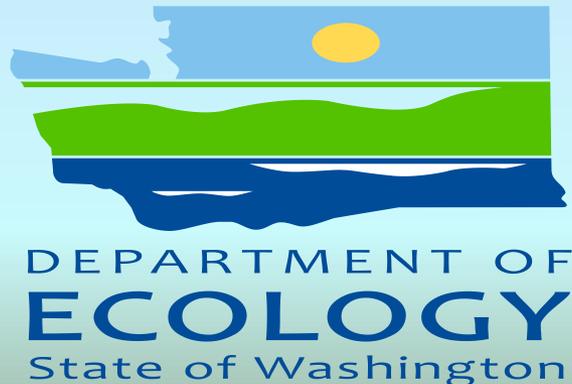


# Conducting a Comprehensive Shoreline Master Program Update

Day 1 Welcome/Orientation

9:00-9:30 a.m.



Peter Skowlund  
Shorelands and  
Environmental Assistance  
Program

**Washington has 28,000 miles of coastal, inland marine, lake and stream shorelines that make our state a special place to live.**

**•Our sense of place**

**•Where we live**

**•Where we play**

**•Our economy**

**•Our history**



# Today's Presentation

- **Shoreline Management**
- **Ecology's Role**
- **Key Issues**
- **Final Thoughts**

# **Shoreline Management Act**

RCW 90.58



## **Guidelines**

WAC 173-26 (Part III)



## **Local Shoreline Master Programs**

Locally adopted ordinance

# Shoreline Management Act

RCW 90.58



## Guidelines

WAC 173-26



## Local Shoreline Master Program

Local Ordinance

# **The Shoreline Management Act**

**RCW 90.58**

- **Adopted by the Washington Legislature in 1971**
- **Affirmed by a vote of the people (referendum) in 1972**
- **Reflected strong interest by the public in our shorelines that continues today**
- **Nearly 40-year track record in state and local shoreline management.**

# State Shoreline Policy

## RCW 90.58.020

### RCW 90.58.020

#### Legislative findings — State policy enunciated — Use preference.

The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

**It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates 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, while protecting generally public rights of navigation and corollary rights incidental thereto.**

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW [90.58.100](#) deemed appropriate or necessary.

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end 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. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter [90.58](#) RCW.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

# State Shoreline Policy

## RCW 90.58.020

### RCW 90.58.020

#### Legislative findings — State policy enunciated — Use preference.

The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership and that planning is necessary consistent with the public interest to prevent the

It is the policy of the state to insure the development of the shorelines of the state in the public interest. This policy shall be implemented while protecting the public interest.

The legislature hereby enacts the following policy for the shorelines of the state:

- (1) Recognize the shorelines of the state as among the most valuable and fragile of its natural resources;
- (2) Preserve the shorelines of the state and the uplands adjacent thereto in their natural condition;
- (3) Result in the protection of the shorelines of the state and the uplands adjacent thereto;
- (4) Protect the shorelines of the state and the uplands adjacent thereto;
- (5) Increase the protection of the shorelines of the state and the uplands adjacent thereto;
- (6) Increase the protection of the shorelines of the state and the uplands adjacent thereto;
- (7) Provide for the protection of the shorelines of the state and the uplands adjacent thereto.

In the implementation of this policy, the legislature finds that it is necessary to provide for the protection of the shorelines of the state and the uplands adjacent thereto in a manner that is feasible and consistent with the public interest. In those instances where the protection of the shorelines of the state and the uplands adjacent thereto requires the use of the shorelines of the state and the uplands adjacent thereto, the legislature finds that the protection of the shorelines of the state and the uplands adjacent thereto shall be given priority over the use of the shorelines of the state and the uplands adjacent thereto.

