

**ATTACHMENT A: FINDINGS AND CONCLUSIONS  
FOR PROPOSED LIMITED AMENDMENT TO THE CITY OF LACEY  
SHORELINE MASTER PROGRAM**

SMP Submittal accepted January 16, 2015, Resolution No. 1020  
Prepared by Chrissy Bailey on February 26, 2015

**Brief Description of Proposed Amendment:** The City of Lacey has submitted a limited amendment of its Shoreline Master Program (SMP) to the Department of Ecology (Ecology) for approval, to:

- Incorporate the City's recently revised wetland ordinance into the SMP, which revisions address Ecology's 2014 changes to the Washington State Wetland Rating Systems, and
- Clarify language pertaining to when an SMP amendment is necessary as a result of modifications to an ordinance adopted into the SMP by reference.

**FINDINGS OF FACT**

**Need for amendment.** The proposed amendment is needed to incorporate the City's recently revised wetland ordinance into the SMP. The City revised the Wetland Protection chapter of the Lacey Municipal Code (LMC 14.28) to be consistent with updates made by Ecology to the Washington State Wetland Rating Systems (rating system) in 2014. The most substantive difference between the 2004 version of the rating system and the 2014 updates involved changing the scale of scores from 1-100 to 9-27 to better reflect the scientific accuracy of the tools.

Additionally, the City is proposing to clarify language in the SMP pertaining to incorporation by reference. The SMP Guidelines allow local jurisdictions to include other locally adopted policies or regulations in an SMP by reference. The City included a list of such incorporated regulations in its SMP. The list was followed by a paragraph intended to differentiate between chapters of the LMC incorporated by reference to comply with requirements in the Shoreline Management Act and the SMP Guidelines (WAC 173-26, Part III), and those being "loosely referenced." The City is proposing to clarify the language in this paragraph, which was complicated and somewhat unclear.

**SMP provisions to be changed by the amendment as proposed:** The following sections of the existing City of Lacey SMP are proposed for change (~~striketrough~~/underline format):

17.10.020 References to Plans, Regulations or Information Sources

2. Local Lacey plans and codes being referenced in this Shoreline Master Program include the following:

A. Title 14 of the Lacey Municipal Code (LMC): The Lacey Title on Buildings and Construction that includes Lacey's critical area ordinances and design review chapters, specific sections referenced include:

- LMC Chapter 14.28, Wetlands Protection\* (Ordinance # ~~1295, 10/25/07~~ 1449, 12/18/2014);

E. The Lacey Comprehensive Land Use Plan developed under the State Growth Management Act (GMA) and all of its elements. Elements specifically referenced include:

- Appendix 7 Referenced City of Lacey Ordinances Used in this Document (Include ordinance adopting revisions to CAO)

NOTES REGARDING REFERENCED DOCUMENTS:

Portions of the LMC referenced as a requirement of providing compliance with RCW 90.58.090(4) and the SMP Guidelines (WAC 173-26, Part III) of the SMP and designated with an \* will be the version in effect at the time of adoption of the Shoreline Master Program and will not include amendments made to those Plans or sections of the LMC after the date of adoption. Pursuant to WAC 173-26-191(2)(b), amending the referenced regulations in the SMP for those areas under shoreline jurisdiction will require an amendment to the master program and approval by the Department of Ecology.

~~Pursuant to a determination made by the Department of Ecology, later amendment to ordinances designated with an \* will not be considered applicable to and will not change content of the Shoreline Master Program and therefore will not require amendment of the Shoreline Master Program. If the City wants to update the Shoreline Master Program to include such amendments in those areas under Shoreline Jurisdiction, Lacey may file for amendment of the Shoreline Master Program to include the amendments. Otherwise, the Shoreline Master Program will continue to use the version of the \* referenced document in effect at the time the Shoreline Master Program was adopted, as shown in the applicable appendix.~~

**Amendment History and Review Process:** The City's submittal indicates the proposed SMP amendment originated from a local planning process that began in November 2014. The record shows that a public hearing on the Wetland Protection and Shoreline Master Program revisions before the Planning Commission was held on December 2, 2014. The record provided by the City indicates notice of the hearing was published in The Olympian on November 22, 2014. At the close of the public hearing, the Planning Commission moved to recommend the amendments to the City Council for adoption.

