



# Focus on Application of the 2003 Shoreline Master Program Guidelines to Limited Master Program Amendments

From Ecology's Shorelands and Environmental Assistance Program

## Introduction

The Shoreline Management Act (SMA) anticipates that amendments to existing Shoreline Master Programs (SMPs) will occasionally be necessary. Such amendments may be needed to make minor changes to a specific section of an existing SMP or to make a fully comprehensive SMP update under the timeline established by RCW 90.58.080.

Regardless of scope, all SMP amendments are subject to the review criteria established in RCW 90.58.090 and must be consistent with the provisions of the 2003 Shoreline Master Program Guidelines (Guidelines) and the policies of the SMA.

In most cases, proposed SMP amendments must undergo the comprehensive update process described in the Guidelines. Certain SMP amendments that are very limited in scope, however, may be submitted to Ecology without meeting these comprehensive planning requirements. Specific criteria have been adopted defining when such amendments may be processed as "limited" amendments. As specified in Washington Administrative Code (WAC) 173-26-201(1), the limited SMP amendment process **cannot** be used for proposals that:

- Significantly modify shoreline management practices within the local jurisdiction;
- Modify more than one environment designation boundary;
- Significantly add, change, or delete use regulations; or
- Contain provisions that will affect a substantial portion of the local government's shoreline areas.

In addition, the WAC specifies that the limited amendment process cannot be used where:

- Physical shoreline conditions have changed significantly, such as substantial changes in shoreline use or priority habitat integrity, since the last comprehensive master program amendment;
- There are substantive issues that must be addressed on a comprehensive basis, such as salmon recovery, major use conflicts, or public access;
- The current master program and the comprehensive plan are not mutually consistent;
- There has been no previous comprehensive master program amendment since the original master program adoption; or
- Monitoring and adaptive management indicate that changes are necessary to avoid loss of ecological functions.

If the SMP amendment meets *any* of the criteria above, it is not eligible for the "limited amendment" exception to the SMP Guidelines. The adoption into an SMP of a local CAO

and “spot-zoning” amendments are notable examples of SMP amendment proposals that must be processed as a comprehensive SMP update. Specific issues associated with these kinds of proposals are discussed in more detail below.

## **Is a limited SMP amendment really necessary?**

Local governments should carefully consider whether a proposed amendment is really necessary and whether it will trigger the need for a comprehensive amendment.

Before getting started, the local government should consult Ecology regional office (SEA Program) staff directly and document, in writing, that the criteria in WAC 173-26-201(1) do not apply to the amendment. The local government should also discuss with Ecology staff whether the proposal is consistent with the SMA, the Guidelines, and any relevant provisions of the local SMP.

By consulting with Ecology staff early in the process, a local government should receive a formal determination from Ecology as to whether a proposed amendment will trigger the need for a comprehensive update process before time and money is invested in the preparation of what might not be a “limited” amendment at all.

## **Ecology’s review of limited amendments**

If Ecology staff agrees with the local government’s determination that a limited amendment is necessary and would not trigger the need for a comprehensive SMP update, the local government can begin the amendment process outlined in WAC 173-26-090 and 100. While drafting the amendment, local governments must also follow the public involvement requirements of the Guidelines, including consultation with the SEA Program’s regional staff.

When Ecology receives a complete, locally adopted limited amendment submittal (that meets the requirements of WAC 173-26-110), the State process for reviewing the amendment begins. During our review, we will solicit additional public input and make written findings and conclusions about the consistency of the proposed amendment with the SMA and the Guidelines. We will then approve, deny, or require specific changes to the amendment.

Ecology will process limited amendment proposals as staff resources permit. Our target is to accomplish this process in 90 days. However, providing technical assistance, guidance, and support to cities and counties with their required comprehensive SMP updates, along with the associated review process, will be our first priority. Where we have workload conflicts, processing comprehensive SMP updates may take priority.

