



Shorelines Management - New Grantee Orientation

July 15, 2009 - Tukwila Community Center

WA State Department of Ecology



Workshop Objectives:

- “Big picture” overview of all the steps required in the SMP update process from inventory to adoption
- Insight into:
 - Opportunities and challenges you will face during the SMP update process and,
 - What’s expected in satisfying both the substantive and procedural requirements
- Identify resources and assistance that are or will be available to you through the SMP update process
- Provide policy, technical and procedural guidance (as time permits...)
- Promote networking & coordination amongst all involved
- Manage expectations at all levels



Shoreline Management Act (SMA)

- In effect now for over 35 years...

Responding to a voter initiative, the State Legislature adopted an alternative proposal that took effect June 1971

- Designed as a cooperative state/local partnership



The Role of Local & State Gov't

- Local contribution:
 - developing a “locally customized” SMP and keeping it current
 - administering/enforcing the SMP over time
- State (Ecology) contribution:
 - providing technical assistance & support to local government (including \$)
 - *Quarterly* Shoreline Planner Coordination Meetings
 - reviewing and approving SMPs before they become effective
 - on-going review and approval of shoreline CUPs and variances



Ecology's contribution (Continued):

Ecology also continues to update available guidance:

- Update of the *1994 SMP Handbook* is underway, with guidance on methodology, science, policy, procedural and SMP Guidelines requirements, as well as SMP "model" language, case law and legislative updates.

- Revised *SMP Handbook* chapters will periodically be posted on our website, at:

http://www.ecy.wa.gov/programs/sea/sma/st_guide/SMP/index.html

- Our website will soon sport a new look organized consistent with the "phases" outlined in the SMP Planning "rainbow" chart



SMA policies:

All SMP updates must be developed consistent with the three basic policies of the SMA (RCW 90.58.020)

These policies include...



SMA policy (RCW 90.58.020):

- *“protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life...”*



SMA policy (RCW 90.58.020): - Continued -

- *"...uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline."*



SMA policy (RCW 90.58.020): - Continued -

- *“This policy contemplates protecting...public rights of navigation and corollary rights incidental thereto”*
- *“Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical...any interference with the public’s use of the water.”*



A brief SMA historical perspective....



Shoreline Management in the 1970s

- Environmental focus in the 1970s:

Point source pollution, resource extraction, commercial/industrial use, landfill (Wilbur v. Gallagher).

Comparison of Shoreline Legislation:

Initiative 43 (prep. by WEC, et al.)

- Policy “triad” established:
 - Environmental protection.
 - Preferred uses.
 - Public access protections.
- Significant State Role:
 - Shorelines of Statewide Significance.
 - State permit system.
 - Ecological Commission prepares statewide regulatory plan.
- Regulated development within 500 feet.

Legislature’s Alternative (43B)

- Policy “triad” remains.
- State/Local partnership emphasized:
 - Ecology prepares SMP guidelines and approves individual SMPs.
 - Locally customized and administered SMPs.
- Regulated development within entire floodplain or 200’
- Provisions giving DNR management of its aquatic lands vetoed; DNR given seat on SHB.



Shoreline Management in the 1970s (cont'd)

■ 1972

- Washington first state to have CZMP adopted.
- Voters approve alternative 43B (retroactive to June 1, 1971).
- Ecology adopts first SMP guidelines:
 - Inventory required (land use, *not* ecological conditions/needs).
 - 4 Environments (Natural, Conservancy, Urban, Rural).
 - Vague, open-ended.
- Local governments given two years to adopt SMPs.
- After two years, only 7 jurisdictions had adopted SMPs.

■ 1979: 95% of first SMPs adopted statewide.

- Shoreline permits processed in large numbers.
- Limited SMP amendments begin; few comprehensive.



1990s: Tensions Emerge

- **1990:** GMA passed.
 - “Presumed validity” established.
 - Critical area protections required.
 - GMA/SMA relationship unclear.
 - Shoreline modification, SFR development continue.
- **1992**
 - CAOs required to be completed statewide.
 - “Dual” coverage (CAOs/SMPs).
- **1994**
 - SMP Guidebook completed.
 - SMA/GMA integration “hot topic.”
 - Governor’s Regulatory Reform Task Force reviews statutes.