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The legislature finds that:

- shorelines of the state are among the most valuable and fragile of its natural resources;
- much of the shorelines and adjacent uplands are in private ownership;

# State Shoreline Policy

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The legislature further finds that:

•unrestricted construction on privately and publicly owned shorelines is not in the best public interest;

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The legislature further finds that:

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It is the legislature's intent to insure the public interest while protecting the environment.

The legislature hereby enacts this act to give effect to its intent.

(1) Rec

(2) Pre

(3) Res

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(6) Inc

(7) Pro

In the event that any use of the shorelines of the state is found to be infeasible or to cause damage to the shorelines of the state, the legislature hereby enacts this act to give effect to its intent. In the event that any use of the shorelines of the state is found to be infeasible or to cause damage to the shorelines of the state, the legislature hereby enacts this act to give effect to its intent. In the event that any use of the shorelines of the state is found to be infeasible or to cause damage to the shorelines of the state, the legislature hereby enacts this act to give effect to its intent.

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Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

# 3 Policy Objectives

- Priority for uses that require a shoreline location
- Protect environmental resources of state shorelines
- Promote public access and enjoyment of shorelines



# Shoreline Management Partnership

**The Shoreline Act sets out a cooperative program of shoreline management between local government and the state**



# Shoreline Management Partnership

## City or County

**“Primary responsibility” for:**

- **Developing Shoreline regulations (Shoreline Master Program adoption & update)**
- **Administering the regulatory program (permits, compliance)**

# **Shoreline Management Partnership**

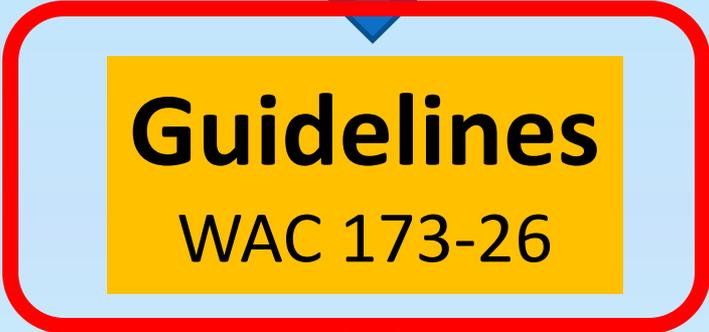
## **Ecology**

**Support to local government “insuring compliance with the Act” through:**

- **Technical assistance**
- **Formal approval of local Shoreline regulations**
- **Final action on certain Shoreline permits**
  - **Conditional use**
  - **Variance**
- **Funding to local gov'ts for SMP updates**

