

Shoreline Master Programs

A report on the timeliness of the state approval process for Fiscal Year 2013

Summary

The 2011 Washington State Legislature set a performance target for the Department of Ecology's review and approval of new and updated local Shoreline Master Programs (SMPs). The performance target was set at 180 days.

"The department shall strive to achieve final action on a submitted master program within one hundred eighty days of receipt and shall post an annual assessment related to this performance benchmark on the agency web site." (Shoreline Management Act, RCW 90.58.090)

This report is the second annual assessment of Ecology's performance as required by the legislature. It includes both results and analysis for the time period Fiscal Year 2013 (July 1, 2012 – June 30, 2013). During this period, **6 out of 33** shoreline programs submitted during the time period met the 180 day target. Many factors affected whether or not Ecology was able to meet the 180 day performance target, including staff capacity, level of collaboration between the local government and Ecology prior to submittal, and the number of public comments received.

Ecology works closely with local governments and provides assistance on controversial issues before the locally adopted programs are sent to Ecology. In general, the more complex the SMP is, the longer the process of revision and approval (by both parties) takes.

Overview: Shoreline Master Programs

Ecology and local governments are partners in managing Washington's shorelines. Shoreline Master Programs (SMPs) are local land use policies and regulations designed to manage shoreline use. These local programs protect natural resources for future generations, provide for public access to public waters and shores, and plan for water-dependent uses. Local programs are tailored to meet the unique conditions of each of city and county – but must comply with the state Shoreline Management Act (SMA) and Shoreline Master Program Guidelines (SMP Guidelines, Chapter 173-26 WAC).

Local governments must periodically update their local programs. These legislatively required updates help accommodate growth and development changes as well as incorporate the best available science. Over 130 local governments are currently modernizing their existing shoreline programs – many for the first time in 40 years.

State Approval Process

Shoreline Master Programs are unique in Washington State land use regulation: they must be formally approved and adopted by *both* the local government and the state. Local adoption comes first; then the program and supporting information is submitted to Ecology's Shorelands and Environmental Assistance Program. Ecology must determine if the submitted package is complete, provide an opportunity for public comment, and review the locally adopted program for conformance with state laws and rules. The local government and Ecology must both agree to the final approved shoreline program.

The state approval process is outlined in state regulations ([WAC 173-26-120](#)). The process includes many steps, some of which must be taken by local governments and some by Ecology. The regulations include specific time requirements for some of the steps (e.g. public comment period must be at least 30 days); unspecific time requirements for some steps (e.g. Ecology must provide "reasonable notice and opportunity for written comments"); and no time requirements for other steps (e.g. determining whether

the locally submitted package is complete). Often, the local government and Ecology work closely together during the state approval process to identify shoreline program language acceptable to both parties.

In the state review process, Ecology may take one of three actions:

1. Approve the new or updated program as is.
2. Approve the new or updated program subject to the local government agreeing to required language changes.
3. Deny approval.

If Ecology approves a shoreline program with required language changes, the local government has 30 days after receiving Ecology’s decision letter to either:

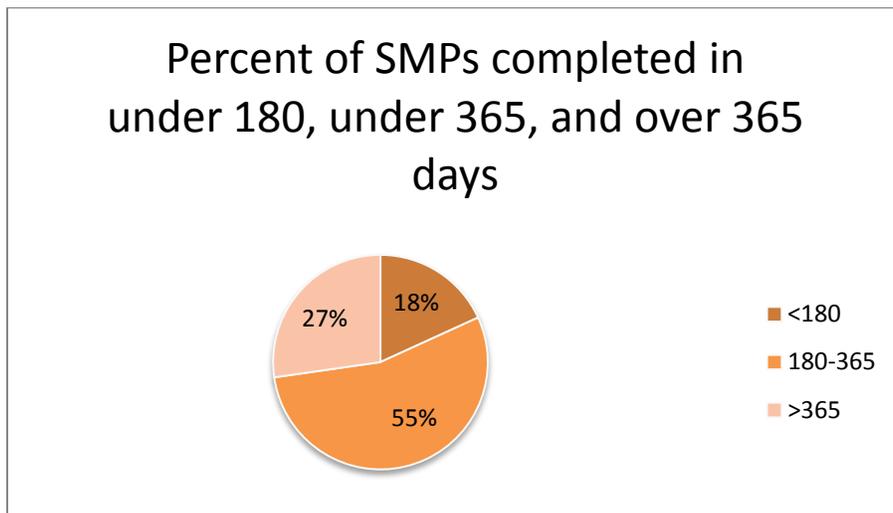
- Agree to the required changes.
- Propose alternative language. Ecology then evaluates the alternative to ensure consistency with the intent of the original required changes, the SMA, and the Guidelines. This often entails a lengthy negotiation process to work through unresolved issues and arrive at a mutually-acceptable shoreline program.