1990s: Tensions Emerge (cont'd)

■ 1995

- Ecology begins guidelines rule-making.
- GMA/SMA statutes partially integrated (ESHB 1933), but questions remain regarding relationship of CAOs to SMPs.

■ 1996

- Ecology conducts public opinion poll.
- Convenes Shoreline Policy Advisory Group to draft SMP guidelines.

■ 1997

- LUSC attempts State Unified Development Code: Fails.
- LUSC considers SMA/GMA integration at request of Ports and local governments. (No consensus reached.)



1990s: Tensions Emerge (cont'd)

■ 1998

- Ecology establishes Shorelines Guidelines Commission to help draft new guidelines.
- 19 public meetings held.

■ 1999

- Ecology starts 2nd formal round on guidelines.
- After 3000 comments, Ecology withdraws rule.
- ESA & salmon listings fully emerge.
 - Snake River salmon originally listed 1992.
 - Puget Sound salmon originally listed 1999.



The Controversy Peaks

■ 2000

- "No Net Loss" and "Ecological Functions" concepts emerge.
- Ecology develops and adopts Path A & B guidelines.
- Coalition of business and local governments appeal.

■ 2001

- SMP guidelines invalidated.
- SHB rules that Ecology exceeded authority (ESA).
- Ecology enters into mediation.



Resolution

■ 2002

- Litigating parties reach agreement on:
 - New guidelines draft.
 - Legislation to phase deadlines.
 - Funding Support.

■ 2003

- Ecology adopts new guidelines after 21 public *hearings*.
- Legislature adopts phased deadlines through 2014, and \$18.8 million budget for SMP updates.
- In sum, three things converged to get us to where we are today:
 - Guidelines (rule) updated
 - New compliance deadlines
 - Funding provided



SMA Planning Function Reawakens

■ 2004

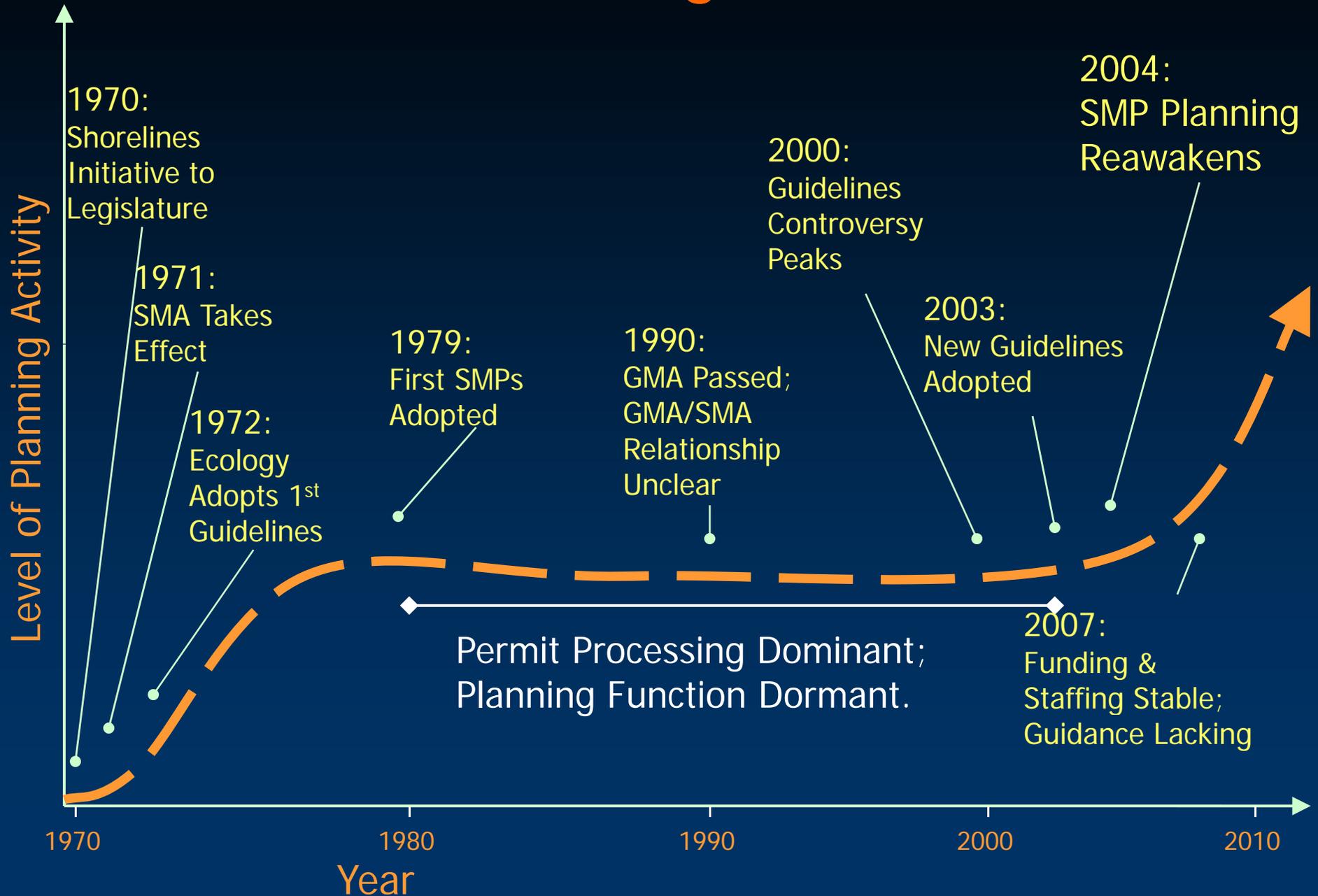
- Local governments begin “comprehensive” SMP updates.
- Guidance lacking.
- Questions of interpretation arise.