# Shoreline Management Act

RCW 90.58



## Guidelines

WAC 173-26



# Local Shoreline Master Program

Local Ordinance

# SMA – the early years

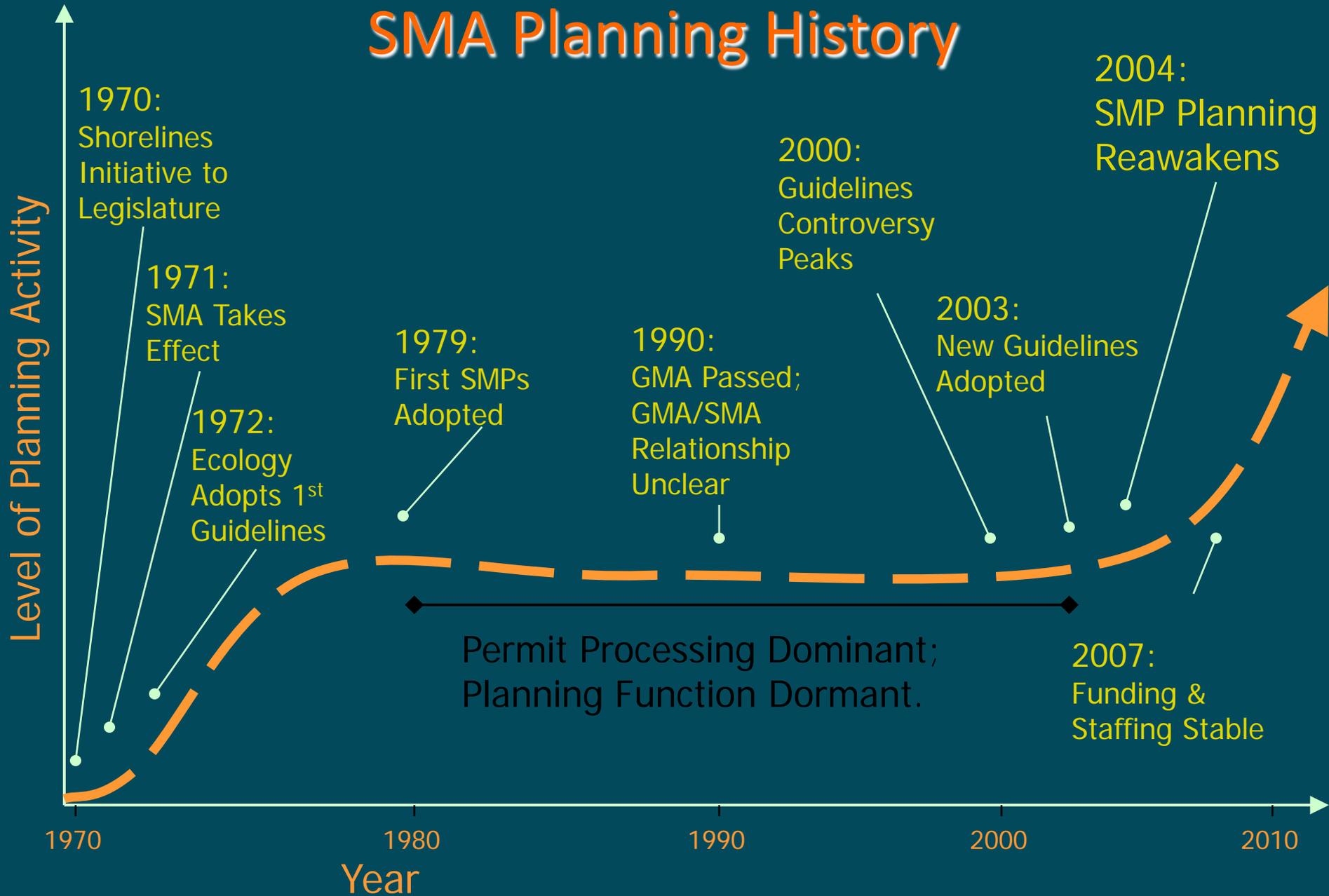
## Accomplished a lot:

- ended landfills in shorelines
- helped prevent major development of fragile resources & estuaries
- sustained/helped revive marine trade, ports, and working industrial waterfronts
- supported public access to shorelines

By the 90's, the Guidelines were out-of-date. No recognition of:

- GMA integration needs
- New advancements in science and technology
- New patterns of shoreline development
- Recent ESA listings

# SMA Planning History



1970:  
Shorelines  
Initiative to  
Legislature

1971:  
SMA Takes  
Effect

1972:  
Ecology  
Adopts 1<sup>st</sup>  
Guidelines

1979:  
First SMPs  
Adopted

1990:  
GMA Passed;  
GMA/SMA  
Relationship  
Unclear

2000:  
Guidelines  
Controversy  
Peaks

2003:  
New Guidelines  
Adopted

2004:  
SMP Planning  
Reawakens

Permit Processing Dominant;  
Planning Function Dormant.