## **Examples**

Here are some specific issues regarding two common types of proposed limited amendments:

**1. Adopting Critical Area Ordinances (CAOs) by reference into existing SMPs:** Understandably, local governments wish to improve regulatory clarity and eliminate overlap in their local land use regulations. In addressing this issue, many jurisdictions have thought about adopting their local CAOs into their SMP. While seemingly logical, incorporating an updated CAO (utilizing best available science) into an SMP may have little on-the-ground effect when compared to the status quo. This is because local CAOs already apply in shorelines jurisdiction, and will continue to do so until the local government completes a comprehensive SMP amendment.

Only after a comprehensive SMP update is completed and approved by Ecology do critical areas protections (for Shorelines of the State) transfer exclusively to the SMP, in effect replacing the CAO

in shoreline areas. Until that time, there is dual coverage, with both the local CAO and the existing SMP applying in shoreline jurisdiction (for more information please refer to the [ESHB 1933 Guidance document](#) developed by Ecology and the Department of Community, Trade, and Economic Development). Local governments should carefully consider these situations, where applicable, when evaluating the need for an SMP amendment.

As noted above, the limited SMP amendments process cannot be used for proposals that:

- Significantly modify shoreline management practices within the local jurisdiction;
- Significantly add, change, or delete use regulations; or
- Contain provisions that will affect a substantial portion of the local government's shoreline areas.

In most cases, even the proposed adoption of individual components of a local CAO into an SMP will meet these criteria and trigger the need for a comprehensive update. If an entire CAO is proposed for incorporation into an SMP, these criteria will always be triggered—and the proposal would therefore be precluded from the limited SMP amendment process.

Additionally, when considering amendment proposals designed to incorporate other codes into SMPs by reference, it should be kept in mind that these local ordinances were authorized and developed to comply with statutory requirements other than the SMA. This can present conflicts with SMA policy (RCW 90.58.020) or other administrative requirements. As a result, all limited amendments must be evaluated for consistency with the environmental protection policies of the SMA, related administrative requirements, and with the other SMA policies providing for shoreline preferred uses and the protection and enhancement of shoreline public access (both physical and visual).

A local CAO proposed for incorporation into an SMP may, for example, line shorelines with buffers that would not allow new development to provide necessary shoreline public access. Another example might include a “reasonable use” exception in a CAO proposed for adoption by reference into the SMP. This would present a conflict with SMA requirements for a shoreline variance and should be removed from the amendment proposal.

In sum, limited amendments attempting to adopt by reference other local provisions should not be pursued unless they are thoroughly evaluated for consistency with all facets of SMA policy, Guidelines standards, and related administrative requirements.

**2. “Spot” amendments:** Limited amendments are often proposed to address specific projects. Such “spot” amendments may be inconsistent with the SMA's policy favoring comprehensive shoreline planning and the avoidance of piecemeal development. They may also be inconsistent with the specific requirements of the guidelines. In general, limited amendments should not be used to address specific project proposals, but instead should be based on other factors.

## Final Considerations

Regardless of the scope of a proposed amendment, Ecology cannot approve amendments that are inconsistent with the SMA or the Guidelines. Ecology will use the criteria established in WAC 173-26-201(1) to determine whether to require a comprehensive SMP update.

A limited amendment **cannot** be approved if it is not reasonably consistent with any aspects of a comprehensive update that can be reasonably anticipated, or which involves a subject matter that is more appropriate for comprehensive updating based on a broader, ecosystem-wide analysis.

The "limited" amendment should not foreclose significant options that would be needed for effective comprehensive amendments.

With all of this in mind, local governments should question at the outset whether seemingly straight-forward integration amendments are necessary and worth the effort. Especially if a comprehensive SMP update (see RCW 90.58.080 schedule) is anticipated in the near future. No limited scope amendment, no matter how broadly addressed, will substitute for completion of the comprehensive amendment required by statute.

If you have any questions, please contact the Ecology regional office in your area.

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