If Ecology and the local government are unable to agree, Ecology may either deny the alternative proposal or, at the request of local government, start the review and approval process over.

The final, approved shoreline master program is effective 14 days from the date of Ecology’s approval letter to the local government. This time was added by the 2011 Legislature at the request of local governments, to provide them time to get ready for implementing the new program.

Performance Results: July 1, 2012 – June 30, 2013

The state review and approval process for 33 shoreline master programs has taken an average of 318 days – 138 days more than the 180 day performance target set by the Legislature in 2011. The range of approval times was 90 to 1307 days. The average for the six jurisdictions with greater than 50,000 residents was 603 days, while the average for the 27 jurisdictions with fewer than 50,000 residents was 255 days. Unsurprisingly, larger jurisdictions tend to have more complex issues that take longer to resolve.



In general, the 180 day performance target for the state approval process was achieved when:

- Ecology and the local government came to general agreement on the program prior to the local government's adoption and submittal to Ecology.
- No significant policy issues or public controversy emerged during Ecology's review and approval process.
- The amount of public comment received during Ecology's public comment period was non-existent or small.
- Both Ecology and the local government had sufficient staff capacity.

Alternatively, the 180 day performance target was not met when:

- Extensive public comment was received that required more time for the local government to respond.
- The issues were complex or highly controversial, and led to an iterative, negotiated process between the local government and Ecology to identify final program language which both could support.
- Staff capacity was insufficient at Ecology or the local government; or staff turnover at Ecology or the local governments slowed the process.
- Unexpected circumstance caused delays. For example, when new FEMA maps were released and the process was delayed in order to incorporate the most recent information

Ecology can improve the timeliness of the state review and approval process by:

- Better informing local governments on what resources are available to them through Ecology during informal review.
- Continuing to work closely with local governments during SMP development.
- Carefully handling the transition of a jurisdiction's SMP update process to a new staffer when there is personnel turnover.
- Providing guidance for issues that might cause delays (e.g. incorporating new FEMA maps and flood ordinances into SMP updates).

Local governments can improve the timeliness of the state review and approval process by:

- Working closely with Ecology before formally submitting their SMP to address and resolve challenging issues.
- Carefully handling the transition of the SMP update process to a new staffer or contractor should there be personnel turnover.
- Responding in a timely way to public comment.

SMP Timeliness Results for Fiscal Year 2013 (7/1/12 — 6/30/13)

Average SMP review and approval time = **320** days (target=180 days)

Number of SMPs approved by Ecology = **33**

Municipality	State Approval Process (days)	Key Factors Affecting Timeliness
Arlington	236	This was the city's first update since 1974, so significant changes in regulations and best available science in the interim required that the SMP be carefully reviewed by Ecology, which took 60 days. No public comments were received in the 30-day comment period. The City of Arlington took 90 days to accept the changes. Ecology approved the SMP roughly 40 days later.
Battle Ground	269	Battle Ground's SMP was impacted by workload at the SWRO which received 3 other locally adopted SMPs from the Clark County area immediately prior to the city's submittal. In addition, because the Clark County jurisdictions involved the same interested parties, Ecology opted to delay the public comment period to minimize overlap. In addition, as with the other Clark County jurisdictions, the newly adopted FEMA flood maps became available along with an updated flood ordinance. In order to avoid an almost immediate need for a limited amendment, Ecology incorporated the updated maps and ordinance as recommended changes. This contributed to the delay in issuing the Conditional Approval.
Bellingham	909	The Bellingham SMP was impacted by workload at the Bellingham Field Office with multiple comprehensive reviews being conducted simultaneously and with limited staff. In addition, staff changes due to retirement resulted in additional delays. The City took approximately eight months to accept Ecology's conditional approval and to propose alternative language, which added significant time to the review process.
Bothell	229	The Bothell SMP plans for development along 13.5 miles of stream shorelines along the Sammamish River, North Creek, and Swamp Creek. SMP was approved as submitted on January 23, 2013. The SMP submittal was accepted on June 27, 2012. The Bothell SMP comprehensive update process was exemplary due to the city's open and comprehensive work with their public from the very beginning with their outreach and public participation process and their policy and regulatory development team with consultants working closely with Ecology throughout their process. Bothell was one of many jurisdictions in this region that began their update work in July 2009.
Brier	166	The state shoreline in Brier includes portions of Swamp Creek. SMP was approved as submitted on June 27, 2012. The final approval letter was dated November 26, 2012. Also an example of exemplary work on the part of the city and its consultant team.

