Chapter 173-26 WAC

STATE MASTER PROGRAM APPROVAL/AMENDMENT PROCEDURES AND SHORELINE MASTER PROGRAM GUIDELINES

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

WAC 173-26-010 Authority and purpose. The provisions of this chapter implement the requirements of chapter 90.58 RCW, the Shoreline Management Act of 1971. RCW 90.58.200 authorizes the adoption of rules by the department as necessary and appropriate to carry out the provisions of the act. RCW 90.58.080 directs local governments to develop and administer local shoreline master programs for regulation of uses on shorelines of the state. Such local programs should be integrated with other local government systems for administration and enforcement of land use regulations. RCW 36.70A.480 provides that the goals and policies contained in a local shoreline master program shall be considered an element of the local comprehensive plan required by the Growth Management Act. All other portions of the local shoreline master program, including the use regulations, are considered a part of the local development regulations required by the Growth Management Act.

This chapter is drafted to also reflect RCW 90.58.050 which provides that the Shoreline Management Act is intended to be a cooperative program between local government and the state. It is the intent of this chapter to provide minimum procedural requirements as necessary to comply with the statutory requirements while providing latitude for local government to establish procedural systems based on local needs and circumstances.

Pursuant to the Shoreline Management Act, the department must approve master programs prepared by local governments or adopt them by rule consistent with the act. In order to facilitate this process, Part I of this chapter establishes a recordkeeping system for the department and defines the contents of the state master program. Part II sets forth procedures for approving and adopting master programs and amendments thereto. Parts III and IV comprise the guidelines pursuant to RCW 90.58.060 and provide alternative approaches to developing the content of shoreline master programs. Part V addresses the requirements of the state Ocean Resources Management Act.

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

WAC 173-26-020 Definitions. As used herein, the following words and phrases shall have the following meanings:

(1) "Act" means the Washington State Shoreline Management Act, chapter 90.58 RCW.

(2) "Adaptive management" means the modification of management practices to address changing conditions and new knowledge. Adaptive management is an approach that incorporates monitoring and research to allow projects and activities, including projects designed to produce environmental benefits, to go forward in the face of some uncertainty regarding consequences. The key provision of adaptive management is the responsibility to change adaptively in response to new understanding or information after an action is initiated.

(3) "Adoption by rule" means an official action by the department to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program.

(4) "Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

(5) "Approval" means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

(6) "Aquatic" means pertaining to those areas waterward of the ordinary high-water mark.

(7) "Bank full width" means the horizontal projection of bank full depth to the stream bank. Bank full depth means the elevation of the water surface of a stream flow having a return period of approximately 1.5 years measured from the line of maximum depth of the stream or thalweg. Most river channels are bordered by a relatively flat area or valley floor. When the water fills the channel completely, or is at bank full stage, this surface is level with the flood plain. The stream cuts down or builds up as climate and watershed conditions change because there is a new relation between discharge and sediment transport and storage. The channel will erode or modify its flood plain in response to changes in discharge and sediment. The former flood plain it had been constructing is thus abandoned. An abandoned flood plain is called a terrace. While a terrace is flooded on occasion, the active flood plain is frequently flooded by discharges that occur approximately every 1.5 years to 2.0 years in the annual flood series. ~~Bank full depth means theelevation of the water surface of a stream flow having a return period of approximately 1.5 years measured from the line of maximum depth of the stream or thalweg.~~ In those valleys that narrowly confine the channel such that no flood plain can be built, this bank full stage projection still applies.

(8) "Channel migration zone (CMZ)" means the lateral extent of likely movement along a stream reach with evidence of active stream channel movement over the past

one hundred years. Evidence of active movement can be provided from aerial photos or specific channel and valley bottom characteristics. A time frame of one hundred years was chosen because aerial photos and field evidence can be used to evaluate movement in this time frame. Also, this time span typically represents the time it takes to grow mature trees that can provide functional large woody debris to most streams. In large meandering rivers a more detailed analysis can be conducted to relate bank erosion processes and the time required to grow trees that function as stable large woody ~~debris. The CMZ shall include floodways and wetlands, as defined under chapter 90.58 RCW, whether~~ debris.

~~associated with either shorelines of the state or shorelines of state-wide significance, as defined under chapter 90.58 RCW.~~

With the exception of shorelands in or meeting the criteria for the "natural" and "rural conservancy" environments, areas separated from the active channel by legally existing artificial channel constraints that limit bank erosion and channel avulsion without hydraulic connections shall not be considered within the CMZ. All areas, including areas within the "natural" and "rural conservancy" environments, separated from the natural channel by legally existing structures designed to withstand the 100-year flood shall not be considered within the CMZ. A tributary stream or other hydraulic connection allowing ~~PTE~~T&E species fish passage draining through a dike or other constricting structure shall be considered part of the CMZ.

(9) "Department" means the state department of ecology.

(10) "Developed shorelines" means those shoreline areas that are characterized by existing development or permanent structures located within shoreline jurisdiction.

(11) "Development regulations" means the controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

(12) "Document of record" means the most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.

(13) "Drift cell," "drift sector," or "littoral cell" means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

(14) "Ecological functions" or "shoreline functions" means the physical, chemical, and biological processes that contribute to the proper maintenance of the aquatic and terrestrial environments that constitute the shoreline ecosystem. Ecological functions relevant to specific shoreline ecological systems include, but are not limited to:

(a) Riverine:

• Hydrologic processes: Maintaining a natural range of flow variability, sideflow and overflow channel functions, reducing peak flows and downstream erosion, and helping to maintain base flows.

• Water quality: Temperature; removing excessive nutrients and toxic

compounds.

• Dynamic sediment processes: Sediment removal, stabilization, transport, deposition, and providing spawning gravels.

• Habitat for: ~~Proposed, threatened,~~Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

• Hyporheic functions: Water quality, water storage, vegetation base, and sediment storage.

(b) Lacustrine:

• Water quality: Removing excessive nutrients and toxic compounds and removing and/or stabilizing sediments.

• Habitat for: ~~Proposed, threatened,~~Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

(c) Marine:

• Water quality: Removing excessive nutrients and toxic compounds.

• Dynamic sediment processes: Sediment removal, stabilization, transport, deposition, and providing spawning gravels.

• Wave attenuation.

• Habitat for: ~~Proposed, threatened,~~Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

(d) Wetlands:

• Flood attenuation.

• Water quality: Removing excessive ~~nutrients~~sediment, nutrients, and toxic compounds.

• Ground water recharge.

• Maintenance of base flows.

• Nutrient filtering.

• Habitat for: ~~Proposed, threatened,~~Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

When used in Part IV, sections 270 through 350 of this chapter, the term "ecological functions" shall include all functions necessary for properly functioning condition for ~~PTE~~T&E species.

(15) "Ecologically altered shorelines" means those shorelines where humans have directly or indirectly modified the vegetation or shoreline configuration in a manner that significantly influences or reduces the natural shoreline functions.

(16) "Ecologically intact shorelines" means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native ~~vegetation or,~~vegetation. ~~in rivers, a natural range of flow variability.~~ Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In unmanaged forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.

Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

The term "ecologically intact shorelines" applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.

(17) "Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition and specific chemical processes (e.g., flocculation) that shape landforms within a specific shoreline ecosystem and determine both the types of habitat that are present and the associated ecological functions and their processes. Ecosystem-wide processes include, but are not limited to:

(a) Riverine ~~fluvial~~ processes: Landform and channel erosion; sediment transport and load in channel and overbank; channel dynamics, including channel gradation and migration; and changes in channel form during flooding.

(b) Lacustrine, tidal, wave, and current processes: Wave erosion (including refraction), littoral drift, vertical transport, and tidal erosion and deposition.

(18) "Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

(a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

(b) The action provides a reasonable likelihood of achieving its intended purpose; and

(c) The action does not physically preclude achieving the project's primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. For the provisions of Part IV, this evaluation shall give special consideration and precedence to protecting PFC for ~~PTE~~T&E species.

(19) "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining

structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

(20) "Flood plain" is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

(21) "Geotechnical report" or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified ~~engineers or geologists who are knowledgeable~~professional engineers (or geologists) who have professional expertise about the regional and local shoreline geology and processes.

(22) "Grading" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

(23) "Guidelines" means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.

(24) "In-stream structure" means a structure placed by humans within a stream or river waterward of the bank full width that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

(25) "Lacustrine" means pertaining to a lake.

(26) "Letter of exemption" means a letter or other official certificate issued by a local government to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act, this chapter, and the applicable master program.

(27) "Local government" means any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.

(28) "Marine" means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries.

(29) "May" means the action is acceptable, provided it conforms to the provisions of this chapter.

(30) "Mitigation" or "mitigation sequencing" means the ~~process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal, including the following listed in the order of sequence~~following sequence of steps listed in order of priority, with (a) of this subsection being top priority.

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

(f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(31) "Must" means a mandate; the action is required.

(32) "Nonpoint pollution" means pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

(33) "Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

(34) "Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Fish spawning habitat;
- Important ~~fish or wildlife breeding~~wildlife habitat;
- Important fish or wildlife seasonal range~~s~~;
- Important fish or wildlife movement corridor~~s~~;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration; ~~or~~
- Unique or dependent ~~species.~~species; or
- Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority

habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

(35) "Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

(a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or state-wide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal ~~haulouts, shellfish beds, and fish spawning and rearing areas.~~congregations.

(c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

(d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

(36) "Properly functioning condition" or "PFC" means conditions that create and sustain natural habitat-affecting processes (such as sediment routing, riverine community succession, precipitation runoff patterns, a natural range of flow variability and channel migration) over the full range of environmental variation and that support productivity at a viable population level of ~~PTE~~T&E species. The term "properly functioning condition" indicates a level of performance for a subset of the more broadly defined "ecological functions," reflecting what is necessary for the recovery of ~~PTE~~T&E species.

(37)~~"Proposed, threatened, and endangered species" or "PTE species" means those native species that are proposed to be listed or are listed in rule by the Washington state department of fish and wildlife pursuantto RCW 77.12.020 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the federal Endangered Species Act, 16 U.S.C. 1533.~~

~~(38)~~ "Provisions" means policies, regulations, standards, guideline criteria or environment designations.

~~(39)~~(38) "Restoration" or "ecological restoration" means the significant reestablishment or upgrading of ecological shoreline functions through measures such as revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not necessarily imply returning the shoreline area to aboriginal or pre-European settlement conditions.

~~(40)~~(39) "Restore" means to significantly reestablish or upgrade shoreline

ecological functions through measures such as revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic ~~sediments.~~

sediments. To restore does not necessarily imply returning the shoreline area to aboriginal or pre-European settlement conditions.

~~(41)~~(40) "Riverine" means pertaining to a river or stream system, including associated lakes and wetlands.

~~(42)~~(41) "Shall" means a mandate; the action must be done.

~~(43)~~(42) "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

~~(44)~~(43) "Shoreline master program" or "master program" means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations; and

~~(45)~~(44) "Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure~~s~~. They can include other actions, such as clearing, grading, or application of chemicals.

~~(46)~~(45) "Shoreline property" means an individual property wholly or partially within shoreline jurisdiction.

~~(47)~~(46) "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

~~(48)~~(47) "Significant ecological impact" means an effect or consequence of ~~an~~a human-caused action if any of the following apply:

(a) The action ~~measurably or noticeably reduces or harms~~degrades or changes an ecological function or ecosystem-wide ~~process.~~

process to such a degree that the ecosystem can no longer perform the function at levels within its natural range of variability or that the performance of the function falls outside the range needed to maintain the integrity of other ecological processes in shoreline areas. As used in this definition, the normal range of variability does not include alterations caused by catastrophic events.

(b) Scientific evidence or objective analysis indicates that the action could cause ~~reduction or harm~~degradation or change to those ecological functions or ecosystem-wide processes described in (a) of this subsection under foreseeable conditions.