2007:  
Funding &  
Staffing Stable

# Shoreline Master Program Guidelines

## Complicated History

1972 - Original Guidelines adopted by Ecology

1995 – Legislature directed Ecology to update Guidelines

2000 - Ecology put forward Guidelines

2001 - Appealed and invalidated

2002 – Formal Negotiation & Settlement Agreement

- Guidelines
- Update Schedule
- Funding

2004 - Current Guidelines take effect

# Guidelines – Parties to the Settlement

Department of Ecology • Aggregates and Concrete Association • Association of Washington Business • Adams County • Associated General Contractors of Washington • Basta Marine • Inc. • Building Industry Association of Washington • Doug Camenzind • Chelan County • Columbia County • Ferry County • Franklin County • City of Hoquiam • Independent Business Association of Washington • Island County • Jefferson County • Mason County • National Association of Industrial and Office Properties • National Federation of Independent Business • Northwest Marine Trade Association • City of Ocean Shores • Pacific County • Pend Oreille County • Rose Ranch • Skagit County • City of South Bend • Stevens County • Thurston County • United Property Owners of Washington • Wahkiakum County • Washington Association of Realtors • Washington Cattleman's Association • Washington Contract Loggers Association • Washington State Farm Bureau • Washington State Grange • Whitman County • Washington Environmental Council • 1000 Friends of Washington • Citizens for Sensible Development • Citizens Growth Management Coalition • Clark County Natural Resources Council • Friends of Grays Harbor • Friends of the San Juans • Hood Canal Environmental Council • Kettle Range Conservation Group • Kittitas Audubon Society • People for Puget Sound • Save a Valuable Environment • Washington Conservation Voters - Island County Chapter • Washington Public Interest Research Group • Wildlife Forever of Grays Harbor • Chris Brown • Fred Ellis • Benella Caminiti • League of Women Voters of Washington • Black Hills Audubon Society • and National Audubon Society • Grant County

# Shoreline Master Program Guidelines

**WAC 173-26 (Part III) - Set minimum requirements for “comprehensive” SMP updates**

- **Inventory and Characterization**
- **Shoreline Environment Designations (zoning)**
- **Policies & Regulations**
- **Cumulative Impacts and Use Analyses**
- **Restoration Planning**

# Key Concept: “*no-net-loss*”

- SMPs shall contain policies and regulations that assure at minimum, *no net loss* of ecological functions necessary to sustain shoreline natural resources (WAC 173-26-201(2)(c)).
- Starting point is conditions as they exist today
- Recognizes new development will occur. Directs us to mitigate for impacts of anticipated new development.

# SMP Guidelines (Cont'd)

- **Prescriptive in some cases**
  - e.g. bulkhead regulations
- **“Show your work” in most other cases**
  - e.g. buffer size
  - *no-net-loss* standard
- **Requires extensive community involvement**
- **Requires coordination with local, state, federal, and tribal governments**

# Shoreline Management Act

RCW 90.58



## Guidelines

WAC 173-26



# Local Shoreline Master Program

Local Ordinance

# Basics of a Shoreline Master Program

- A Shoreline Program is a locally “customized”:
  - plan for managing shorelines in the future
  - system of shoreline environment designations
  - development regulations and standards
  - system of administration and permitting
- Must be consistent with the Shoreline Act and the Guidelines

# Shoreline Program Updates

**The Washington Legislature . . .**

- **Directed that all Shoreline Programs shall be updated by 2014**
  - More than 260 Counties and Cities state-wide
- **Provided funding for cities and counties to complete updates - \$7.5 million this biennium.**