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Buckley	266	The city of Buckley's approval included both required and recommended changes, some of which were complex changes concerning the shoreline buffer. Time was spent negotiating with the city staff prior to the Director's decision letter as well as an additional two months waiting for the city to respond to the Director's conditional approval.
Burlington	159	The complexity and controversy were limited with Burlington's SMP. Ecology and city staff communicated well and often and the SMP approval process was completed well within the 180 day target.
Camas	185	Camas was the third of 6 Clark County jurisdictions to submit their locally adopted SMP. The city was able to respond to public comments received in less than a month. In addition, as with the other Clark County jurisdictions, the newly adopted FEMA flood maps became available along with an updated flood ordinance. In order to avoid an almost immediate need for a limited amendment, Ecology incorporated the updated maps and ordinance as required and recommended changes.
Clark County	195	Clark County was the second of 6 Clark County jurisdictions to submit their locally adopted SMP. The County responded to comments received during Ecology's comment period in less than a month. In addition, as with the other Clark County jurisdictions, the newly adopted FEMA flood maps became available along with an updated flood ordinance. In order to avoid an almost immediate need for a limited amendment, Ecology incorporated the updated maps and ordinance as required and recommended changes.
DuPont	224	The initial submittal of the amendment was not complete and the city took about three weeks to respond to a request for documentation of the public notice documents for SEPA and public hearings. The city of DuPont's amendment included required changes as part of the approval process.
Entiat	147	One comment was received during Ecology's comment period, and Ecology provided Entiat with required and recommended changes. Entiat accepted these changes in 5 days. Ecology then quickly approved the SMP.
Enumclaw	278	The delays in review of the Enumclaw SMP were primarily a result of additional time taken by the City in responding to Ecology's conditional approval. Ecology issued a conditional approval (with required changes) on May 7, 2012, for which the City did not respond until July 2, 2012. In addition, prior to issuance of the conditional approval, the City requested additional time to provide Ecology with further input on draft required changes. It is also noteworthy that the City's current Planning Director was hired just prior to Ecology's review of the updated SMP, which also contributed to delays in the approval process.
Fife	218	Just over 3 months passed between submittal of the locally adopted SMP and Ecology's conditional approval. No comments were received during Ecology's comment period. The City ordinance adoption process delayed their response to Ecology's 12/13/2012 conditional approval. The City's

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		acceptance of Ecology's changes was received 3/13/2013 and Ecology took final action a day later.
Granite Falls	90	No comments were received during Ecology's comment period, and the SMP was approved as submitted.
Issaquah	371	The restructuring of the city's Planning Department added 3-4 months to timeline.
King County	382	The King County SMP was complex, which contributed to the extended timeline. This was the County's first comprehensive update since 1978. The County submitted their update in December 2011. During the public comment period in February-March 2012, Ecology received 25 comments. The scope of the SMP update and the number of public comments contributed to the length of the process. Ecology provided the County with required and suggested changes in September 2012. In December 2012, King County accepted all required and suggested changes.
La Center	153	La Center was the last of 6 Clark County jurisdictions to locally adopt and submit their SMP to Ecology. Many of Ecology's comments were applicable to all of the proposed SMPs in Clark County (the communities jointly developed many policies and regulations) and the City was able to incorporate many of Ecology's concerns prior to the state review process. No comments were received during the state comment period and the city responded in less than 30 days accepting all changes set forth in Ecology's conditional approval.
Lake Stevens	472	The delays in review of the City of Lake Stevens SMP were primarily a result of additional time taken by the City in responding to issues raised during Ecology's comment period and a request by the City for additional time to develop alternatives to a few of Ecology's required changes. Ecology issued a conditional approval (with required changes) on the SMP on January 4, 2013, for which the City did not respond with alternatives until May 1, 2013. Because the City requested the review of alternatives to a couple of the required changes, Ecology took another 30-day to review the alternatives prior to issuing the final action. Most of the delay in the SMP review process can be attributed to the City's concern with dock standards required by Ecology to satisfy SMP-Guideline requirements. Ultimately the City adopted the standards required by Ecology, but had to put a lot of time into responding to the concerns of a number of shoreline property owners who were opposed to the changes.
Milton	224	The city of Milton's amendment included both required and recommended changes as part of the conditional approval. Although the changes were not necessarily complex, the city did take the time to vet them with the city council prior to formally responding to the changes and took formal action by passing an ordinance. About 60 days of the approval process was time when the city was either responding to comments or making decisions on the changes.

