



Kitsap County Shoreline Master Program Update



SMA SHORELINE JURISDICTION

ISSUE DESCRIPTION:

The Shoreline Master Program (SMP) update process begins with identification of “shorelines of the state” and their associated “shorelands,” which comprise the geographic area where the Shoreline Management Act (SMA) applies. The state provides us with minimum jurisdictional areas. Local governments then have prescribed “options” to choose from to extend SMA jurisdiction, including incorporating critical areas.

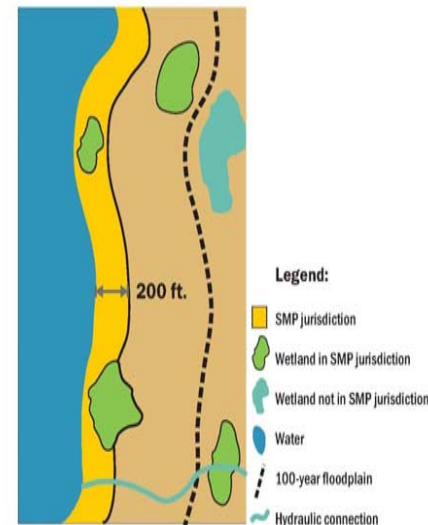
BACKGROUND:

The state gives us *minimum jurisdictional areas*:

- All marine waters.
- Rivers and streams with more than 20 cubic feet per second mean annual flow (cfsmaf).
- Lakes and reservoirs greater than 20 acres in area.
- Associated wetlands.
- Specific larger water bodies are classified as Shorelines of Statewide Significance (RCW 90.58.030(2)(e)). (*Hood Canal and shorelands, Puget Sound below extreme low tide*)
- Shorelands adjacent to these water bodies. This is typically the area within 200 feet of the water body.

“Associated Wetlands” are those wetlands that are in proximity to and either influence or are influenced by tidal waters or a lake or stream

subject to the SMA. The *entire* wetland or natural river delta is “associated” if *any part* of it lies within the area 200 feet from the ordinary high water mark or within the floodplain landward 200 feet of the floodway.



Factors determining “proximity and influence” include but are not limited to:

- Periodic inundation
- Hydraulic continuity
- On marine waters, formation by tidally influenced geo-hydraulic processes, or a surface connection through a culvert or tide gate
- On streams, the entire wetland is associated if any part is located within the 100-yr. floodplain of a

shoreline.

A wetland's hydrology does not have to be in a defined channel to be considered “associated.”

In some cases, wetlands *outside* the 100-year floodplain *may* be “associated” if they are hydraulically connected with shoreline waters through surface or subsurface flows.

In addition, local governments have the authority to customize **optional SMA jurisdiction areas** for the shorelands, within minimum and maximum areas defined in statute. They can be summarized by THREE shorelands options and TWO critical areas options.

Shorelands Options:

#1

- *Minimum* shoreline jurisdiction for river and stream shorelands is the *greater of the following*:
 - Lands extending 200 feet landward from the OHWM.
 - The floodway plus the contiguous floodplain 200 feet landward of the floodway.
 - Associated wetlands and river deltas.
- The *minimum* shoreline jurisdiction for tidal waters and lakes are “those lands which extend landward two hundred feet...from the ordinary high water mark”. For wetlands, it is those “which are in proximity to and either influence or are influenced by tidal water” and “which are in proximity to and either influence or are influenced by the lake” (WAC 173-22-040)

#2

Customized area. These areas identified by local government are bigger than the minimum shoreline jurisdiction area. They may include portions of the floodplain or land outside the floodplain necessary for buffers for critical areas within shorelines. The local government has the option of selecting road or railroad corridors, or other features or distances within the floodplain, that provide a suitable upland boundary for the shorelands associated with the river.

#3

Maximum jurisdiction. Maximum jurisdiction for shorelands along rivers is the entire 100-year floodplain plus any land necessary for buffers for critical areas within shorelines. In some cases, such as a confined canyon with a narrow floodplain, the minimum boundary – the greater of either 200 feet from OHWM or the contiguous floodplain landward 200 feet from the floodway – will be equal to or greater than the floodplain. If the floodplain is less than 200 feet from OHWM, the minimum jurisdiction will extend beyond the floodplain boundary.

Critical Areas Options:

#1

Where a critical area or its buffer lies partly within the SMA jurisdictional limit, the local government may extend its shoreline jurisdiction to include the entire critical area and

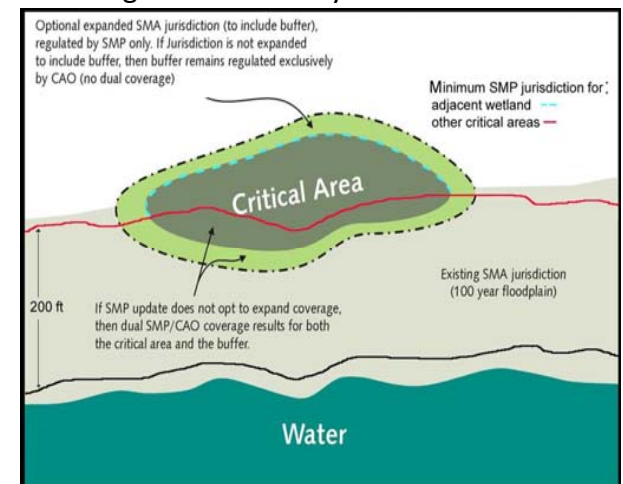
all lands necessary for buffers (RCW 90.58.030

(2)(f)(ii). If this option is chosen, ONLY THE SMP WILL PROVIDE PROTECTIONS FOR THESE

CRITICAL AREAS, NOT THE CRITICAL AREAS ORDINANCE (CAO). This can simplify the permitting process.

#2

If the local government chooses not to extend its shoreline jurisdiction to protect critical areas under the SMA, the CAO will continue to apply to the entire critical area and its buffers, even after SMP approval. HOWEVER, the SMP will also apply to the portion(s) of



the critical area and its buffers that lie within shoreline jurisdiction (“dual coverage”).

WHAT DOES THIS POLICY NEED TO ADDRESS?

The approved SMP will become the official delineation of SMA jurisdiction (WAC 173-18-044). Deciding on “optional areas” needs to consider:

- Protecting the natural functions of the shoreline in dynamic marine and freshwater systems
- Protecting human safety and health
- Streamlining of the shoreline permitting process