**Current emphasis = comprehensive update of Puget Sound SMPs (& Clark Co.)**

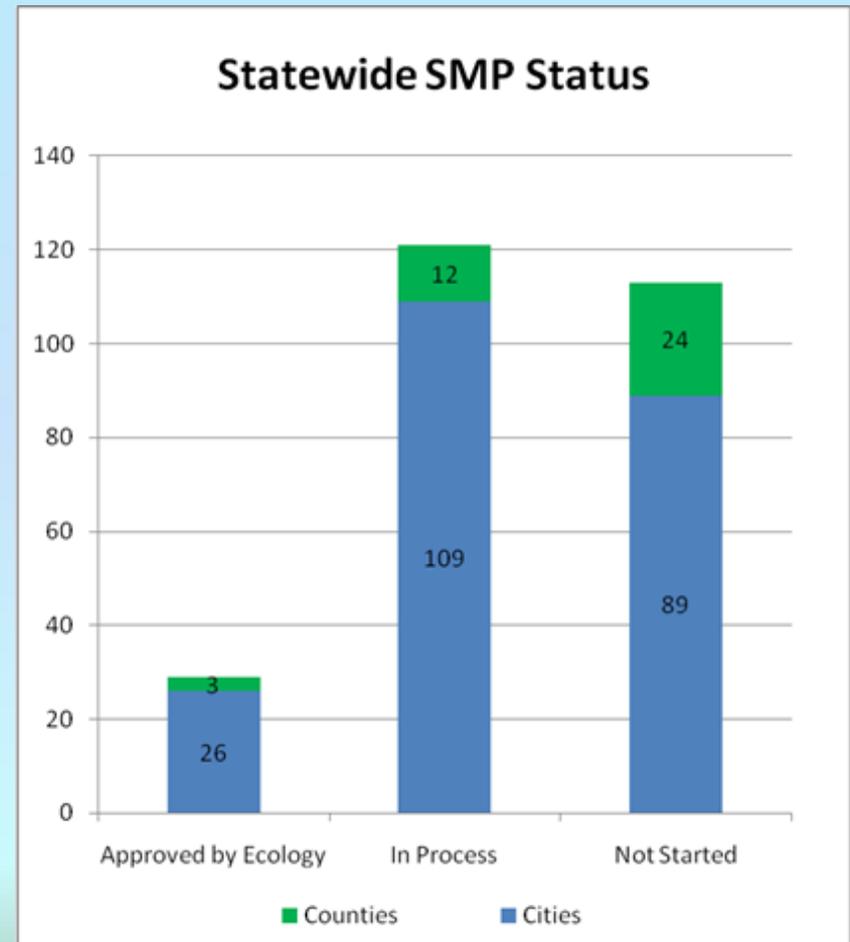
# Shoreline Program Updates so far

State-wide effort well under way

29 updates done so far

121 In various stages of the process

Many more to come...



# Today's Presentation

- Shoreline Management
- Ecology's Role
- Key Issues
- Final Thoughts

# **Ecology's Role**

**Ensure the planning process and the Shoreline Program:**

- Meet the policy and goals of the Shoreline Act**
- Meet SMP Guidelines requirements**
- Engage the community**
- Reflect local character & vision**