■ 2007

- Funding and Ecology staffing stable.
- Guidance still lacking.
- Issues remain with:
 - CAO integration and adoption by reference.
 - What is good enough?
 - buffers/setbacks, science, etc.
 - SMP jurisdiction.
 - Efficient delivery of grants.



SMA Planning Function



Important Elements of the 2003 Guidelines

General “study” Requirements:

- “No net loss of ecological functions necessary to sustain shoreline ecological resources”
- Shoreline use analysis
- Cumulative Impacts Analysis
- Restoration Planning



Methodology To Achieve “No Net Loss” in the SMP

1. What do you have now?
 - Inventory and Characterization = Baseline
2. Assess impacts of the program
 - Existing and projected development patterns
 - Direct and cumulative impacts
3. Develop management measures
 - Environment designations
 - Policies
 - General regulations
 - Use-specific regulations
 - Project level mitigation over time



Cumulative Impacts

- “reasonably foreseeable” impacts on shoreline functions resulting from common shoreline development, must be:
 - evaluated, and
 - mitigated, (avoid, minimize, compensate) through SMP regulations in satisfying the “no net loss of ecological functions” standard
- within “practical limits”, such evaluation should consider the incremental impacts of:
 - residential docks and bulkheads
 - runoff from new development
 - future development set by new subdivision of land



Restoration Planning

Considering unique local circumstances, local governments must:

- identify shoreline areas with existing degraded functions
- prioritize potential restoration “opportunities”
- identify existing projects, programs and funding sources that accomplish restoration
- prepare a comprehensive “strategy” (goals, timelines, benchmarks) that ensures local restoration objectives are met “over time”, from non-regulatory actions



What is Ecology looking for in SMP updates?

- Consistency with the three SMA policies
- Consistency with guidelines requirements
 - findings from required analyses (inventory, characterization, cumulative impacts and use, restoration plan) are sufficiently translated into specific SMP policies, regulations and environment designations
 - Local decision-making is documented, especially where conflicts surface
 - All "specific" standards in the guidelines are met
- Fulfillment of required public involvement process
- Early and continuous involvement as SMP is developed
- Timely completion/approval of the update project!



Looking Ahead: Emerging Issues

- SMP appeals/litigation?
- Climate change/sea level rise
- Geoducks
- Better translation of inventory & characterization into SMP policies and regulations
- Demonstrating “No Net Loss” in SMP update planning and permitting
- Missed SMP adoption deadlines
 - Ecology can/must adopt SMP for the local government
- Only 250 more SMPs to go!
- Statutory 7-year update “review” cycle in the future...



Workshop Logistics:

- Restrooms
- Breaks
- Lunch provided...
- Help yourself to handouts (Note: we will be posting today's presentations on our website).

