

## Jefferson County SMP Update CWD SMP Review

### Chapter 8 (part 1) – Use Policies and Regulations

#### **Agriculture:**

1. What does the WAC say?
  - Master programs shall not modify or limit agricultural activities occurring on agricultural lands. SMPs shall include provisions addressing new agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities.
  - A substantial development permit is required for any agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv).
  - SMPs must use specific definitions for agricultural use/activity per WAC 173-26-020. New ag is agriculture proposed on lands not currently in Ag use.
2. Key Policy and Regulatory Issues:
  - Manure spreading prohibited within 25 ft of floodway or OHWM.
  - New ag would require buffers from OHWM as indicated in Chapter 6. Existing Ag does not require buffers. Existing SMP requires buffers but does not specify width.
  - Feedlots prohibited in floodways or within 200 ft of OHWM, whichever is greater. Current SMP says they are prohibited unless you can show that no adverse effects will occur.
  - New ag allowed in Conservancy and Shoreline Residential, but not HI or Aquatic. Low intensity only allowed in Natural.

#### **Aquaculture:**

1. What does the WAC say?
  - Aquaculture is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline.
  - Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.
  - Local government should consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions.
  - Local shoreline master programs should therefore recognize the necessity for some latitude in the development of this use as well as its potential impact on existing uses and natural systems.
  - Impacts to ecological functions shall be mitigated according to the mitigation sequence per chapter 6.
2. Key Policy and Regulatory Issues:

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- All of the policies in the revised version are either in the 1989 SMP, from the WAC or suggested by Peter D or a combination. In some cases these are included verbatim. Other cases, wording has been modified slightly. Ones not specifically suggested by these 3 sources include: g, l, o, and p.
- Regulations are mainly derived from the 1989 SMP or suggested by Peter. Regulations not specifically offered by either source include: a, the hours of operation language in c, e, j, n, parts of o, r, s, y, and some of the specifics under hh. Many of these are consistent with Whatcom County's adopted SMP.
- Existing 1989 SMP and Peter Downey suggest using Low, Medium and High intensity Aquaculture to differentiate regulations.
- AG Opinion 2007- No. 1 suggests aquaculture does not require a SSDP, which is consistent with Peter's suggested language. However, Ecology does not support this AGO and is in the process of resolving regulatory inconsistencies. The current view is that we cannot create a new exempt use as the exempt uses are dictated by the RCW.

### **Boating - Marinas and Launch Ramps:**

#### 1. What does the WAC say?

- SMPs should, at a minimum, contain:
  - Provisions to ensure that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.
  - Provisions that assure that facilities meet health, safety, and welfare requirements.
  - Regulations to avoid, or if that is not possible, to mitigate aesthetic impacts.
  - Provisions for public access in new marinas, particularly where water-enjoyment uses are associated with the marina, in accordance with WAC 173-26-221(4).
  - Regulations to limit the impacts to shoreline resources from boaters living in their vessels (live-aboard).
  - Regulations that assure that the development of boating facilities, and associated and accessory uses, will not result in a net loss of shoreline ecological functions or other significant adverse impacts.
  - Regulations to protect the rights of navigation.

### **Commercial:**

#### 1. What does the WAC say?

- First give preference to water-dependent commercial uses over non-water-dependent commercial uses; and second, give preference to water-related and water-enjoyment commercial uses over non-water-oriented commercial uses.
- The design, layout and operation of certain commercial uses directly affects their classification with regard to whether or not they qualify as water related or water enjoyment uses.
- Require that public access and ecological restoration be water-related or water-dependent commercial development unless such improvements are demonstrated

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to be infeasible or inappropriate. Where commercial use is proposed for location on land in public ownership, public access should be required.

- Prohibit non-water-oriented commercial uses on the shoreline unless they meet the following criteria:
  - The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
  - Navigability is severely limited at the proposed site; and
  - Commercial use provides a significant public benefit with respect to the SMA objectives such as providing public access and ecological restoration.
- In areas designated for commercial use, non-water-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.
- Non-water-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

### Forest Practices:

#### 1. What does the WAC say?

- Local master programs should rely on the Forest Practices Act and rules implementing the act and the Forest and Fish Report as adequate management of commercial forest uses within shoreline jurisdiction. However, local governments shall, where applicable, apply this chapter to Class IV-General forest practices where shorelines are being converted or are expected to be converted to non-forest uses.
- Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to non-forest uses, shall assure no net loss of shoreline ecological functions and shall maintain the ecological quality of the watershed's hydrologic system.
- Applicable shoreline master programs should contain provisions to ensure that when forest lands are converted to another use, there will be no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values provided for in 90.58.020RCW such as navigation, recreation and public access .
- Master programs shall implement the provisions of RCW 90.58.150 regarding selective removal of timber harvest on shorelines of statewide significance. Exceptions to this standard shall be by conditional use permit only.
- Lands designated as "forest lands" pursuant to RCW 36.70A.170 shall be designated consistent with either the "natural," "rural conservancy," environment designation.
- Where forest practices fall within the applicability of the Forest Practices Act, local governments should consult with the department of natural resources, other applicable agencies, and local timber owners and operators.