing. If local government proposes alternatives, rationale must be provided and additional rounds of dialogue and negotiation may be necessary. In some cases required changes are quite acceptable to local government while others, for a variety of reasons, may not be. Ecology can also prepare a counter-proposal with supporting rationale, to locally proposed alternative language. If required changes are numerous, a winnowing process may be needed to focus in on remaining unresolved issues requiring further attention.

This is because, in the end, both local government and Ecology must reach total, formal agreement on ALL changes to the locally approved and submitted SMP before the amendment process is completed. Leaving out a particularly controversial topic in the SMP or only partially approving the SMP is not an option. Approval of an entirely complete “comprehensive” SMP update is required.

Ecology needs to closely track what has been agreed to and what items remain unresolved, so that in the end, it is clear precisely what makes up the complete approved SMP. Again, this is usually done in the form of a matrix.

“A master program or amendment to a master program takes effect when and in such form as approved or adopted by the department”. RCW 90.58.090(7).

13. If complete agreement cannot be reached, then Ecology can deny the SMP. Local government can also request Ecology run the state review and approval process over again with Ecology’s required changes included, OR Ecology can begin rule-making to adopt a compliant SMP for the local government.

14. Please note: the effective date of all SMP amendments is 14 calendar days from Ecology’s final action. This is quite different from the appeal period for the amendment (60 days for GMA jurisdictions; 30 days for non-GMA jurisdictions), which is triggered by Ecology’s subsequent publication of the amendment approval.