(c) Scientific evidence indicates that the action could contribute to ~~a measurable or noticeable reduction or harm~~degradation or change to ecological functions or ecosystem-wide processes described in (a) of this subsection as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

Significant ecological impacts do not include impacts that are inconsequential to attaining the objectives of the act or to the protection and restoration of shoreline ecological functions or ecosystem-wide processes.

~~(49)~~(48) "Significant vegetation removal" means the removal or alteration of~~native~~ trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

~~(50)~~(49) "Site potential tree height" means the average height, at age one hundred years, of the tallest mature native tree species that is capable of growing in the soils found at the site and for which height measurements are noted in the soil survey reports published by the natural resource conservation service and other sources. Each local natural resource conservation service field office maintains the surveys for its area.

(a) West of the Cascade summit, the site potential tree height will generally be based on either Douglas fir or western hemlock, unless based on another species due to local conditions. East of the summit, the species could be ponderosa pine, lodgepole pine, western larch, Englemann spruce, subalpine fir, grand fir, or Douglas fir.

(b) For sites that historically supported cottonwoods as the largest tree, the site potential tree height generally is the average height, at age seventy-five years, of a black cottonwood tree growing under those site conditions.

~~(51)~~(50) "State master program" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

~~(52)~~(51) "Storm water" means that portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

~~(53)~~(52) "Substantially degrade" means to cause ~~damage or harm to an area's ecological functions. An action is considered to substantially degrade the environment if:~~significant ecological impact.

~~(a) The damaged ecological function or functions significantly affect other related functions or the viability of the larger ecosystem; or~~

~~(b) The degrading action may cause damage or harm to shoreline ecological functions under foreseeable conditions; or~~

~~(c) Scientific evidence indicates that the action may contribute to damage or harm to ecological functions as part of cumulative impacts.~~(53) "Threatened and endangered species" or "T&E species" means those native species that are listed in rule by the Washington state department of fish and wildlife pursuant to RCW 77.12.020 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened or endangered species under the federal Endangered Species Act, 16 U.S.C. 1533.

(54) "Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water but is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses include ship

cargo terminal loading areas, fishing, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, hydroelectric dams, surface water intake, and sewer outfalls.

(55) "Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to:

- Parks with activities enhanced by proximity to the water;
- Piers and other improvements that facilitate public access to shorelines of the state;
- Restaurants with water views and public access improvements;
- Museums with an orientation to shoreline topics;
- Aquariums;
- Scientific/ecological reserves;
- Resorts with uses open to the public and public access to the shoreline; and any combination of those uses listed above.

(56) "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

(57) "Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

(58) "Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

(a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

(b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Water-related uses include manufacturing of ship parts large enough that transportation becomes a significant factor in the product's cost, professional services serving primarily water-dependent uses, and storage of water-transported foods. Other examples of water-related uses include the warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and upland log storage for water-borne transportation.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

NEW SECTION

WAC 173-26-105 Review by ecology under Part III--Election by local governments of intent to develop pursuant to Part IV. (1) Local governments shall develop new or amended master programs according to this chapter.

(2) Parts III and IV of this chapter are distinct and separate methods for developing new or amended master programs. Part III is the default path for local government submissions. Absent a declaration of intent pursuant to subsection (3) of this section, the department will review a new or amended master program submitted to the department pursuant to WAC 173-26-110 for consistency with Part III.

(3) At any time prior to submittal to the department of a new or amended master program pursuant to WAC 173-26-110, a local government may provide written notice to the department declaring that its submission has been or will be developed according to Part IV. Upon receipt of such a declaration, the department will review the submitted master program for consistency with Part IV.

(4) A local government who has declared its intention to proceed under Part IV may, at any time prior to approval by the department, revert to Part III by providing written notice to the department.

PART III
GUIDELINES--DEFAULT APPROACH

NEW SECTION

WAC 173-26-170 Purpose of Part III. (1) **Objectives.**

WAC 173-26-170 through 173-26-250 are adopted pursuant to chapter 90.58 RCW, the Shoreline Management Act of 1971, to serve as standards for implementation of the policy of the act for regulation of uses of the shorelines; and to provide criteria to local governments and the department in developing and amending master programs. The purposes of Part III are to: (Text in quotations is excerpted from RCW 90.58.020.)

(a) **Protect against adverse impacts.**

"Protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life. . . ."

Provide measures for the utilization, protection, restoration, and preservation of the state shorelines, which are "among the state's most valuable and fragile of its natural resources."

Prepare standards governing the protection of single-family residences and appurtenant structures from shoreline erosion, giving preference to measures to protect single-family residences occupied before January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment. (See RCW 90.58.100(6).)

Undertake 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."

(b) **Protect the public's right to use and access the surface waters of the state.**

"Insure the development of shorelines of the state in a manner which, while allowing limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest."

"Protect generally public rights of navigation and corollary rights incidental thereto."

Preserve "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

Regulate the design, construction, and operation of "permitted uses in the shorelines of the state to minimize, insofar as practical, any interference with the public's use of the water."

(c) **Foster reasonable and appropriate uses that are in the public's best interest.**

Give preference to uses "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 to the natural conditions of the shorelines of the state, in those limited instances ~~where~~when authorized, shall be given priority for:

"(i) Single-family residences and their appurtenant structures;

(ii) Ports; shoreline recreational uses, including, but not limited to, parks, marinas, piers, and other improvements facilitating public access to the shorelines of the state;

(iii) Industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state; and

(iv) Other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state."

The previous list is in no particular order of priority.

Conduct the "coordinated planning necessary to protect the public's interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest." Ensure equal treatment and fairness to all parties with respect to the use of shoreline resources.

"Appropriately classify the shorelines and shorelands of the state and revise these classifications when circumstances warrant regardless of whether the change in the circumstances occurs through man-made causes or natural causes."

Reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public and give appropriate special consideration to same. (See RCW 90.58.100(4).)

(d) **Protection and restoration of ecological functions.**

This chapter captures the resource protection and restoration policy of RCW 90.58.020 within the concept of protection and restoration of ecological functions. The relative state of ecological functions in a species' range or habitat has a dramatic effect on the general health of the state's native vegetation, wildlife, and fish. ~~Some~~While some native species in our region remain vigorous,~~while~~ others have declined over the years. In recent years numerous species of aquatic and terrestrial life which live in or near the shoreline have seen dramatic declines in population. A number of these species, including several species of salmonids, have declined to such an extent that they have been listed as threatened or endangered under the federal Endangered Species Act (ESA), 16 U.S.C. 1533, or by the Washington state department of fish and wildlife pursuant to RCW 77.12.020. Declines dramatic enough to warrant listing under the ESA or RCW 77.12.020 signify a failure to adequately protect against adverse effects to such species. The listing of such species indicates that particular attention should be paid to the species and their habitat in order to fulfill the act's policy of protecting against adverse effects to the land and its vegetation and wildlife, and the waters of the state and their aquatic life.

Local governments with ~~proposed, threatened, or endangered~~listed species within their jurisdiction should consider the needs of such species when drafting master program provisions intended to protect and restore ecological functions.

(2) **Responsibilities of state and local governments.**

RCW 90.58.050 gives local governments the responsibility of initiating the planning required by the Shoreline Management Act and administering the regulatory program consistent with its policy and provisions. Nothing in this chapter is intended to reduce the opportunity for local governments to pursue local shoreline management objectives, provided they are consistent with the policies of the act and this chapter.

In 1995, the Washington state legislature passed Engrossed Substitute House Bill 1724, an act relating to implementing the recommendations of the governor's task force on regulatory reform on integrating growth management planning and environmental review. The bill amended, among other statutes, the Growth Management Act, chapter 36.70A RCW; the Shoreline Management Act, chapter 90.58 RCW; and the State Environmental Policy Act, chapter 43.21C RCW. Section 304 of Engrossed Substitute House Bill 1724 amended RCW 90.58.060(1) to read:

(1) The department shall periodically review and adopt guidelines consistent with RCW 90.58.020, containing the elements specified in RCW 90.58.100 for:

(a) Development of master programs for regulation of the uses of shorelines; and

(b) Development of master programs for regulation of the uses of shorelines of state-wide significance.

These guidelines implement the directive to integrate referenced statutes. Specifically, the guidelines are directed toward more efficient planning, permitting, and environmental review and more effective resource management.

NEW SECTION

WAC 173-26-180 Applicability of Part III. WAC 173-26-170 through 173-26-250 apply to actions taken in the preparation, amendment, and review of local shoreline master programs pursuant to RCW 90.58.060(1). The master programs prepared or amended pursuant to this chapter, when adopted or approved by the department, shall constitute use regulations for the shorelines of the state.

NEW SECTION

WAC 173-26-190 Master program contents. (1) **Master program concepts.**

The following~~four~~ concepts are the basis for effective shoreline master programs.

(a) **Master program policies and regulations.**

Shoreline master programs are both planning and regulatory tools. RCW 90.58.020 establishes the need for both planning and regulatory action.

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, therefor~~ [sic]~~, 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.

The act expresses this dual function in RCW 90.58.030 (3)(b):

"Master program" ~~means~~shall mean the comprehensive use plan for a described area and the use regulations, together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

Master programs serve a planning function in several ways. First, they balance and integrate the objectives and interests of local citizens~~ insofar as they are consistent with the Shoreline Management Act~~. Therefore, the preparation and amending of master programs shall involve active public participation, as called for in WAC 173-26-200(3). Second, they address the full variety of conditions on the shoreline. Third, they consider and, where necessary to achieve the objectives of chapter 90.58 RCW, influence planning and regulatory measures for adjacent land. For jurisdictions planning under chapter 36.70A RCW, the Growth Management Act, the requirements for integration of shoreline and adjacent land planning are more specific and are described in WAC 173-26-190 (2)(a). Fourth, master programs address conditions and opportunities of specific shoreline segments by classifying the shorelines into "environment designations" as described in WAC 173-26-210.

The results of shoreline planning are summarized in shoreline master program policies that establish broad shoreline management directives. The policies are the basis for regulations that govern use and development along the shoreline. Some

development requires a shoreline permit prior to construction. A local government evaluates a permit application with respect to the shoreline master program policies and regulations and issues a permit only after determining that the development conforms to them. The regulations apply to all uses and development within shoreline jurisdiction, whether or not a shoreline permit is required, and are implemented through other permitting and regulation activities of the local government. ~~(See RCW 90.58.140.)~~See RCW 90.58.140.

(b) **Master program elements.**

RCW 90.58.100(2) states that the master programs shall, when appropriate, include the following elements:

(a) An economic development element for the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce, and other developments that are particularly dependent on their location on or use of shorelines of the ~~state.~~state;

(b) A public access element~~for~~ making provision for public access to publicly owned ~~areas.~~areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including, but not limited to, parks, tidelands, beaches, and recreational ~~areas.~~areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use ~~element.~~element;

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the ~~land.~~land;

(f) A conservation element for the preservation of natural resources, including, but not limited to, scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife ~~protections.~~protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational ~~values.~~values;

(h) An element that gives consideration to the state~~-~~wide interest in the prevention and minimization of flood ~~damages.~~damages; and

(i) Any other element deemed appropriate or necessary to effectuate the policy of this chapter.

The Growth Management Act (chapter 36.70A RCW) also uses the word "element" for discrete sections or chapters of a comprehensive plan. To avoid confusion, "master program element" refers to the definition in the Shoreline Management Act. Local jurisdictions are not required to address the master program elements listed in the Shoreline Management Act as discrete sections. The elements may be addressed throughout master program provisions rather than used as a means to organize the master program.

(c) **Shorelines of state~~-~~wide significance.**

The Shoreline Management Act identifies certain shorelines as "shorelines of state~~-~~wide significance" and raises their status by setting use priorities and requiring "optimum implementation" of the act's policy. WAC 173-26-250 describes methods to provide for the priorities listed in RCW 90.58.020 and to achieve "optimum

implementation" as called for in RCW 90.58.090(4).

(d) **Shoreline environment designations.**

Shoreline management must address a wide range of physical conditions and development settings along shoreline areas. Effective shoreline management requires that the shoreline master program prescribe different sets of environmental protection measures, allowable use provisions, and development standards for each of these shoreline segments.

