

LESSONS LEARNED



July 2009

General Issue Areas

1. SMP provisions not based on inventory
2. CAO incorporated wholesale into SMP
3. No environment-specific regulations, particularly lot density and coverage
4. Reliance on existing regulations to meet guidelines
5. No use analysis
6. No relationship between SMP, restoration plan, and cumulative impacts analysis
7. Not following guidelines
8. SMP internally inconsistent

1. SMP Not Based On Inventory

- ▶ 173-26-201(3)(d)(i)(E) – “use the characterization and analysis called for in this section to prepare master program policies and regulations designed to achieve no net loss”

see also 173-26-201(3)(f), 201 (3)(g).

SMP Not Based On Inventory

- ▶ In many cases local jurisdictions are using pre-existing environment designations, zoning codes, comprehensive plan policies, critical areas ordinances, etc. as SMP policies and regulations
- ▶ Not necessarily a wrong approach, but still must demonstrate how existing regulations satisfy the guidelines and no net loss

SMP Not Based On Inventory

Example: 50 foot setback on all shorelines

“No structure shall be erected within 50 feet of the OHWM, except for bridge approaches and bridges, marinas, docks, boat launches, or buildings related to water dependent recreation developments or other uses proven to be otherwise necessary in the public interest and specifically authorizes”

SMP Not Based On Inventory

- ▶ Problem is that 50 feet may be too much in some places, not enough in others
- ▶ Ecology now requires (see grant agreement) that the inventory and characterization provide recommendations for appropriate SMP policies and regulations

2. CAO Incorporated Wholesale Into SMP

- ▶ 173-26-221(2) requires protection of critical areas. Many jurisdictions are relying on existing CAOs to meet this requirement

CAO Incorporated Wholesale Into SMP

This approach may be acceptable in concept, but problems can occur if:

1. CAO is outdated or inconsistent with current science
2. CAO is not properly incorporated by specific dated edition
3. CAO includes provisions inconsistent with SMA or SMP
4. Adopted CAO does not address earlier agency comments

Examples of CAO Provisions that are Inconsistent with SMA and guidelines

- Reasonable use exception in CAO
- Buffers in CAO exceed related standards in SMP
- Buffer averaging provisions in CAO are inconsistent with those in SMP
- Permit procedures in CAO
- Director's exemptions, waivers, exceptions
Are they shoreline variances?

CAO Incorporated Wholesale Into SMP

- ▶ Best way to incorporate CAO is to incorporate a “specific dated edition” and then exclude the inconsistent portions
- ▶ Use magic words: “hereby incorporated”

3. No Environment Specific Regulations

- ▶ 173-26-211(4)(a)(iv) – requires environment-specific regulations that address types of shoreline uses, building or structure height and bulk limits, setbacks, maximum density, and site development standards
- ▶ Best way to address this requirement is with two tables, a use table and a standards table

Example of Standards Table

	SHORELINE ENVIRONMENT DESIGNATION				
	High Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic
Riparian Buffer	50 ft	150 ft	150 ft	200 ft	n/a
Building Setback	15 ft	20 ft	20 ft	n/a	n/a
Building Height Limit	50 ft	25 ft	35 ft	15 ft	n/a
Density	10 du/acre	6 du/acre	4 du/acre	1du/acre	n/a
Frontage Width	50-70 ft	50* -90 ft	50* -90 ft	n/a	n/a
Lot Coverage	85%	35%	35%	n/a	n/a

No Environment Specific Regulations

- ▶ Some SMPs have not included environment specific regulations due to a desire to integrate the SMP into other development codes
- ▶ Environment specific regulations inconsistent to some extent with principles underlying CAOs

4. Reliance On Existing Regulations

- ▶ Most local governments rely to some degree on other existing local regulations to meet guidelines requirements
- ▶ Many rely on CAO and flood ordinances
- ▶ Some try to rely on local zoning code for density, height, and bulk limits – NOT recommended

Reliance On Existing Regulations

- ▶ Existing regulations are not based on the SMA
- ▶ Therefore, it must be demonstrated how the existing regulations are based on science, the inventory and characterization and how they satisfy SMA policy and the no net loss requirement
- ▶ Can make it difficult to determine what is part of the SMP and what is not

5. No Use Analysis

- ▶ 173-26-201(3)(d)(ii) requires a use analysis to estimate the future demand for shoreline space and potential use conflicts

No Use Analysis

- ▶ Many have included narrative analysis
- ▶ Most SMPs approved so far have been cities with limited shoreline space
- ▶ Accurately estimating future demand is a challenge
- ▶ Better Ecology guidance is needed

6. No Connection Between SMP, Restoration Plan, and Cumulative Impacts Analysis

- ▶ 173-26-186(8)(d) requires SMPs to include policies and regulations to address cumulative impacts
- ▶ See also 173-26-201(3)(d)(ii)
- ▶ 173-26-201(2)(f) requires restoration planning

No Connection Between SMP, Restoration Plan, and Cumulative Impacts Analysis

- ▶ Recommendations of the RP should at minimum be included as policies in the SMP
- ▶ Often, it appears the CIA and RP are simply justifications for existing regulations rather than steps on the way to development of an SMP
- ▶ Ecology now encourages CIA earlier in the process based on preliminary draft SMP policies and regulations

7. Not Following Guidelines

- ▶ Procedure – not following credible methodology or public approval process
- ▶ Substance – Examples: SFR in Natural environment designation doesn't require CUP; no buffers required; public access not required for new long plats; new floating homes allowed.

8. SMP Internally Inconsistent

- ▶ Environment designation map discrepancies
- ▶ Comprehensive Plan designations inconsistent with proposed shoreline environment designations? (a local responsibility to correct)
- ▶ SMP policies conflict with regulations or vice versa

THE END