The City Council considered the Planning Commission's motion at its December 18, 2014 meeting. With the passage of Ordinance No. 1449, Council adopted amendments to the Wetland Protection provisions in LMC 14.28. With the passage of Resolution No. 1020 on December 18, 2014, the City Council directed staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review on December 29, 2014, with additional materials submitted on January 15, 2015. The submittal was verified as complete on January 16, 2015. Notice of the state comment period was distributed to state and local interested parties identified by the City on January 30, 2015 by US mail and by email, in compliance with the requirements of WAC 173-26-120 (2). The state comment period began on February 6, 2015 and continued through February 23, 2015 for a total of 15 days.<sup>1</sup> Ecology staff determined the proposed amendment is relatively straightforward and non-controversial and a shorter comment period is justified.

Notice of the comment period was provided on Ecology's website:

<http://www.ecy.wa.gov/programs/sea/shorelines/smp/mycomments/LaceyLimitedAmendment.html>.

The notice included a description of the proposed amendment, the authority under which the action was proposed, and the manner in which interested persons could obtain copies and present their views.

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<sup>1</sup> Per RCW 90.58.090 (2)(a), the comment period shall be at least 30 days unless the department determines the level of complexity or controversy involved supports a shorter period.

This information was also included in the written and email notices, which were sent to 37 interested parties. Ecology received no comments during the 15-day comment period.

*Ecology finds that the City engaged the public and interested parties in the limited SMP amendment process in accordance with the participation requirements in WAC 173-26-100 and 110. Ecology complied with the public notification provisions related to the state process for approving/amending shoreline master programs outlined in WAC 173-26-120.*

**Summary of Issues Raised During the Public Review Process:** None.

**Summary of Issues Identified by Ecology as Relevant To Its Decision:** None

**Consistency with Chapter 90.58 RCW:** The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3) and (4). The amendment was also reviewed for consistency with RCW 36.70A.480 as required by RCW 90.58.610. The record contains evidence of compliance with SMA procedural requirements for amending SMPs contained in RCW 90.58.090(1) and (2).

**Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III):** The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251) as well as the definitions in 173-26-020. This included review of an SMP Submittal Checklist, which was completed by the City and submitted to Ecology for review along with other amendment materials.

**Consistency with Limited Amendment Criteria:** The proposed amendment has also been reviewed for compliance with the limited amendment approval criteria in WAC 173-26-201(1)(c). The amendment is necessary to comply with state implementing rules applicable to shorelines of the state within the local government jurisdiction (WAC 173-26-201(1)(c)(i)(A)) and to improve consistency with the Act's goals and policies and its implementing rules (WAC 173-26-201(1)(c)(i)(D)). The City of Lacey is not currently conducting a comprehensive shoreline master program (WAC 173-26-201(1)(c)(ii)). The proposed amendments will not foster uncoordinated and piecemeal development of the state's shorelines (WAC 173-26-201(1)(c)(iii)), and are consistent with all applicable policies and standards of the Act (WAC 173-26-201(1)(c)(iv)). All procedural rule requirements for public notice and consultation have been satisfied (WAC 173-26-201(1)(c)(v)). The master program guidelines analytical requirements and substantive standards have been satisfied, as applicable to the amendments. The amendments will not result in a net loss of shoreline ecological functions (WAC 173-26-201(1)(c)(vi)).

*Ecology finds that the proposed limited SMP amendment as approved by the City under Resolution No. 1020 is consistent with provisions in the Act and with applicable SMP Guideline requirements.*

**Consistency with SEPA Requirements:** The City submitted evidence of SEPA compliance in the form of documentation that the amendments are categorically exempt from SEPA review because they represent nonproject actions that were subject to a previous environmental review (RCW 43.21C.450 (1) and (2)).

**Other Studies or Analyses supporting the limited amendment:** Ecology also reviewed the following additional documents prepared or provided by the City in support of the limited SMP amendment:

- *City of Lacey Planning Commission minutes, December 2, 2014*
- *Staff Report with Planning Commission Recommendation to the Lacey City Council, December 18, 2014*
- *City of Lacey Ordinance No. 1449, December 18, 2014*

## **CONCLUSIONS OF LAW**

After review by Ecology of the complete record submitted and considering that no comments were received, Ecology concludes that the City's proposed limited SMP amendment is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251) as well as the definitions in WAC 173-26-020.

Ecology concludes that the proposed limited amendment is consistent with the criteria for approving limited amendments in WAC 173-26-201(1)(c).

Ecology concludes that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting public hearings, providing public notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City's limited amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring an SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

## **DECISION AND EFFECTIVE DATE**

Based on the preceding, Ecology has determined the proposed limited amendment is consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules. Ecology approval of the proposed limited amendment will be effective 14 days from the date of this approval.