The method for local government to account for different shoreline conditions is to assign an environment designation to each distinct shoreline section in its jurisdiction. The environment designation assignments provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation. WAC 173-26-210 presents guidelines for environment designations in greater detail.

(2) **Basic requirements.**

Part III of this chapter describes the basic components and content required in a master ~~program. Part III also contains suggestions for fulfilling the requirements which local governments may or may not choose to~~ program.

~~follow.~~

~~For~~As indicated in WAC 173-26-020, for this chapter, the terms "shall," "must," and "are required" and the imperative voice mean a mandate; the action must be done. As noted in WAC 173-26-020, the term "should" means that the particular action is required unless there is a demonstrated, compelling reason, based on a policy of the Shoreline Management Act and this chapter, against taking the action. The term "may" indicates that the action is acceptable, provided it satisfies all other provisions in this chapter. A master program as submitted to the department for approval shall be sufficient and complete to implement the Shoreline Management Act and the provisions of this chapter. A master program shall contain all of the policies and regulations necessary for the department and other reviewers to evaluate shoreline permits for conformance to the Shoreline Management Act and this chapter.

(a) **Consistency with comprehensive planning and other development regulations.**

Shoreline management is most effective when accomplished within the context of comprehensive planning. For cities and counties planning under the Growth Management Act, chapter 36.70A RCW requires mutual and internal consistency between the comprehensive plan elements and implementing development regulations (including master programs). The requirement for consistency is amplified in WAC 365-195-500:

Each comprehensive plan shall be an internally consistent document and all elements shall be consistent with the future land use map. This means that each part of the plan should be integrated with all other parts and that all should be capable of implementation together. Internal consistency involves at least two aspects:

(1) Ability of physical aspects of the plan to coexist on the available land.

(2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency).

Each plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent.

The Growth Management Act also calls for coordination between local jurisdictions. RCW 36.70A.100 states:

. . . The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to chapter 36.70A RCW of other counties or cities with which the county or city has, in part, common borders or related regional issues.

This statutory provision complements watershed-wide or regional planning described in WAC 173-26-200.

Furthermore, legislative findings provided in Engrossed Substitute House Bill 1724, section 1, chapter 347, Laws of 1995 states:

The legislature recognizes by this act that the Growth Management Act is a fundamental building block of regulatory reform. The state and local governments have invested considerable resources in an act that should serve as the integrating framework for all other land-use related laws. The Growth Management Act provides the means to effectively combine certainty for development decisions, reasonable environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development.

Engrossed Substitute House Bill 1724 also added RCW 36.70A.480(1) to the Growth Management Act, which states:

For shorelines of the state, the goals and policies of the Shoreline Management Act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

Furthermore, RCW 36.70A.481 states:

Nothing in RCW 36.70A.480 shall be construed to authorize a county or city to adopt regulations applicable to shorelands as defined in RCW 90.58.030 that are inconsistent with the provisions of chapter 90.58 RCW.

The Shoreline Management Act addresses the issue of consistency in RCW 90.58.340, which states:

All state agencies, counties, and public and municipal corporations shall review administrative and management policies, regulations, plans, and ordinances relative to lands under their respective jurisdictions adjacent to the shorelines of the state so as to achieve a use policy on said land ~~that is~~ consistent with the policy of this chapter, the guidelines, and the master programs for the shorelines of the state. The department may develop recommendations for land use control for such lands. Local governments shall, in developing use regulations for such areas, take into consideration any recommendations developed by the department as well as any other state agencies or units of local government ~~[1971~~(1971 ex.s. c 286 § ~~34.]~~34.)

Pursuant to the statutes cited above, the intent of these guidelines is to assist local governments in preparing and amending master programs that fit within the framework of applicable comprehensive ~~plans and~~plans, facilitate consistent, efficient environmental ~~review as well as effective implementation of~~review, and effectively implement the Shoreline Management Act.

Several sections in these guidelines include methods to achieve the consistency required by both the Shoreline Management Act and the Growth Management Act.

~~(A)~~ First, WAC 173-26-190 (2)(b) and (c) describe optional methods to integrate master programs and other development regulations and the local comprehensive plan.

~~(B)~~ Second, WAC 173-26-220 through 173-26-250 translate the broad objectives in the Shoreline Management Act into more specific policies. They also provide a more defined policy basis on which to frame local shoreline master program provisions and to evaluate the consistency of applicable sections of a local comprehensive plan with the Shoreline Management Act.

~~(C)~~ Finally, WAC 173-26-210(3) presents specific methods for testing consistency between shoreline environment designations and comprehensive plan land use designations.

(b) **Including other documents in a master program by reference.**

Shoreline master program provisions sometimes address similar issues as other comprehensive plan elements and development regulations, such as the zoning code and critical area ordinance. For the purposes of completeness and consistency, local governments may include other locally adopted policies and regulations within their master programs. For example, a local government may include specific portions of its critical area ordinance in the master program, provided the critical area ordinance is consistent with this chapter. This can ensure that local master programs are consistent with other regulations.

Shoreline master programs may include other policies and regulations by referencing a specific, dated edition. When including referenced regulations within a master program, local governments shall ensure that the public has an opportunity to participate in the formulation of the regulations or in their incorporation into the master program, as called for in WAC 173-26-200 (3)(b)(i). In the approval process, the department will review the referenced development regulation sections as part of the master program. A copy of the referenced regulations shall be submitted to the department with the proposed master program or amendment. If the development regulation is amended, the edition referenced within the master program will still be the operative regulation in the master program. Changing the referenced regulations in the master program to the new edition will require a master program amendment.

(c) **Incorporating master program provisions into other plans and regulations.**

Local governments may integrate master program policies and regulations into their comprehensive plan policies and implementing development regulations rather than preparing a discrete master program in a single document. Master program provisions that are integrated into such plans and development regulations shall be clearly identified so that the department can review these provisions for approval and evaluate development proposals for compliance. RCW 90.58.120 requires that all adopted regulations, designations, and master programs be available for public inspection at the department or the applicable county or city. Local governments shall identify all documents which contain master program provisions and which provisions constitute part of the master program. Clear identification of master program provisions is also necessary so that interested persons and entities may be involved in master program preparation and amendment, as called for in RCW 90.58.130.

Local governments integrating all or portions of their master program provisions

into other plans and regulations shall submit to the department a listing and copies of all provisions that constitute the master program. The master program shall also be sufficiently complete and defined to provide:

(i) Clear directions to applicants applying for shoreline permits and exemptions; and

(ii) Clear evaluation criteria and standards to the local governments, the department, other agencies, and the public for reviewing permit applications with respect to state and local shoreline management provisions.

(d) **Multijurisdictional master program.**

Two or more adjacent local governments are encouraged to jointly prepare master programs. Jointly proposed master programs may offer opportunities to effectively and efficiently manage natural resources, such as drift cells or watersheds, that cross jurisdictional boundaries. Local governments jointly preparing master programs shall provide the opportunity for public participation locally in each jurisdiction, as called for in WAC 173-26-200 (3)(b), and submit~~to the department~~ the multijurisdictional master program to the department for approval.

(e) **Master program contents.**

Master programs shall include the following contents described in (e)(i) through (iii) of this subsection.

(i) **Master program policies.**

Master programs shall provide clear, consistent policies that translate broad state-wide objectives of this chapter into local directives. Policies are statements of intent directing or authorizing a course of action or specifying criteria on which to make a public decision. They provide a comprehensive basis for the shoreline master program regulations, which generally are more specific, prescriptive standards used to evaluate shoreline development.

Shoreline policies shall be developed through a comprehensive shoreline planning process allowing for public and affected Indian tribes participation. For governments planning under the Growth Management Act, the master program policies are considered a shoreline element of the local comprehensive plan and shall also be consistent with the planning goals of RCW 36.70A.020.

At a minimum, shoreline master program policies shall:

(A) Be consistent with state shoreline management policies listed in this chapter and the objectives of the Shoreline Management ~~Act.~~Act;

(B) Address the master program elements of RCW ~~90.58.020.~~90.58.020; and

(C) Include policies for environment designations as described in WAC 173-26-210. The policies shall be accompanied by a map or physical description of the schematic environment designation boundaries in sufficient detail to compare with comprehensive plan land use designations.

(ii) **Master program regulations.**

RCW 90.58.100 states:

The master programs provided for in this chapter, when adopted or approved by the department, shall constitute use regulations for the various shorelines of the state.

In order to implement the directives of the Shoreline Management Act, master program regulations shall:

(A) Be~~in~~ sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, state-wide shoreline management policies of this chapter, and local master program policies;

(B) Include environment designation regulations that apply to specific environments consistent with WAC ~~173-26-210.~~173-26-210; and

(C) Include general regulations, use regulations that address issues of concern to specific uses, and shoreline modification regulations that protect shoreline ecological functions from the effects of human-made modifications to the shoreline.

(iii) **Administrative provisions.**

(A) **Statement of applicability.**

The Shoreline Management Act's provisions apply to all development and uses within its jurisdiction, whether or not a shoreline permit is required. Many activities that may not require a substantial development permit, such as clearing vegetation or construction of a residential bulkhead, can cause serious damage to adjacent properties, natural resources, and lands held in public trust. Local governments have the authority and responsibility to condition a project even though it is exempt from the requirement for a substantial development permit. There has been, historically, some public confusion regarding the Shoreline Management Act's applicability. Therefore, all master programs shall include the following statement:

"All ~~new~~uses and development~~and uses~~ occurring within shoreline jurisdiction must conform to chapter 90.58 ~~RCW: The~~RCW, the Shoreline Management Act,~~chapter 173-26 of the Washington Administrative Code,~~ and this master program."

(B) **Conditional use and variance provisions.**

RCW 90.58.100(5) states:

Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140(3).

All master programs shall include standards for reviewing conditional use permits and variances which conform to chapter 173-27 WAC.

(C) **Administrative permit review and enforcement procedures.**

RCW 90.58.140(3) states:

The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

Local governments may, but are not required to, include administrative, enforcement, and permit review procedures into the master program. These procedures shall conform to the Shoreline Management Act, specifically RCW 90.58.140, and to chapter 173-27 WAC. However, the procedures may be defined by a local government ordinance separate from the master program.

Adopting review and enforcement procedures separate from the master program allows local governments greater flexibility in revising their shoreline permit review

procedures and integrating them with other permit processing activities.

(D) **Documentation of project review actions and changing conditions in shoreline areas.**

Master programs shall include a mechanism for documenting project review actions in shoreline areas. Local governments shall also identify a process for evaluating their cumulative effects on shoreline conditions. This process could involve a joint effort by local governments, state resource agencies, affected Indian tribes, and other parties.

NEW SECTION

WAC 173-26-200 Comprehensive process to prepare or amend shoreline master programs. (1) **Applicability.**

This section outlines a comprehensive process to prepare or amend a shoreline master program. Local governments shall incorporate the steps indicated if one or more of the following criteria apply:

(a) The master program amendments being considered represent a significant modification to shoreline management practices within the local ~~jurisdiction;~~jurisdiction, they modify more than one environment designation boundary, or significantly add, change or delete use regulations~~, or change where specific uses are allowed~~;

(b) Physical shoreline conditions have changed significantly, such as substantial changes in shoreline use or priority habitat integrity, since the last comprehensive master program amendment;

(c) The master program amendments being considered contain provisions that will affect a substantial portion of the local government's shoreline areas;

(d) There are substantive issues such as priority species recovery or water resource management, that must be addressed on a comprehensive basis;

(e) The current master program and the comprehensive plan are not mutually consistent;~~ or~~

(f) There ~~was~~has been no previous comprehensive master program ~~update~~amendment since the original master program ~~adoption.~~adoption; or

(g) Monitoring and adaptive management indicate that changes are necessary to avoid loss of ecological functions.

If a local jurisdiction has undertaken a recent comprehensive update of the master program but seeks to make minor revisions, such as an adjustment to a single environment designation boundary, to bring the master program into compliance with these guidelines or other state requirements, these modifications may be made without undertaking a fully comprehensive process.