# Ecology's Role

**Ensure the planning process and updated Shoreline Programs:**

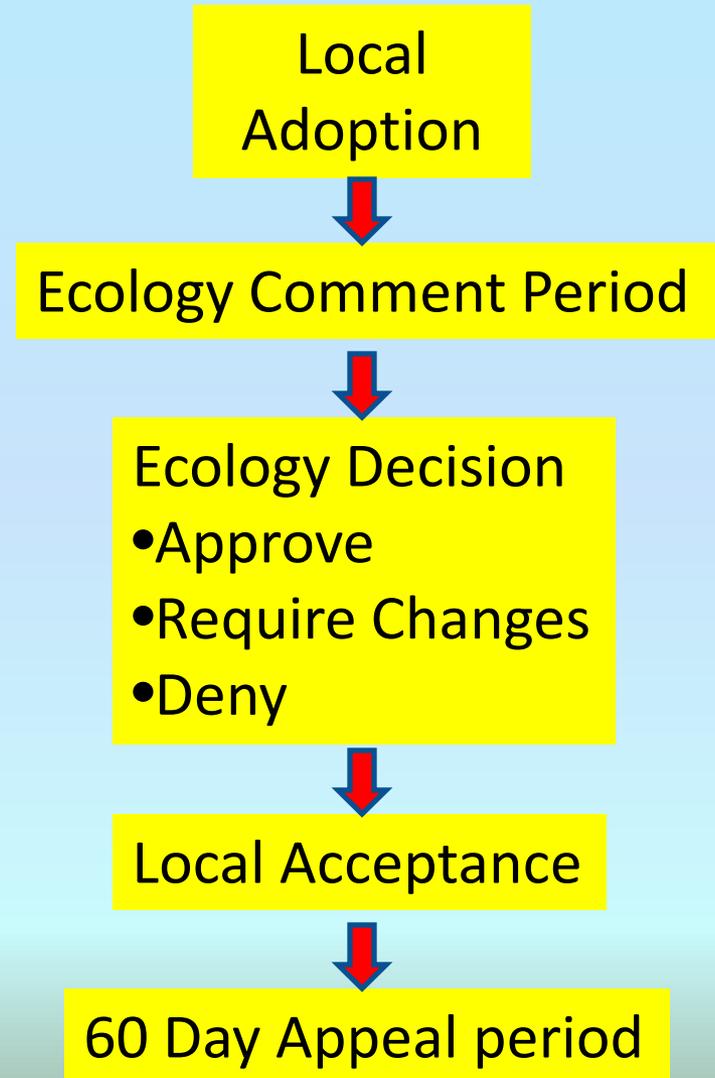
- **Are transparent and understandable**
- **Set realistic and manageable development regulations**
- **Learn from experience of others**
- **Properly administer state funds**

# Ecology's Final Approval

Ecology approval required by the Shoreline Act

## Our Goals:

- Engaged throughout
- Clearly communicate expectations
- Avoid surprises
- Work through disagreements early



# Today's Presentation

- **Shoreline Management**
- **Ecology's Role**
- **Key Issues**
- **Final Thoughts**

# Existing and New Shoreline Development



# Shoreline Development

- Updated Programs are crafted around existing development and conditions
- Focus of updated Programs is to ensure *no-net-loss* from new or expanded development – it is not retroactive.
- Normal repair and maintenance are recognized in the Shoreline Act and are provided for in the SMP.

# Shoreline Development

***Restoration planning*** is an important part of SMP updates:

- It is not required for existing shoreline development
- It may be required to offset impacts from new development
- A restoration plan to prioritize & guide local public and private restoration efforts

# Shoreline Buffers and Setbacks



# **Buffers and Setbacks**

**The Shoreline Program must include (per the guidelines):**

- Buffers to protect critical areas**
- Setbacks for views**
- Vegetation conservation standards (buffers) to protect riparian areas**

# Non-conforming (grandfathered) Buildings



# Private Property Rights



# Property Rights

The Guidelines provide  
property rights safeguards  
WAC 173-26-186 (5)

The Attorney General's Office  
and Ecology follow this  
memorandum in our review.

Property rights also  
considered at the permitting  
stage - a variance to provide  
reasonable use of property

ROB MCKENNA  
ATTORNEY GENERAL

ADVISORY MEMORANDUM:  
AVOIDING UNCONSTITUTIONAL  
TAKINGS OF PRIVATE PROPERTY



DECEMBER 2006

# Bulkheads & Shoreline Armoring



# Use of Science



# Use of Science

- **Shoreline Master Program updates make use of science to:**
  - **Characterize shoreline ecological conditions**
  - **Inform which shoreline ecological functions may require protection and/or restoration to maintain *no net loss*.**

# No Net Loss of Ecological Function

- A new standard reflecting what's been learned from science
- Science tells us that :
  - case-by-case project review alone isn't enough (i.e. SEPA mitigation sequence, individual permit review, even “reactive” critical area protections)
  - a broader landscape or ecosystem-wide planning approach is needed to truly protect shoreline resources
  - Both protection and restoration of functions are needed to achieve (and sustain) NNL
- The SMP Guidelines recognize that avoiding, minimizing and compensating for future impacts is needed **at both the planning and permitting stages** of shoreline management

