

Memorandum

November 10, 2022

To: Pend Oreille County Planning Commission

From: Josh Jensen and Sara Noland, Anchor QEA; Ben Floyd, White Bluffs Consulting

Cc: Jeremy Sikes, Washington State Department of Ecology

Re: Pend Oreille County Regional Partnership Shoreline Master Program Periodic Review: Summary of Proposed Revisions

Introduction

The Shoreline Management Act (SMA) is the foundation for shoreline management in Washington State. The SMA requires each town, city, and county to review, and, if necessary, revise its Shoreline Master Program (SMP) every eight years per Revised Code of Washington (RCW) 90.58.80. Pend Oreille County formed a partnership with the City of Newport and the Towns of Cusick, Lone, Metaline, and Metaline Falls to develop a regional SMP. The Partnership's SMP was last updated in 2015.

The Partnership, in coordination with the Washington State Department of Ecology (Ecology), is currently completing the periodic review process to review and, if necessary, revise the SMP on or before June 30, 2023. The periodic review currently being undertaken by the Partnership addresses recent changes in SMA requirements, changes for consistency with revised comprehensive plans and regulations, and any other changes deemed necessary to reflect changed circumstances, new information, or improved data.

The purpose of this memorandum is to provide the Pend Oreille County Planning Commission with an early review of updates currently being proposed for inclusion in the SMP. The following text includes a general overview of the SMA and SMP process, followed by a summary of SMP updates currently being proposed. The 2015 SMP and related information are available online at <https://pendoreilleco.org/2022-shoreline-master-program-update/>

The Shoreline Management Act

The SMA was ratified by state voters in 1972 and is codified in RCW 90.58. Its overarching purpose is "to prevent harm caused by uncoordinated and piecemeal development of the state's major shorelines." The SMA applies to all shorelands and "Shorelines of the State" on waterbodies meeting size and flow requirements as defined by the SMA (RCW 90.58.030). The SMA has the following three primary purposes:

1. To protect the shoreline environment

2. To accommodate water-dependent and other appropriate uses in shorelands
3. To maintain and enhance public access to shorelines

The Partnership's SMP regulates activities in and near 5 rivers, 27 streams, and 43 lakes in the county. Maps of the shoreline jurisdiction areas are available in the 2015 SMP.

The SMA requires all counties and most towns and cities in the state that have shorelines to develop and implement SMPs. Local SMPs must be approved by Ecology, consistent with the RCW and the SMP guidelines provided in Washington Administrative Code (WAC) 127-26.

Pend Oreille Partnership SMP Update

Ecology is responsible for overseeing the SMP periodic review process consistent with the SMA and the applicable WAC administrative guidelines. Ecology must also formally approve the locally approved SMP amendments. Local jurisdictions are responsible for ensuring the SMP complies with local requirements and is consistent with local plans and policies, as well as state law.

Pend Oreille County and planning staff from the other Partnership jurisdictions have been working with a consultant team (Anchor QEA and White Bluffs Consulting) to prepare changes to the 2015 SMP for consideration by Ecology and the local governments. Each jurisdiction in the Partnership will be considering the proposed revisions, holding public hearings and accepting public comments, and adopting the revised SMP. The revisions will also undergo a Washington State Department of Commerce review period, during which other state agencies may provide comments.

Proposed SMP Updates

Table 1 summarizes the currently proposed SMP revisions. These recommendations were developed with guidance from Ecology, including the *Shoreline Master Programs Handbook*, revised in December 2017, and the Shoreline Master Program Approval/Amendment Guidelines in WAC 173-26. Input was also provided by local planning staff on areas of the SMP or provisions that could be improved to support effective administration. This table summarizes only substantive revisions; minor editorial or formatting corrections to the SMP are not included.

Table 1
Summary of Proposed Revisions to Pend Oreille County Regional Partnership SMP

Summary of Change	SMP Section	Source of Change
Delete extraneous text (background information, commentary).	Chapter 1, Parts B and C	Consultant and Ecology recommendation
Move text describing shoreline regulations out of this chapter (which is policies) and consolidate it into Chapter 4 (the regulations chapter).	Chapter 2, Part B	Consultant and Ecology recommendation
Move implementation actions (permit and monitoring review) out of the policies chapter and into a new separate section.	Chapter 2, Part B	Consultant recommendation
Delete reference to Sullivan Creek FERC license process (completed).	xx.34.020	County staff recommendation
Add new text to list exceptions under SMA.	xx.34.020	Ecology guidance and consultant recommendation
Add an exemption for modifications needed to comply with Americans with Disabilities Act requirements.	xx.34.040	Ecology guidance
Update dollar values for "substantial development" and for freshwater docks to reflect current state Office of Financial Management costs.	xx.34.040(A)	Ecology guidance
Delete reasonable use exception language, which does not apply within shoreline jurisdiction.	xx.34.040(E)	Consultant recommendation
Correct language introducing the variance criteria (they apply to activities landward of the OHWM and outside of wetlands) for consistency with SMA.	xx.34.040(F)	Consultant recommendation
Clarify that a forest practice that only involves timber cutting is not a development under the SMA and does not require a shoreline permit.	xx.34.060	Ecology guidance
Replace docks regulations section with new text that (1) incorporates relevant standards from the expired Corps of Engineers Regional General Permit for the Pend Oreille River, (2) is clearer and simpler to implement, and (3) is more consistent with current best practices and federal/state agency requirements for overwater structures to ensure no net loss of ecological function.	xx.34.060(E)	Consultant recommendation
Remove Appendices G through K, which are out of date and unnecessary in the SMP.	Appendices	Consultant recommendation
Evaluate changes in shoreline environment designations at Sullivan Creek Powerhouse and Camp Spalding.	Maps	County staff recommendation