All master program amendments, even amendments that do not fit within the criteria above, are subject to approval by the department.

(2) **Basic concepts and principles.**

(a) **Use of scientific and technical information.**

RCW 90.58.100(1) states:

In preparing the master programs and any amendments thereto, the department and local governments shall, to the extent feasible:

(a) Utilize a systematic interdisciplinary approach ~~that~~which will ensure the integrated use of the natural and social science~~s~~ and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.

To address the requirements for the use of scientific and technical information, local governments shall incorporate the following two steps into their master program development and amendment process.

First, identify and assemble the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern. The context, scope, magnitude, significance, and potential limitations of the scientific information should be considered. At a minimum, make use of and, where applicable, incorporate all available~~and relevant~~ scientific information, aerial photography, inventory data, technical assistance materials, manuals and services from reliable sources of science. Local governments should also contact relevant state agencies, universities, and affected Indian tribes for available information. If local governments initiate scientific research as a basis for master program provisions, that research shall use accepted scientific methods and research procedures and be subject to peer review. Local governments are encouraged to work interactively with neighboring jurisdictions, state resource agencies, and affected Indian tribes to address technical issues beyond the scope of existing information resources or locally initiated research.

~~At a minimum, local~~Local governments should consult with the technical assistance materials produced by the department. Unless there is more current or specific information available, those technical assistance materials shall constitute an element of scientific and technical information as defined in these guidelines.

Second, base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available. Local governments should be prepared to identify the following:

(i) Scientific information and management recommendations on which the master program provisions are based;

(ii) Assumptions and ~~information~~data gaps in the scientific ~~analysis;~~information; and

(iii) Risks to ecological functions associated with master program provisions. Address potential risks as described in WAC 173-26-200 (3)(d).

The requirement to use scientific and technical information in these guidelines

does not limit a local jurisdiction's authority to solicit and incorporate information, experience, and anecdotal evidence provided by interested parties as part of the master program amendment process. Such information should be solicited through the public participation process described in WAC 173-26-200 (3)(b). Where information collected by or provided to local governments conflicts or is inconsistent, the local government shall base master program provisions on a reasoned, objective evaluation of the relative merits of the conflicting data.

~~RCW 36.70A.172(1) of the Growth Management Act states:~~

~~*(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.*~~

~~Accordingly, local governments shall also include best available science as defined in RCW 36.70A.172(1) and its implementing rules when developing policies and regulations for critical areas within shoreline jurisdiction.~~

~~(b) **Environmental evaluation and regulatory response.**~~(b) **Monitoring and adaptive management.**

Effective shoreline management requires the evaluation of changing conditions and the modification of regulations to address identified trends and new information. Local governments are encouraged to ~~undertake~~apply adaptive management techniques by undertaking local monitoring and periodically ~~update~~updating master program provisions to improve shoreline management practices over time.

(c) **Ecological functions.**

RCW 90.58.020 includes the following statement:

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.

This chapter implements the above-cited statutory policy through the protection and restoration of ecological functions. The concept of ecological functions, as defined in WAC 173-26-020, recognizes that successful management of the shoreline environment depends on sustaining the:

~~(i)~~• Ecosystem-wide fluvial, current, and wave processes, including those that form habitats, and

~~(ii)~~• Individual functions and their processes that are present in each habitat type.

The loss or degradation of one or more ecosystem-wide processes or individual functions can significantly impact shoreline habitats and human health and safety. Shoreline master programs shall address the applicable ecosystem-wide processes and individual ecological functions identified in the ecological systems analysis described in WAC 173-26-200 (3)(d)(i).

Nearly all shoreline areas, even substantially developed or degraded areas, retain some important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecological systems are themselves interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater, marine, and

terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the objectives for protection and restoration of ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered.

Master programs shall contain provisions to protect and to contribute to the restoration of ecological functions and ecosystem-wide processes based on analysis described in WAC 173-26-200 (3)(d)(i).

(d) **Preferred uses.**

RCW 90.58.020 states:

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.

Consistent with this policy, these guidelines use the terms "water-dependent," "water-related," and "water-enjoyment," as defined in WAC 173-26-020, when discussing appropriate uses for various shoreline areas.

Shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological protection and restoration activities. Consistent with RCW 90.58.020, local governments should, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction, apply the following preferences and priorities in the order listed below, starting with (i) of this subsection.

(i) Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

(ii) Reserve shoreline areas for water-dependent uses and establish policies and regulations so that water-dependent development is consistent with comprehensive ecological protection and restoration objectives. Harbor areas and areas that are generally considered navigable for commercial purposes should be reserved for water-dependent and water-related uses unless the local governments can demonstrate that adequate shoreline is ~~otherwise~~ reserved for future water-dependent and water-related uses. Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

(iii) Reserve shoreline areas for water-related and water-enjoyment uses that are compatible with water-dependent uses and ecological protection and restoration objectives.

(iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

(v) Limit nonwater-oriented uses to those locations where either water-oriented uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

Local conditions and environmental constraints may result in lower priority uses being accommodated. For example, an undeveloped shoreline may not be an appropriate site for a water-dependent use, such as a cargo facility, but may accommodate a recreational trail (water-enjoyment) of a lower priority.

For shorelines of state-wide significance, apply the preferences as indicated in WAC 173-26-250(2).

(e) **Environmental impact mitigation.**

Because the Shoreline Management Act recognizes both the appropriate use and environmental protection of the state's shorelines, situations may arise in which otherwise allowable development must include measures to mitigate environmental impacts and implement the Shoreline Management Act's environmental protection objectives. Rules implementing Washington's State Environmental Policy Act of 1971, chapter 43.21C RCW, also address environmental impact mitigation in WAC 197-11-660 and define mitigation in WAC 197-11-768. Where these guidelines call for mitigation or mitigation sequencing, shoreline master programs shall include provisions for providing environmental impact mitigation. This may be done by prescribing specific mitigation actions for specific uses as called for in WAC 173-26-240 (2)(a), by requiring conditional use permits as described in WAC 173-26-240 (2)(b), and/or by implementing a plan for comprehensive environmental mitigation.

To this end, master programs shall indicate that, where required, mitigation measures shall be applied in the sequence defined in WAC 173-26-020. In determining appropriate mitigation measures, avoidance of impacts by means such as relocating or redesigning the proposed development shall be applied first. Lower priority measures shall be applied only after higher priority measures are demonstrated to be not feasible or not applicable.

(3) **Steps in preparing and amending a master program.**

(a) **Process overview.**

Figure 4 below illustrates a generalized process to prepare or comprehensively amend a shoreline master program. Local governments may modify the timing of the various steps, integrate the process into other planning activities, add steps to the process, or work jointly with other jurisdictions or regional efforts, provided the provisions of this chapter are met.

The department will provide a shoreline master program amendment checklist to help local governments identify issues to address. The checklist will not create new or additional requirements beyond the provisions of this chapter. The checklist is intended to aid the preparation and review of master program amendments. Local governments shall submit the completed checklist with the proposed master program amendments. The department will send completed checklists to other resource agencies and affected Indian tribes reviewing the master program.

(b) **Participation process.**

Establish a public and intergovernmental participation process.

(i) **Public participation.**

RCW 90.58.130 states:

To insure that all persons and entities having an interest in the guidelines and master programs developed under this chapter are provided with a full opportunity for involvement in both their development and implementation, the department and local governments shall:

(1) Make reasonable efforts to inform the people of the state about the shoreline management program of this chapter and in the performance of the responsibilities provided in this chapter, shall not only invite but actively encourage participation by all persons and private groups and entities showing an interest in shoreline management programs of this chapter; and

(2) Invite and encourage participation by all agencies of federal, state, and local government, including municipal and public corporations, having interests or responsibilities relating to the shorelines of the state. State and local agencies are directed to participate fully to insure that their interests are fully considered by the department and local governments.

For local governments planning under the Growth Management Act, the provisions of RCW 36.70A.140 also apply.

At a minimum, all local governments shall be prepared to describe and document their methods to ensure that all interested parties have a meaningful opportunity to participate. If a local committee or other group is appointed to advise the amendment process, local governments shall ensure that that body represents the full range of interests of all citizens within the local jurisdiction.

(ii) **Communication with state agencies.**

Before undertaking substantial work, local governments shall notify applicable state~~resource~~ agencies to identify state interests, relevant regional and state-wide efforts, available information, and methods for coordination and input. Contact the department for a list of applicable agencies to be notified.

(iii) **Communication with affected Indian tribes.**

Prior to undertaking substantial work, local governments shall notify affected Indian tribes to identify tribal interests, relevant tribal efforts, available information and methods for coordination and input. Contact the individual tribes or coordinating bodies such as the Northwest Indian Fisheries Commission, for a list of affected Indian tribes to be notified.

(c) **Inventory shoreline conditions.**

~~At a minimum, gather~~Gather and incorporate all pertinent and available information, existing inventory data and materials from state agencies, affected Indian tribes, watershed management planning, and other appropriate sources. Ensure that, whenever possible, inventory methods and protocols are consistent with those of neighboring jurisdictions and state efforts. The department will provide, to the extent possible, services and resources for inventory work. Contact the department to determine information sources and other relevant efforts. Map inventory information at an appropriate scale.

Local governments shall be prepared to demonstrate how the inventory information was used in preparing their local master program amendments.

Collection of additional inventory information is encouraged and should be coordinated with other watershed, regional, or state-wide inventory and planning

efforts in order to ensure consistent methods and data protocol as well as effective use of fiscal and human resources. Local governments should be prepared to demonstrate that they have coordinated with applicable interjurisdictional shoreline inventory and planning programs where they exist. Two or more local governments are encouraged to jointly conduct an inventory in order to increase the efficiency of data gathering and comprehensiveness of inventory information. Data from interjurisdictional, watershed, or regional inventories may be substituted for an inventory conducted by an individual jurisdiction, provided it meets the requirements of this section.

At a minimum, and to the extent such information is relevant and reasonably available, collect the following information:

(i) Shoreline and adjacent land use patterns and transportation and utility facilities, including the extent of existing structures, impervious surfaces,~~and~~ vegetation and shoreline modifications in shoreline jurisdiction.

(ii) Critical areas, including wetlands, aquifer recharge areas, ~~critical~~fish and wildlife ~~habitats,~~conservation areas, geologically hazardous areas, and frequently flooded areas, as required by RCW ~~36.70.170.~~

36.70A.170. See also WAC 173-26-220 (2) and (3).

(iii) Degraded areas and sites with ~~ecological restoration potential.~~potential for ecological restoration.

(iv) Areas of special interest, such as priority habitats, rapidly developing waterfronts, clean-up sites, or eroding shorelines, to be addressed through new master program provisions.

(v) Conditions and regulations in shoreland and adjacent areas that affect shorelines, such as surface water management and land use regulations. This information may be useful in achieving mutual consistency between the master program and other development regulations.

(vi) Existing and potential shoreline public access sites, including public rights-of-way and utility corridors.

(vii) General location of bank full width limits, channel migration zones, and flood plains.

(viii) Gaps in existing information. During the initial inventory, local governments should identify what additional information may be necessary for more effective shoreline management.

(ix) If the shoreline is rapidly developing or subject to substantial human changes such as clearing and grading, past and current records or historical aerial photographs may be necessary to identify cumulative impacts, such as bulkhead construction, intrusive development on priority habitats, and conversion of harbor areas to nonwater-oriented uses.

(x) If archaeological or historic resources have been identified in shoreline jurisdiction, consult with the state historic preservation office and local affected Indian tribes regarding existing archaeological and historical information.

(d) **Analyze shoreline issues of concern.**

Analyze shoreline conditions based on information gathered in (c) of this subsection and address special topics. Before establishing specific master program provisions, local governments shall perform analysis and planning tasks necessary to ensure effective shoreline management provisions, addressing the topics below, where

applicable.