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North Bend	295	A few issues to respond to in the public comments. FEMA FIRM referencing resulted in some required changes which added time for negotiating the changes with North Bend.
Pacific	478	Delays related to Ecology’s review of the City of Pacific’s SMP can be attributed to a number of factors within the City that were external to the SMP-update, competing workload at NWRO and a technical issue related to referencing the FEMA FIRM maps within the updated SMP. The City’s Planning Director left the City just prior to the City’s submittal of the SMP to Ecology and was not replaced throughout Ecology’s review of the SMP. Further, during this same timeframe, the City was facing the potential closing of the City. Therefore, City staff requested extra time to vet Ecology’s draft changes through their City Council. Although not required under state requirements, Ecology attempted to accommodate the City, which translated to almost a 9-month delay. Further, technical issues in referencing FEMA maps also contributed to delays, for which subsequent guidance may have eliminated this delay.
Pateros	405	This was the first update for Pateros since 1991. From August 25 through September 23, 2011, Ecology held a public comment period on the City’s March 2011 version of the shoreline program update. In January 2012 Ecology sent the City a draft of required and recommended changes based on the state’s public comment period. The City requested an opportunity to fully integrate the changes and submit a revised version of the program update for Ecology’s further review and approval. The City Council formally adopted the revised update by resolution, prior to sending it to Ecology on June 12, 2012. Ecology held a shortened second public comment period from July 26 to August 10, 2012 on the revised version.
Port Orchard	265	The Port Orchard SMP planning area includes: Sinclair inlet shorelines, two lakes and Black Jack Creek which drains to Sinclair inlet. SMP was submitted on July 6, 2012. Ecology issued a conditional approval letter with 12 required changes on January 7, 2013. On January 7, 2013, the city requested an extension of 30 days to their response time. On March 13, 2013, the City sent a letter to Ecology agreeing to all of Ecology’s required changes. On March 22, 2013, Ecology took final action approving the SMP. The City worked closely with Ecology and the public throughout the update process with City staff doing the inventory and the SMP policy and regulatory development and a consultant team producing the Cumulative Impacts Analysis.
Poulsbo	194	The City of Poulsbo SMP approval process went relatively quickly, with any delays primarily due to competing work load at Ecology.

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Ridgefield	201	Ridgefield was the fifth of 6 Clark County jurisdictions to locally adopt and submit their SMP to Ecology. Only two minor comments were received. In order to avoid an almost immediate need for a limited amendment, Ecology incorporated the updated maps and ordinance as required and recommended changes. Updating the flood ordinance took a few extra months at the local level which delayed Ecology's conditional approval. In addition, the City had significant staffing changes and hired the Vancouver planner on contract to complete the SMP process. Shifting the process to a contractor with multiple SMPs accounted for some delay.
Roy	101	All Ecology comments were addressed prior to local adoption, no comments were received during Ecology's comment period, and the SMP was approved as submitted.
Snohomish County	577	The complex issues of a large county resulted in additional time to work through required changes both internally and with the County. Responding to shellfish grower's concerns with SMP aquaculture standards resulted in additional delays by Ecology and the County at the end of the process.
Spokane County	1307	The SMP as submitted required a substantial rewrite to achieve compliance with the SMA and Guidelines. Ecology and Spokane County agreed to collaborate on revising the entire use regulations and Environment Designations, resulting in an approved SMP.
Steilacoom	253	Local submittal was not accepted as complete until 10/15/12 which resulted in a two-week delay. The Town also required over a month to respond to Ecology's conditional approval and proposed alternative language, adding another 30+ days to the review process. Additionally, a delay of approximately 40 days was due to emergency leave of Ecology staff.
Twisp	500	This was Twisp's first update since 1987. Ecology received 2 comments during the public comment period. After the comment period, it took Ecology roughly 90 days to send required and recommended changes to Twisp. It then took Twisp roughly 270 days to accept all but two changes, for which they offered alternative language. Ecology then approved the SMP 30 days later.

Municipality	State Approval Process (days)	Key Factors Affecting Timeliness
Vancouver	245	<p>The city's SMP was the first of 6 Clark County jurisdictions accepted as a complete submittal by Ecology and the state public comment period was begun just over a month later. The city needed the full 45 days to respond to comments received. In addition, as with the other Clark County jurisdictions, the newly adopted FEMA flood maps became available along with an updated flood ordinance. In order to avoid an almost immediate need for a limited amendment, Ecology incorporated the updated maps and ordinance as required and recommended changes. Updating the flood ordinance took a couple extra months at the local level which delayed Ecology's conditional approval.</p>
Wilkeson	245	<p>Wilkeson's state approval process included an extended comment period of 45 days due to the end of year holidays. The approval was conditional with required changes that took time to negotiate with the town prior to the final decision with from the Director.</p>
Woodway	265	<p>On September 14, 2012, Ecology accepted the town's final SMP submittal. On April 11, 2013, Ecology issued a conditional approval letter with required and recommended changes. On May 3, 2013, the town agreed to all required and recommended changes. On May 9, 2013, Ecology took final action approving the SMP.</p>