# State Requirements and Local Conditions and Character

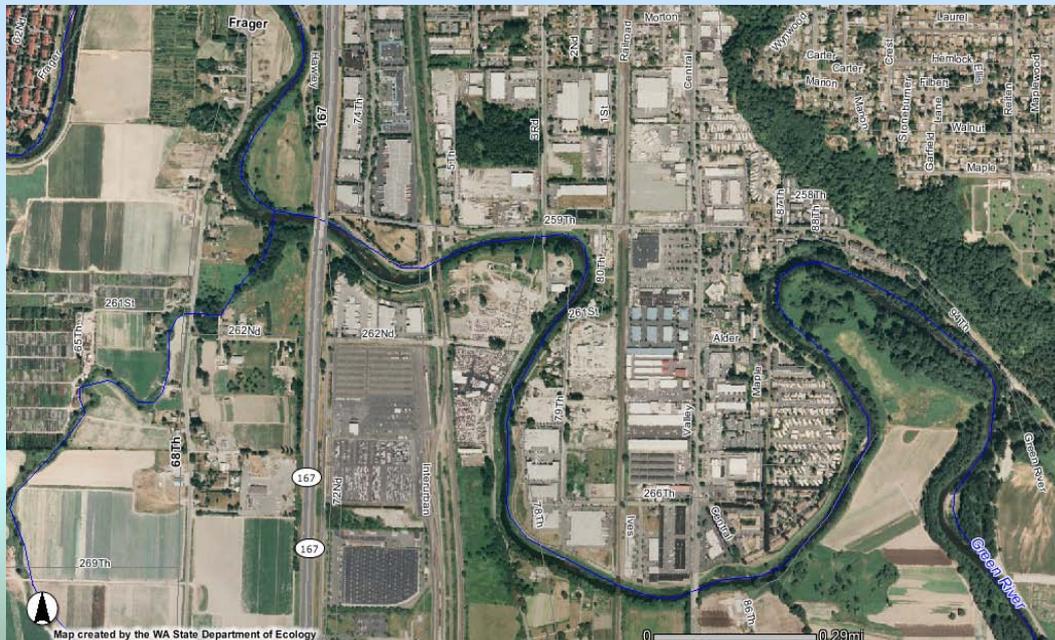


# **Local Conditions & Character**

- **The Shoreline Act and the Guidelines intend for the Master Programs to reflect local conditions, character, and desires**
- **Three examples of completed or nearly-completed Shoreline Program updates...**

# Green River Valley

- System of levees the starting point
- Protect neighborhoods and commercial areas
- Over time reconfigure levees
- Enhance public access through trails



# Lake Washington

- **Current urbanized pattern the starting point**
- **Anticipate and manage redevelopment**
- **Provide flexibility and options for reducing the impacts from redevelopment**



# Coupeville

- Embrace historic waterfront
- Flexibility in the ongoing use of historic buildings
- Limits future expansion over water



# Today's Presentation

- **Shoreline Management**
- **Ecology's Role**
- **Key Issues**
- **Final Thoughts**

# Final Thoughts:

- **What do we hope to see from SMP updates?**
  - **Appropriate new shoreline development planned for in updated SMPs. We need Planners to plan (ahead)!**
  - **New development managed to prevent loss and restore ecological functions**
  - **Energized local residents who recognize the opportunities available in updating SMPs. One size does NOT fit all.**
  - **Better and “smarter” management measures: both regulatory and incentive based**

# **Class Objectives:**

**Ambitious range of SMP update topics, from A-Z:**

- **Technical and scientific methods**
- **Procedural**
- **Legal (disclaimer - we are not lawyers!)**

**Provide:**

- **Overview of expectations**
- **Appropriate citations**
- **“Real-world” examples, where relevant**

**Note: class outline follows the shoreline planning process (“rainbow chart”) phases**