(i) ~~**Shoreline ecological systems.**~~**Characterization of functions and ecosystem-wide processes.**

Prepare a characterization of shoreline ecological systems. These systems include riverine, lacustrine, ~~and tidal~~marine and wetland systems as listed in WAC 173-26-020. The characterization consists of three steps:

(A) Identify which of the ecosystem-wide processes and ecological functions listed in WAC 173-26-020 apply within~~the~~ shoreline jurisdiction and identify which have been significantly altered and which may be missing or significantly impacted;

(B) Assess the ecosystem-wide processes to determine their effect/impact on shoreline systems present within a jurisdiction and their individual functions; and

(C) Develop the specific master program provisions necessary to protect and/or restore ecological functions and ecosystem-wide processes. The characterization of shoreline ecological systems may be achieved by using one or more of the approaches below:

(I) If a regional environmental management plan, such as a watershed plan ~~and limiting habitat factors analysis,~~or coastal erosion study, is ongoing or has been completed, then conduct the characterization either within the framework of the regional plan or use the data provided in the regional plan. This methodology is intended to ~~provide~~contribute to an in-depth and comprehensive assessment and characterization.

(II) If a regional environmental management plan has not been completed, use available scientific and technical information, including flood studies, habitat evaluations and studies, water quality studies, and data and information from environmental impact statements. This characterization of ecosystem-wide processes and the impact upon the functions of specific habitats and human health and safety objectives may be of a generalized nature.

(III) One or more local governments may pursue a characterization which includes a greater scope and complexity than listed in items (I) and (II) of this subsection.

Local governments should ensure that master program provisions protect the shoreline processes within the subject jurisdiction that are critical to creating and sustaining~~the widest range of~~ shoreline functions. To achieve this, the level of resource protection must account for risks to the environment and ~~incremental~~cumulative impacts from development allowed by the master program. Local governments should use this analysis to prepare master program provisions as described in WAC 173-26-200 (3)(g) to protect and to contribute to the restoration of the ecosystem-wide processes and individual ecological functions on a comprehensive basis over time. This does not necessarily require that each development or action on the shoreline individually improve~~s~~ ecological functions.

(ii) **Shoreline use analysis and priorities.**

Conduct an analysis to determine the future demand for shoreline space and the methods to resolve potential use conflicts. Characterize current shoreline use patterns and projected trends to ensure a balance of uses consistent with chapter 90.58 RCW and WAC 173-26-200 (2)(d) and 173-26-210(5).

If the jurisdiction includes a harbor area or urban waterfront with intensive uses

or significant development issues, work with the Washington state department of natural resources and port authorities to ensure consistency with harbor area statutes and regulations. Identify measures and strategies to encourage appropriate use of these shoreline areas while pursuing opportunities for ecological restoration.

(iii) **Cumulative impacts.**

At a minimum, local governments, with the assistance of state agencies, should project the ultimate allowed full build-out condition for existing and proposed master program provisions being considered. This assessment should include potential impacts due to all development, including current conditions and those uses not requiring a shoreline permit. Master programs should address cumulative adverse impacts caused by incremental development, such as residential bulkheads, residential piers, or runoff from newly developed properties, and shall include master program provisions as described in WAC 173-26-200 (3)(g), to assess, minimize, and mitigate cumulative impacts.

(iv) **Shorelines of state-wide significance.**

If the area contains~~substantial amounts of~~ shorelines of state-wide significance, undertake the steps outlined in WAC 173-26-250.

(v) **Public access.**

Identify public access needs and opportunities within the jurisdiction and explore actions to enhance shoreline recreation facilities, as described in WAC 173-26-220(4).

(vi) **Enforcement and coordination with other regulatory programs.**

Local governments planning under the Growth Management Act shall review their comprehensive plan policies and development regulations to ensure mutual consistency. In order to effectively administer and enforce master program provisions ~~as well as other development regulations~~, local governments should also review their current permit review and inspection practices to identify ways to increase efficiency and effectiveness and to ensure consistency.

(vii) **Water quality and quantity.**

Identify water quality and quantity issues relevant to master program provisions, including those that affect human health and safety. At a minimum, consult with appropriate federal, state, tribal, and local agencies.

(viii) **Vegetation conservation.**

Identify how existing shoreline vegetation provides ecological functions and determine methods to ensure protection of those functions. Identify important ecological functions that have been degraded through loss of vegetation and feasible means to restore those functions. Consider the amount of vegetated shoreline area necessary to achieve ecological objectives. While there may be less vegetation remaining in urbanized areas than in rural areas, the importance of this vegetation, in terms of the ecological functions it provides, is often as great or even greater than in rural areas due to its ~~scarcity.~~

scarcity. Identify measures to ensure that new development meets vegetation conservation objectives.

(ix) **Special area planning.**

If the jurisdiction includes complex shoreline ecological issues, changing uses, or other unique features, the local government is encouraged to undertake special area

planning. Special area planning may be used to address: Public access, vegetation conservation, shoreline use compatibility, port development master planning, ecological restoration, or other issues best addressed on a comprehensive basis.

The resultant plans may serve as the basis for facilitating state and local government coordination and permit review. Special area planning shall provide for public and affected Indian tribe participation.

(e) **Establish environment designations.**

Establish environment designations and identify permitted uses and development standards for each environment designation.

Based on the inventory ~~of~~in (c) of this subsection and the analysis in (d) of this subsection, assign each shoreline segment an environment designation.

Prepare specific environment designation policies and regulations ~~where necessary to address different shoreline conditions and objectives~~.

Review the environment designations for mutual consistency with comprehensive plan land use designations as indicated in WAC 173-26-210(3).

In determining the boundaries and classifications of environment designations, adhere to the priorities in WAC 173-26-200 (2)(d).

(f) **Establish shoreline policies.**

Address all of the elements listed in RCW 90.58.100(2). Review for mutual consistency with the comprehensive plan policies. If there are shorelines of state-wide significance, ensure that the other comprehensive plan policies affecting shoreline jurisdiction are consistent with the objectives of RCW 90.58.020 and 90.58.090(4).

(g) **Prepare shoreline regulations.**

Prepare shoreline regulations based on the analyses described in this section and consistent with the guidelines of this chapter. The level of detail of inventory information and planning analysis will be a consideration in setting shoreline regulations. As a general rule, the less known about existing resources, the more stringent shoreline master program provisions should be to avoid irreparable damage to shoreline resources. If there is a question about the extent or condition of an existing ecological resource, then the master program provisions shall be sufficiently restrictive to ensure that the resource is ~~not significantly damaged.~~protected. Local governments may accomplish this by including master program requirements for an on-site inventory at the time of project application.

(h) **Submit for review and approval.**

Local governments are encouraged to work with department personnel during~~master program~~ preparation of the master program and to submit draft master program provisions to the department for informal advice and guidance prior to formal submittal.

Local governments shall submit the completed checklist, as described in WAC 173-26-200 (3)(a), with their master program amendments proposed for adoption. Master program review and formal adoption procedures are described in Parts I and II of this chapter.

NEW SECTION

WAC 173-26-210 Environment designation system. (1) **Applicability.**

This section applies to the establishment of environment designation boundaries and provisions as described in WAC 173-26-190 (1)(d).

(2) **Basic requirements for environment designation classification and provisions.**

Master programs shall contain a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans. Each master program's classification system shall be consistent with that described in WAC 173-26-210 (4) and (5)~~of this chapter~~ unless there is a compelling reason, based on the act and this chapter, to the contrary and the alternative proposed provides equal or better implementation of the ~~Shoreline Management Act.~~act.

An up-to-date and accurate map of the shoreline area ~~and environments~~delineating the environment designations and their boundaries shall be prepared and maintained in the local government office that administers shoreline permits. If it is not feasible to accurately designate individual parcels on a map, the master program text shall include a clear basis for identifying the boundaries, physical features, explicit criteria, or "common" boundary descriptions to accurately define and distinguish the environments on the ground.

To facilitate consistency with land use planning, local governments planning under chapter 36.70A RCW are encouraged to illustrate shoreline designations on the comprehensive plan Future Land Use Map as described in WAC 365-195-300 (2)(d).

The map should clearly illustrate what environment designations apply to all lands in ~~shoreline jurisdiction,~~Shoreline Management Act jurisdictional limits, including flood plains, river deltas, and associated wetlands.

The master program should also make it clear that in the event of a mapping error, the jurisdiction will rely upon common boundary descriptions and the criteria contained in chapter 173-22 WAC pertaining to wetlands, as amended, rather than the incorrect or outdated map.

The map and the master program should note that all areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned a "rural conservancy" designation, or "urban conservancy" designation if within a municipality or urban growth area, until the shoreline can be redesignated through a master program amendment.

The following diagram summarizes the components of the environment designation provisions.

For each environment designation, the shoreline master program shall describe:

(a) **Purpose statement.**

The statement of purpose shall describe the shoreline management objectives of the designation in a manner that distinguishes it from other designations.

(b) **Classification criteria.**

Clearly stated criteria shall provide the basis for classifying or reclassifying a

specific shoreline area with an environment designation.

(c) **Management policies.**

These policies shall be in sufficient detail to assist in the interpretation of the environment designation regulations and, for jurisdictions planning under chapter 36.70A RCW, to evaluate consistency with the local comprehensive plan.

(d) **Regulations.**

Environment-specific regulations shall address the following where necessary to account for different shoreline conditions:

(i) Types of shoreline uses permitted, conditionally permitted, and prohibited;

(ii) Preferred shoreline use requirements;

(iii) Building or structure height and bulk limits, setbacks, maximum density or minimum frontage requirements, and site development standards; and

(iv) Native vegetation conservation, shoreline stabilization, parking, signs, public access, and other ~~standards~~topics not covered in general use regulations.

(3) **Consistency between shoreline environment designations and the local comprehensive plan.**

As noted in WAC 173-26-190 (2)(a), RCW 90.58.340 requires that policies for lands adjacent to the shorelines be consistent with the Shoreline Management Act, implementing rules, and the applicable master program. Conversely, local comprehensive plans constitute the underlying framework within which master program provisions should fit. The Growth Management Act, where applicable, designates shoreline master program policies as an element of the comprehensive plan and requires that all elements be internally consistent. Chapter 36.70A RCW also requires development regulations to be consistent with the comprehensive plan.

The following criteria are intended to assist local governments and the department in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:

(a) **Provisions not precluding one another.**

The comprehensive plan provisions and shoreline environment designation provisions ~~do~~should not preclude one another. To meet this criteria, the provisions of both the comprehensive plan and the master program must be able to be met. The comprehensive plan and master program should make specific provisions for resolving any apparent inconsistency. For example, a local comprehensive plan may identify a large tract of land with a stream corridor running through it as suitable for a new residential development. The comprehensive plan and the master program may be consistent even if the stream is designated "natural," because these two objectives could be achieved in a number of ways: Development could be restricted to two hundred feet landward of the ordinary high-water mark or the stream corridor could be dedicated as a passive park and trail system. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded. For example, if the property is designated as within the shoreline residential environment, it should not be zoned exclusively for

industrial use.

(b) **Use compatibility.**

Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent water-oriented uses, especially water-dependent uses, from being restricted on shoreline areas because of impacts to nearby nonwater-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development. For example, new residential development should not be allowed nearheavy shoreline heavy industrial areas unless the impacts can be mitigated through design standards applied to the new residential development.

(c) **Sufficient infrastructure.**

Infrastructure and services provided in the comprehensive plan areshould be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. For example, high-density residential development and industrial uses shall not be allowed unless the comprehensive plan makes provision for needed infrastructure and services at appropriate locations.

In delineating environment designations, local governments should ensure that existing shoreline ecological functions can be protected and degraded shoreline ecological functions restored with the proposed pattern and intensity of urban growth. Infrastructure plans must also be mutually consistent with shoreline designations. UtilityWhere they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

(4) **Recommended environment designation classifications.**

The recommended classification system consists of six basic environments: "High-intensity," "shoreline residential," "urban conservancy," "rural conservancy," "natural," and "aquatic." Local governments shall assign all shoreline areas an environment designation consistent with WAC 173-26-210(5).

173-26-210(4) and (5). For the purposes of WAC 173-26-210 (4) and (5), a proposed master program environment designation system is consistent with recommended designations if a given shoreline segment with the characteristics described in one of WAC 173-26-210 (5)(a) through (f) is assigned an environment designation with purpose, management policies, and standards to implement those policies consistent with the corresponding environment designation in WAC 173-26-210 (4)(a) through (f). For example, shoreline areas meeting the criteria in WAC 173-26-210 (5)(d) should be assigned an environment designation with purpose and management policies of the "high-intensity" environment.

Local governments may establish different subdesignationsdesignations, provided they are consistent with this chapter. For example, a local government wishing to differentiate between "conservancy" shorelines used for park purposes and those for habitat restoration might establish "conservancy-park" and "conservancy-habitat" designations, each with separate purposes, criteria, policies, and use provisions. Or, a local government may wish to set site-specific standards for pier and dock construction in more sensitive aquatic areas and restrict aquaculture in harbor areas by establishing "aquatic-conservancy" and "aquatic-harbor" environments, each

with different allowable uses and development standards.

Local governments may use "parallel environments" where appropriate. Parallel environments divide shorelands into different sections generally running parallel to the shoreline or along a physical feature such as a bluff or railroad right of way. Such environments may be useful, for example, to accommodate both resource protection near the shoreline and development opportunities further from the shoreline.

Local governments may retain their current environment designations provided they~~can~~ demonstrate that existing environment designation provisions are consistent with this chapter.

(a) "**Natural" environment.**

(i) **Purpose.**

The purpose of the "natural" environment is to protect and restore those shoreline areas that are relatively free of human influence or that include ~~important~~intact or minimally degraded shoreline functions intolerant of human use. These systems require restrictions on the intensities and types of uses permitted to maintain the ecological functions and ecosystem-wide processes.

(ii) **Management policies.**

(A) Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.

(B) The following new uses should not be allowed in the "natural" environment:

- Residences (except as noted below).
- Commercial uses.
- Industrial uses.
- Agriculture that involves tilling the earth or clearing native plant communities.
- Nonwater-oriented recreation.
- Roads, utility corridors, and parking areas that can be located outside of "natural"-designated shorelines.

Limited development, including residential development, may be allowed as a conditional use within the "natural" environment if such shoreline master program provisions result in a greater level of ecological functions.

(C) Commercial forestry may be allowed as a conditional use in the "natural" environment provided it meets the conditions of the State Forest Practices Act and its implementing rules.

(D) Access may be permitted for scientific, historical, cultural, educational, and low-intensity water-oriented recreational purposes, provided that no significant ecological impact on the area will result.

(E) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new property parcel must be able to support its intended development without significant ~~damage~~ecological impacts to the shoreline or to the vegetation necessary to maintain ecological functions.

(b) "**Rural conservancy" environment.**

(i) **Purpose.**

The purpose of the "rural conservancy" environment is to protect, conserve, and restore ecological functions, existing natural resources, and valuable historic and cultural areas in order to achieve ecological protection, sustain resource use, achieve natural flood plain processes, and provide recreational opportunities. Examples of uses that are appropriate in a "rural conservancy" environment include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, aquaculture, low-intensity residential development consistent with the local comprehensive plan's rural element and chapter 36.70A RCW, and other related low-intensity uses.

(ii) **Management policies.**

(A) Uses in the "rural conservancy" environment should be limited to those which are nonconsumptive (i.e., do not deplete over time) of the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Shoreline habitat restoration and environmental enhancement are preferred uses.

Except as noted below, commercial and industrial uses should not be allowed. Agricultural practices, commercial forestry, and aquaculture when consistent with provisions of this chapter may be allowed. Nonconsumptive, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.

Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant ecological impacts to the shoreline are avoided or mitigated.

(B) Developments and uses that would substantially degrade or permanently deplete the physical or biological resources of the area should not be allowed.

(C) Construction of new structural shoreline stabilization and flood control works should not be allowed except where there is a ~~demonstrated~~documented need to protect an existing structure or ecological functions and mitigation is applied, consistent with WAC 173-26-230. New development should be designed and located to preclude the need for such work.

(D) For jurisdictions planning under the Growth Management Act, new residential development in the "rural conservancy" environment should be consistent with the comprehensive plan rural element and with RCW 36.70A.070(5). Residential development standards should prevent significant cumulative adverse impacts to the shoreline environment. If existing development does not conform to rural element provisions, then the master program should address nonconforming uses in ways that ~~reduce impacts to ecological functions.~~restore ecological functions over time.

For jurisdictions not planning under the Growth Management Act, development should be limited to a maximum of ten percent total impervious surface area within the lot or parcel lying in shoreline jurisdiction, unless an alternative standard is developed based on scientific information that meets the provisions of this chapter and protects shoreline ecological functions.

Master programs for jurisdictions not planning under the Growth Management

Act may allow greater lot coverage to allow development of lots legally created prior to the adoption of a master program prepared under these guidelines. In these instances, master programs shall require that lot coverage is minimized, that impacts are mitigated according to the mitigation sequence defined in WAC 173-26-020, and that development of lots created after the adoption of a master program prepared under these guidelines does not exceed ten percent impervious surface area within shoreline jurisdiction.

(E) New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed to ensure that the natural shoreline functions are protected and restored over time. Shoreline ecological restoration should be required of new development or redevelopment where the shoreline ecological functions have been degraded.

(c) "**Aquatic" environment.**

(i) **Purpose.**

The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

(ii) **Management policies.**

(A) ~~New~~Allow new over-water structures~~should be allowed~~ only for water-dependent uses, public access, or ecological restoration.

(B) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

(C) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged~~, provided that use conflicts can be avoided~~.

(D) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

(E) Uses that cause significant ecological impacts to critical saltwater and freshwater habitats should not be allowed. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence defined in WAC 173-26-020.

(F) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

(d) "**High-intensity" environment.**

(i) **Purpose.**

The purpose of the~~"high-intensity" environment is to provide for high-intensity water-oriented commercialand industrial uses while protectingand restoring ecological functions. The~~ "high-intensity" environment is ~~designed to ensure optimum use of shorelines that are presently industrial or commercial in nature or planned for such use.~~

to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

(ii) **Management policies.**

(A) In regulating uses in the "high-intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments or existing developed areas supporting water-dependent uses. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-200 (3)(d).

If an analysis of water-dependent use needs as described in WAC 173-26-200 (3)(d) demonstrates the needs of existing and envisioned water-dependent uses for the planning period are met, then provisions allowing for a mix of water-dependent and nonwater-dependent uses may be established. If those shoreline areas also provide~~essential~~ ecological functions, apply~~use~~ standards to prevent significant ecological impacts to those functions.

(B) Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed, provided that as development occurs, ecological functions are maintained or restored. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated ~~high-intensity.~~

"high-intensity." However, nonwater-oriented uses should not be considered when determining full utilization of urban waterfronts.

(C) New development should protect and restore shoreline ecological functions. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with state and federal requirements.

(D) Where feasible, visual and physical public access should be required as provided for in WAC 173-26-220 (4)(d).

(E) Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers. Local governments may implement this guideline by adopting a master program policy for aesthetic objectives and implementing the policy through other development regulations, such as sign or design review ordinances.

(e) **"Urban conservancy" environment.**

(i) **Purpose.**

The purpose of the "urban conservancy" environment is to protect and restore ecological functions in urban and developed settings, while allowing a variety of water-oriented uses.

(ii) **Management policies.**

(A) During development and redevelopment, all reasonable efforts should be taken to restore ecological functions. Where feasible, shoreline restoration and public access should be required of all nonwater-dependent development on previously developed shorelines.

(B) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" designation to ensure that new development does not further degrade the

shoreline and is consistent with an overall goal to improve ecological functions.

(C) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

(D) Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

(f) "**Shoreline residential" environment.**

(i) **Purpose.**

The purpose of the "shoreline residential" environment is to accommodate residential development and ~~associated uses~~appurtenant structures that are consistent with this~~chapter; to avoid and, if that is not feasible, minimize residential development impacts; and~~chapter. An additional purpose is to provide appropriate public access and recreational uses.

(ii) **Management policies.**

(A) Development~~s~~ should be permitted only in those shoreline areas where adequate setbacks or buffers are possible to protect ecological functions, there are adequate access, water, sewage disposal, and utilities systems, and public services available and ~~where~~ the environment can support the proposed use in a manner which protects or restores the ecological functions.

(B) Densities or minimum frontage width standards in the "shoreline residential" environment should be set to protect the shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

Local governments may establish two or more different "shoreline residential" environments to accommodate different shoreline densities or ~~conditions.~~ conditions, provided both environments adhere to the provisions in this chapter.

(C) Development standards for setbacks or buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.

(D) Multifamily and multilot residential and recreational developments should provide public access and joint use for community recreational facilities.

(E) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

(F) Commercial development should be limited to water-oriented uses.

(5) **Criteria for assigning environment designation boundaries.**

Local governments shall assign shoreline environment designations (environments) to all shoreline areas consistent with the criteria in (a) through (f) of this subsection.

(a) "**Natural" environment criteria.**

Assign a "natural" environment designation to shoreline areas if any of the following characteristics apply:

(i) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged

by human activity;

(ii) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or

(iii) The shoreline is unable to support new development or uses without significant ecological impacts to ecological functions or risk to human safety.

Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands,~~marine~~ estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats. Shorelines inside or outside urban growth areas may be designated as "natural."

Local governments are encouraged to designate parallel environments as "natural" in order to achieve a higher level of ecological protection. For example, an undisturbed area between a shoreline and a roadway may be designated as "natural" even if the area landward of the roadway is no longer ecologically intact.

(b) "**Rural conservancy**" **environment criteria.**

Assign a "rural conservancy" environment designation to shoreline areas outside incorporated municipalities and outside urban growth areas, as defined by RCW 36.70A.110, if any of the following characteristics apply:

(i) The shoreline is currently supporting lesser-intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170;

(ii) The shoreline is currently accommodating residential uses outside urban growth areas and incorporated cities or towns;

(iii) The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or flood plains or other flood-prone areas;

(iv) The shoreline is of high recreational value or with unique historic or cultural resources; or

(v) The shoreline ~~is currently supporting~~has low-intensity water-dependent uses.

Areas designated in a local comprehensive plan as "rural areas of more intense development," as provided for in chapter 36.70A RCW, may be designated an alternate shoreline environment, provided it is consistent with the objectives of the Growth Management Act and this chapter. "Master planned resorts" as described in RCW 36.70A.360 may be designated an alternate shoreline environment, provided the applicable master program provisions do not allow significant ecological impacts ~~to shoreline ecological functions~~.

Lands designated as "mineral resource ~~lands of economic importance" may be designated as an alternative environment designation~~lands" pursuant to RCW 36.70A.170 and WAC 365-190-070 may be assigned a subdesignation of "rural conservancy" environment that allows mineral extraction, provided the provisions for that designation conform to WAC 173-26-240 (3)(h) and this chapter and protect ecological functions.

(c) "**Aquatic**" **environment criteria.**

Assign an "aquatic" environment designation to lands waterward of the ordinary high-water mark.

Local governments may designate submerged and intertidal lands with

shoreland designations (e.g., "high-intensity" or "rural conservancy") if the management policies and objectives for aquatic areas are met. In this case, the designation system used must provide regulations for managing submerged and intertidal lands that are clear and consistent with the "aquatic" environment management policies in this ~~chapter.~~

chapter. Additionally, local governments may assign an "aquatic" environment designation to wetlands.

(d) "**High-intensity" environment criteria.**

Assign a "high-intensity" environment designation to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "rural areas of more intense development," as described by RCW 36.70A.070, if they currently support or are suitable and planned for high-intensity water-dependent uses related to commerce, transportation, or navigation.

(e) "**Urban conservancy" environment criteria.**

Assign an "urban conservancy" environment designation to shoreline areas appropriate and planned for development that are ~~less~~not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "rural areas of more intense development" ~~containing any of the following:~~if any of the following characteristics apply:

(i) ~~Areas~~They are suitable for~~a mix of~~ water-related or water-enjoyment uses~~ that allow a substantial number of people to enjoy the shoreline~~;

(ii) ~~Flood~~They are flood plains or other areas that should not be more intensively developed;

(iii) ~~Areas with~~They have potential for ecological restoration;~~ or~~

(iv) ~~Areas retaining~~They retain important ecological functions, even though partially ~~developed.~~developed; or

(v) They have the potential for development that incorporates ecological restoration.

Lands designated as "mineral resource lands" pursuant to RCW 36.70A.170 and WAC 365-190-070 may be assigned a subdesignation of "urban conservancy" environment that allows mineral extraction, provided the provisions for that designation conform to WAC 173-26-240 (3)(h) and this chapter and protect ecological functions.

(f) "**Shoreline residential" environment criteria.**

Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

NEW SECTION

WAC 173-26-220 General master program provisions. (1) **Archaeological and historic resources.**

(a) **Applicability.**

The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and shall comply with chapter 25-48 WAC as well as the provisions of this chapter.

(b) **Principles.**

Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the office of archaeology and historic preservation.

(c) **Standards.**

Local shoreline master programs shall include policies and regulations to protect historic, archaeological, and cultural features and qualities of shorelines and implement the following standards. A local government may reference historic inventories or regulations. Contact the office of archaeology and historic preservation and affected Indian tribes for additional information.

(i) Require that developers and property owners immediately stop work and notify the local government, the office of archaeology and historic preservation and affected Indian tribes if anything of possible archaeological interest is uncovered during excavation.

(ii) Require that permits issued in areas documented to contain archaeological artifacts and data require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

(2) **Critical areas.**

(a) **Applicability.**

The provisions of this section shall apply to all critical areas, as defined by chapter 36.70A RCW, that lie within shoreline jurisdiction. Implementation of RCW 90.58.020 includes the management of critical areas in the shoreline in order to protect human health and safety and the state's natural resources. RCW 36.70A.030 defines critical areas as stated below:

(5) "Critical areas" include the following areas and ecosystems:

(a) Wetlands;

(b) Areas with a critical recharging effect on aquifers used for potable waters;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

See WAC 365-190-080 for further definition of critical area categories and management policies.

(b) **Principles.**

Local master programs shall implement the following principles:

(i) Protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic ~~life.~~

life. Promote and enhance the public interest by protecting and restoring ecological functions and ecosystem-wide processes.

(ii) In addressing issues related to critical areas, use scientific and technical information, as described in WAC 173-26-200 (2)(a), and include best available science, as provided for in chapter 36.70A RCW.

(iii) Where necessary for the protection of the ecological functions of a critical area, review provisions outside the designated critical area pursuant to RCW 90.58.340.

(iv) In protecting and restoring critical areas within shoreline jurisdiction, ~~consider~~integrate the full spectrum of planning and regulatory measures, including the comprehensive plan, interlocal watershed plans, local development regulations, and state, tribal, and federal programs.

(v) The objective of shoreline management provisions for critical areas shall be the protection of existing ecological functions and ecosystem-wide processes and restoration of~~areas with~~ degraded areas to upgrade ecological functions and ecosystem-wide processes. Appropriate ~~units~~systems to address this goal include a littoral drift cell for marine waters or~~all of an identifiable portion of~~ a watershed sub-basin for freshwaters. Local governments should accomplish this on a comprehensive basis, as described in WAC 173-26-200 (3)(d)(i), (e), (f), and (g).

(vi) Promote human uses and values, such as aesthetic values, provided they do not adversely impact ecological functions.

(vii) Implement, where applicable and consistent with the objectives of the Shoreline Management Act, the minimum guidelines in WAC 365-190-080.

(c) **Standards.**

Shoreline master programs shall adhere to the following standards, unless it is demonstrated through scientific and technical information and best available science that an alternative approach provides better resource protection. Provisions for frequently flooded areas are included in WAC ~~173-26-220(3).~~

173-26-220(3). When preparing master program provisions for critical areas, local governments shall include best available science, as defined in RCW 36.70A.172(1), and use scientific and technical information, as provided for in WAC 173-26-200 (2)(a).

(i) **Wetlands.**

(A) **Wetland use regulations.**

~~In developing regulations for the protection of wetlands, local governments shall include best available science as required by RCW 36.70A.172(1).~~ Local governments should consult the department's technical guidance documents on wetlands.

Use regulations shall address the following uses to achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function:

• The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;

• The dumping, discharging, or filling with any material, including discharges of storm water and domestic, commercial, or industrial wastewater;

• The draining, flooding, or disturbing of the water level, duration of inundation, or water table;

• The driving of pilings;

• The placing of obstructions;

• The construction, reconstruction, demolition, or expansion of any structure;

• Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; or

• Other uses or development that results in a significant ~~change of~~ecological impact to the physical, chemical, or biological characteristics of wetlands.

• Activities reducing the functions of buffers described in (c)(i)(D) of this subsection.

(B) **Wetland rating or categorization.**

Wetlands shall be categorized based on the rarity, irreplaceability, or sensitivity to disturbance of a wetland and the functions the wetland provides. Local governments should ~~consult~~either use the Washington State Wetland Rating System, Eastern or Western Washington version as ~~appropriate.~~

appropriate, or they should develop their own, regionally specific, scientifically based method for categorizing wetlands. Wetlands should be categorized to reflect differences in wetland quality and function in order to tailor protection standards appropriately. A wetland categorization method is not a substitute for a function assessment method, where detailed information on wetland functions is needed.

(C) **Alterations to wetlands.**

Master program provisions addressing alterations to wetlands shall be consistent with the ~~policies~~policy of no net loss of wetland area and functions, wetland rating, ~~best available science,~~scientific and technical information, and the mitigation priority sequence defined in WAC 173-26-020.

(D) **Buffers.**

Master programs shall contain requirements for buffer zones around wetlands. Buffer requirements shall be adequate to ensure that wetland functions are protected and maintained in the long-term. Requirements for buffer zone widths and management shall~~include best available science and shall~~ take into account the ecological functions of ~~a~~the wetland, the characteristics and setting of the~~existing~~ buffer, the potential impacts associated with the adjacent land use, and other relevant factors.

(E) **Mitigation.**

Master programs shall contain wetland mitigation requirements that are consistent with the definition of mitigation in WAC ~~173-26-020,~~173-26-020 and which are based on the wetland rating~~, and include best available science~~.

(F) **Compensatory mitigation.**

Compensatory mitigation should be allowed only after mitigation sequencing~~of WAC 173-26-020 (a) through (d)~~ is applied.

Requirements for compensatory mitigation must include provisions for:

(I) Mitigation replacement ratios or a similar method of addressing the following:

• The risk of failure of the compensatory mitigation action;

• The length of time it will take the compensatory mitigation action to ~~result in sustainable~~adequately replace the impacted wetland functions and values;

• The gain or loss of the type, quality, and quantity of the ecological functions of the compensation wetland as compared with the impacted wetland.

(II) Establishment of performance standards for evaluating the success of

compensatory mitigation actions;

(III) Establishment of long-term monitoring and reporting procedures to determine if performance standards are met; and

(IV) Establishment of long-term protection and management of compensatory mitigation sites.

Credits from a state certified mitigation bank may be used to compensate for unavoidable impacts in accordance with chapter 90.84 RCW and chapter 173-700 WAC.

(ii) **Geologically hazardous areas.**

Restrict new development ~~on unstable bluffs and river channel migration zones and landslide~~in geologically hazardous areas. Consult minimum guidelines for geologically hazardous areas, WAC 365-190-080(4).

Do not allow new development or the creation of new lots that would cause foreseeable risk from geological conditions to people or ecological functions during the life of the development.

Do not allow new development that would require structural shoreline stabilization over the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed~~water-dependent~~ uses where no alternative locations are available and significant ecological impacts are mitigated. The stabilization measures shall conform to WAC 173-26-230.

Where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, ~~shoreline~~and less expensive than the proposed stabilization measure, stabilization structures ~~(including bluff walls)~~or measures to protect existing ~~residences~~primary residential structures may be allowed in strict conformance with WAC 173-26-230 requirements and then only if significant ecological impacts are adequately mitigated.

In such cases, the "softest" measure that effectively protects the structure shall be used. For example, bioengineering or vegetation enhancement shall be employed instead of engineered structures where they are effective. See WAC 173-26-230 (3)(a)(i).

(iii) **Critical saltwater habitats** and shorelands associated with marine waters and estuaries.

(A) **Applicability.**

Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance,~~and smelt,~~ commercial and recreational shellfish beds, mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association. Critical saltwater habitats require a higher level of protection due to the important ecological functions they provide. Ecological functions of marine shorelands can affect the viability of critical saltwater habitats. Therefore, effective protection and restoration of critical saltwater habitats should ~~consider~~integrate management of shorelands as well as submerged areas.

~~(A) **Comprehensive saltwater habitat management.**~~(B) **Principles.**

~~Applicable shoreline master~~Master programs should implement~~cooperative~~ saltwater habitat management planning to protect and restore critical saltwater habitats by establishing coordinated master program policies and regulations. Local governments ~~the resource through regulations, advanced planned mitigation, and other means.~~should review relevant comprehensive plan policies and development

regulations for shorelands and adjacent lands to achieve consistency as directed in RCW 90.58.340. The management planning shall incorporate the participation of state resource agencies and affected Indian tribes and serve as the basis for master program provisions. Local governments should base management planning on information provided by state resource agencies and affected Indian tribes unless they demonstrate that they possess more accurate and reliable information.

The management planning should include an evaluation of current data and trends regarding the following:

~~• The~~ • Available inventory and collection of necessary data regarding physical characteristics of the habitat, including upland conditions, and any information on species population trends;

• Terrestrial and aquatic vegetation;

• The level of human activity in such areas, including the presence of roads and level of recreational types (passive or active recreation may be appropriate for certain areas and habitats);

• Restoration potential;

• Tributaries and small streams flowing into marine waters;

• Dock and bulkhead construction, including an inventory of bulkheads serving no protective purpose;

• Conditions and ecological functions in the near-shore area;

• ~~Land uses~~Uses surrounding the critical saltwater habitat areas that may negatively impact ~~these areas;~~those areas, including permanent or occasional upland, beach, or over-water uses; and

• ~~Existing data gaps~~An analysis of what data gaps exist and a strategy for gaining this information.

The management planning should address the following, where applicable:

• Protecting~~and restoring~~ a system of fish and wildlife habitats with connections between larger habitat blocks and open spaces and restoring such habitats and connections where they are degraded;

• Protecting ~~and restoring estuarine ecosystems;~~existing and restoring degraded riparian and estuarine ecosystems, especially salt marsh habitats;

• Establishing adequate buffer zones around these areas to separate incompatible uses from the habitat areas;

• Protecting existing and restoring degraded near-shore habitat;

• ~~Restoring~~Protecting existing and restoring degraded or lost salmonid habitat;

• Protecting existing and restoring degraded upland ecological functions important to critical saltwater habitats, including riparian vegetation;

• Improving water quality;

• Protecting ~~freshwater and sediment inflow~~existing and restoring degraded sediment inflow and transport regimens; and

• ~~Protecting and restoring the relevant ecological functions of shorelands associated with marine waters.~~Correcting activities that cause excessive sediment input where human activity has led to mass wasting.

Local governments, in conjunction with state resource agencies and affected Indian tribes, should classify critical saltwater habitats and protect and restore seasonal ranges and habitat elements with which federal- and state-listed endangered,

threatened, and priority species have a primary association and which, if altered, may reduce the likelihood that ~~the~~a species will maintain its population and reproduce over the long term.

Local governments, in conjunction with state resource agencies and affected Indian tribes, should determine which habitats and species are of local importance.

All public and private tidelands or bedlands suitable for shellfish harvest shall be classified as critical areas. Local governments should consider both commercial and recreational shellfish areas. Local governments should review the Washington department of health classification of commercial and recreational shellfish growing areas to determine the existing condition of these areas. Further consideration should be given to the vulnerability of these areas to contamination or potential for recovery. Shellfish protection districts established pursuant to chapter 90.72 RCW shall be included in the classification of critical shellfish areas. Local governments shall classify kelp and eelgrass beds identified by the department of natural resources' aquatic lands division, the department, and affected Indian ~~tribes.~~

tribes as critical saltwater habitats.

Comprehensive saltwater habitat management planning should identify methods for monitoring conditions and adapting management practices to new information.

~~(B) **Conditions for development.**~~(C) **Standards.**

Docks, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except~~for a water-dependent use, ecologicalrestoration, or public access and~~ when all of the conditions below are met:

• The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

• Avoidance of impacts to critical ~~areas~~saltwater habitats by an alternative alignment or location is not feasible;

• The project is designed to minimize its impacts on critical saltwater habitats and the environment;

• Significant ecological impacts will be mitigated through the mitigation sequence described in WAC 173-26-020; and

• The project is consistent with the state's interest in resource protection and species recovery.

~~If~~Until an inventory of critical saltwater habitat has~~not~~ been done,~~the~~ shoreline master programs shall condition all over-water and near-shore developments~~wherecritical saltwater habitats may occur~~ with the requirement for an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats ~~those habitats.~~and functions. The methods and extent of the inventory shall be consistent with accepted research ~~methodology and with standards for scientific and technical information.~~methodology. At a minimum, local governments should consult with department technical assistance materials for guidance.

(iv) ~~**Riverine**~~**Critical freshwater habitats, including riverine corridors and other freshwater fish and wildlife conservation areas.**

(A) **Applicability.**

The following ~~provisions apply~~applies to master program provisions and shoreline management activities within shoreline jurisdiction affecting critical freshwater habitats, including streams, rivers, wetlands, and lakes, ~~affecting freshwater fish and~~their ~~wildlife habitat conservation areas, as defined in WAC 365-190-080 (5)(a), and those freshwater shoreline areas with priority species and habitats.~~associated channel migration zones, and flood plains.

(B) **Principles.**

~~(B)~~ Many ecological functions of riverine corridors depend both on the continuity of the natural environment along the length of the shoreline and on the conditions of the surrounding lands on either side of the river channel. Significant damage to the environment, such as a polluting outfall, vegetation loss, or imperviousness within the watershed, can destroy ecological functions downstream. Likewise, gradual destruction or loss of the vegetation along the corridor or extensive flood plain development can raise water temperatures and alter ~~hydrologic~~hydrographic conditions, thereby making the corridor uninhabitable for priority species and susceptible to catastrophic flooding, droughts, and landslides. These conditions can also threaten human health, safety, and property. Therefore, effective management of riverine corridors depends on:

~~on (I) planning,~~(I) Planning, protecting, and restoring the length of the ~~corridor, and (II)~~ corridor from river headwaters to the mouth; and

(II) Conservatively regulating the uses within shoreline jurisdiction, the stream channel, associated channel migration zone, wetlands, and the flood plain. Water quality and hydrological processes also depend upon subsurface flows through the adjacent hyporheic zone, surface water run-off, and ground water in lands outside the flood plain. For this reason, comprehensive watershed efforts are the most effective approach to corridor management.

Recognizing that long stretches of riverine shorelines have been altered or degraded from their natural condition, effective riverine management usually requires a two-part strategy of:

• Preventing damage to riverine shoreline areas that retain their ecological functions; and

• Restoring degraded riverine shoreline areas whenever feasible.

Local governments should base master program provisions for critical freshwater fish and wildlife~~habitat~~ conservation areas on a comprehensive approach, as described in WAC 173-26-200 (3)(d)(i), (e), (f), and (g). As part of this comprehensive approach, local governments should integrate categories of master program provisions, including those for shoreline stabilization, fill, vegetation conservation, water quality, flood hazard reduction, and specific uses, to protect human health and safety and to protect and restore the corridor's ecological functions and ecosystem-wide processes.

Applicable master programs should contain provisions to protect and restore hydrologic connections between water bodies, water courses, and associated wetlands. For example, master programs should require that ~~permitted~~ dikes, roads, or other structures, when allowed, be constructed or refitted to allow the unrestricted natural flow of water between dry or braided channels, associated wetlands, the main river channel, and associated water bodies. Incentives should be provided to restore water

connections that have been impeded by previous development.

Master program provisions for riverine corridors should, where appropriate, be based on the information from comprehensive watershed management planning, as indicated in WAC 173-26-200 (3)(c) and (d).

(3) Flood hazard reduction.

(a) **Applicability.**

The following provisions apply to actions taken to reduce flood damage or hazard and to ~~uses that could~~ uses, development, and shoreline modifications that may increase flood hazards. Flood hazard reduction measures may consist of ~~structural measures, such as dikes, levees, revetments, floodwalls,elevation of structures, channel realignment; and~~ nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and storm water management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program. Additional relevant critical area provisions are in WAC 173-26-220(2).

(**b) Principles.**

Flooding of rivers, streams, and other shorelines is a natural process that is affected by factors and land uses occurring throughout the watershed. Past land use practices have disrupted hydrological processes and increased the rate and volume of runoff, thereby exacerbating flood hazards and reducing ecological functions.

~~For this reason, flood~~ Flood hazard reduction measures are most effective when integrated into comprehensive strategies that recognize the natural hydrogeological and biological processes of water bodies. Over the long term, the most effective means of flood hazard reduction is to prevent or remove development in flood-prone areas, to manage storm water within the flood plain, and to maintain or restore the riverine system's natural hydrological and geomorphological processes. Structural flood hazard reduction measures, such as ~~stream channelization and~~ diking, even if effective in reducing inundation in a portion of the watershed, can intensify flooding elsewhere. Moreover, S~~s~~tructural flood hazard reduction measures can damage ecological functions crucial to fish and wildlife species, bank stability, and water quality. Therefore, structural flood hazard reduction measures shall be avoided whenever possible. When necessary, they shall be accomplished in a manner to minimize change to shoreline ecological functions and ecosystem-wide processes. In such cases, set back levees shall be preferred over levees near the floodway.

Master programs shall implement the following principles:

(i) Where feasible, give preference to nonstructural flood hazard reduction measures over structural measures. For example, setback or relocation of structures is generally preferred over new dikes or seawalls.

(ii) Base shoreline master program flood hazard reduction provisions on applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts, provided those measures are consistent with the Shoreline Management Act and this chapter.

(iii) Consider integrating master program flood hazard reduction provisions with other regulations and programs, including (if applicable):

- Storm water management plans;

• Flood plain regulations, as provided for in chapter 86.16 RCW;

• Critical area ordinances and comprehensive plans, as provided in chapter 36.70A RCW; and the

• National Flood Insurance Program.

(iv) Protect and restore the ecological functions while reducing risk to human safety and property. When preparing master program provisions for flood hazard reduction measures, address the protection and restoration of ecological functions and ecosystem-wide processes on a comprehensive basis consistent with WAC 173-26-200 (3)(d)(i), (e), (f), and (g) and 173-26-220 (2)(c)(iv).

~~Where feasible, give preference to nonstructural flood hazard reduction measures over structural measures. For example, setback or relocation of uses is generally preferred over new dikes or seawalls.~~

(c) **Standards.**

Master programs shall implement the following standards within shoreline jurisdiction:

(i) Do not allow new development that significantly or cumulatively increases flood hazard or that is inconsistent with a comprehensive flood hazard management plan adopted pursuant to chapter 86.12 RCW, provided the plan has been adopted after 1994 and approved by the department. Do not allow new development or new uses in shoreline jurisdiction, including the subdivision of land, that will require structural flood hazard reduction measures within the channel migration zone, except for:

• Actions that ~~increase~~ protect or restore the ecosystem-wide processes or ecological functions ~~toward more properly functioning conditions~~.

• Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.

• Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur.

• Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists. Where such structures are allowed, mitigation shall be required that ~~returns limited functions and processes of the applicable section of watershed or drift cell to more properly functioning conditions~~protects or restores impacted functions and processes in the affected section of watershed or drift cell.

• Repair and maintenance of an existing legal use, provided that such actions do not ~~adversely affect threatened or endangered species~~ cause significant ecological impacts.

• Development on a previously altered site where it is demonstrated that the development returns ecological ~~applicable~~ functions and processes of the applicable section of the watershed or drift cell to a more natural condition.

• Development consistent with a management plan approved by the department of ecology that is directed toward ~~achieving properly functioning conditions~~ protecting and restoring ecological functions and ecosystem-wide processes.

• Modifications or additions to an existing legal use, provided that channel migration is not further limited and that the new development includes appropriate ecological restoration.

• Development in incorporated municipalities and designated urban growth

areas, as defined in Chapter 36.70A RCW, where existing ~~human-made~~ structures prevent active channel movement.

• Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measure includes appropriate habitat restoration associated with the river or stream. It is the intent of this provision to allow measures that protect property at the same time as restoring ecosystem-wide processes where scientific and technical information demonstrate that this may be accomplished.

(ii) Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and ~~technical~~ engineering analysis that they are necessary to protect existing development ~~and uses~~, that nonstructural measures are not feasible, that impacts to the existing shoreline functions and priority species and habitats can be successfully mitigated, and that appropriate vegetation conservation actions are undertaken consistent with WAC 173-26-220(5). Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the department that evaluates cumulative impacts to the watershed system.

(iii) Require that all new structural flood hazard reduction measures and improvements to existing structures that cause significant ecological impacts include measures to restore ecological functions ~~whenever feasible~~.

(iv) Place new structural flood hazard reduction measures landward of the floodway, channel migration zone, ~~and~~ associated wetlands ~~that function as flood storage areas~~, and associated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration, or as noted below. Consult with Washington's department of fish and wildlife and affected Indian tribes with respect to ecological restoration measures.

Exception: Flood hazard reduction ~~measures~~ projects as described in this section may occur in a channel migration zone only if it is determined that no other alternative to ~~protect existing improvements~~ reduce flood hazard to existing development is feasible. The need for structural improvements in the channel migration zone shall be documented through a ~~hydrogeological~~ geotechnical analysis. If the geotechnical analysis demonstrates a need for the structural measure, ~~A~~assess and mitigate impacts to priority species through a habitat evaluation and application of mitigation sequencing.

(v) Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable ~~environmental harm~~ significant ecological impacts, ~~significant~~ unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

(vi) Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with this chapter and allowed only after a ~~hydrogeological~~ biological and geomorphological study shows

that extraction has a long-term benefit to flood hazard reduction, does not cause significant ecological impacts to fish and wildlife, and is part of a comprehensive flood management solution.

(4) Public access.

(a) **Applicability.**

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

(b) **Principles.**

Local master programs shall:

(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

(ii) Protect the rights of navigation and space necessary for water-dependent uses.

(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.

(iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

(c) **Planning process to address public access.**

Local governments should plan for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access. Such a system can often be more effective and economical than applying uniform public access requirements to all development. This planning should be integrated with other relevant comprehensive plan elements, especially transportation and recreation.

Where a port district or other public entity has incorporated public access planning into its master plan through an open public process, that plan may serve as a portion of the local government's public access planning, provided it meets the provisions of this chapter. The planning may also justify more flexible off-site or special area public access provisions in the master program. Public participation requirements in WAC 173-26-200 (3)(b)(i) apply to public access planning.

At a minimum, the public access planning should result in public access requirements for shoreline permits, recommended projects, port master plans, and/or actions to be taken to develop public shoreline access to shorelines on public property. The planning should identify a variety of shoreline access opportunities and circulation for pedestrians--including disabled persons--bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

(d) **Standards.**

Shoreline master programs shall implement the following standards:

(i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The

master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.

(ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-220 (4)(c) demonstrates that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.

(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access ~~shall~~ should be required except:

(A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-220 (4)(c).

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment.

In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, local governments shall consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than four parcels.

(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

(v) Do not allow public access improvements that would cause significant ecological impacts to shoreline ecological functions that cannot be mitigated. Require that public access improvements with the potential to degrade ecological functions be designed to minimize adverse impacts.