

Attachment B

Agreement Regarding Adoption of SMA Guidelines and for Legislative Funding and Timing Requirements

This attachment identifies mutually supported strategies for adopting SMA guidelines, and for state funding of local government development of new master programs based on the Guidelines, and related subjects.

Part 1 – Schedule and Process for Proposal and Adoption of Guidelines.

Assuming agreement of the parties and settlement in the fall of 2002, the following is a probable schedule for proposal and adoption. Uncertainty exists with regard to time and resources necessary to prepare SBEIS and compliance with provisions of RCW 34.05.328, including the analysis of costs and benefits. With these limits, this is the schedule and processes:

Filing of CR 101, Pre-proposal notice, December 2002

- Publish January 2002
- Preparation of draft rulemaking documents, including SBEIS document, document to analyze rule proposals for purposes of RCW 34.05.328 compliance including Cost-Benefit Analysis, Draft documents for SEPA compliance, and Code Reviser ready draft of the Guidelines.

Filing of CR 102, Notice of proposed rulemaking, February to April 2003.

- Filing deadlines every two weeks with publication two weeks after filing.
- Wait at least 20 days after publication to start hearings.
- Hold a minimum of four public hearings in various locations.
- Close comment period 30 days after last hearing.
- Compile and summarize comments
- Prepare responsiveness summary
- Finalize support documents based on comments
- Review comments and input to prepare final SBEIS, final documents to comply with RCW 34.05.328, and final SEPA documentation .
- Ecology will make draft documents that facilitate public review and comment available during the public comment period for the draft guidelines.

Filing of CR 103, Adoption of rule.

- File and finalize all necessary rulemaking documents.
- No later than six months after publishing CR 102.
- Effective date is 31 days after publication

Part 2 –Funding Development of Master Programs Pursuant to New Guidelines and Timeline for Adoption and Funding

Background Assumptions: *The rough estimate of the cost to update of all SMPs to meet guidelines is \$18.8 million.*

- This estimate was developed in cooperation with local governments organizations for the 2000 legislative session so may require modification based on inflation and changes to the guidelines. Despite these changes, \$18.8 million remains a reasonable approximation for current planning purposes. The Association of Washington Cities has expressed interest in reworking the estimate based on the new draft guidelines.
- The estimate is based on 100% funding, which requires an amendment to RCW 90.58.250.

Available Funds:

- Ecology has been providing approximately \$400,000 per year of federal Coastal Zone Management Act money to local governments for a variety of planning purposes including, though not exclusively, update of local master programs. Under the federal Coastal Zone Management Act, Ecology receives an annual grant. If federal funding is increased and/or the cap is lifted or increased, more funds of this type might be available. These funds can only be used in the 15 Counties fronting on saltwater and the cities in those counties.
- Legislative appropriation is required for state general funds.

Legislative Funding and Appropriation

The settlement of the parties is based on the following basic principles for Legislative actions needed to appropriately fund and implement the SMA guidelines and master programs. The parties shall work in good faith with each other, with relevant third parties, and with the Legislature and Governor to develop Legislation consistent with the following principles:

1. **Initial funding.** The Governor's Office will propose, and the parties support, a state general fund appropriation of \$2 million during FY 03-05 to be applied to local jurisdictions development of shoreline master programs. The Governor's Office and the parties acknowledge and will support projected future funding after 03-05 biennium required to complete implementation statewide based on current estimates, sufficient to meet the schedule to be developed using the process described in #3 below.
2. Ecology will use, and the parties would support using, up to \$400,000 per year from current CZMA funds available to Ecology during FY 03-05 to be applied to local jurisdictions development of shoreline master programs.

Necessary Changes to Shoreline Management Act Statutes

3. Legislation shall change the provision of RCW 90.58.080, which requires that jurisdictions update shoreline master programs within 24 months of Ecology adopting guidelines. This provision shall be eliminated in favor of a provision that identifies

obligations for updating master programs to be consistent with the SMA guidelines. Legislation shall be consistent with the following principles regarding statutory deadlines for updating master programs:

- (a) There should be a list of identified jurisdictions which would have master program update deadlines set for the end of the 03-05 biennium, and that this list of jurisdictions with the 05 deadline would be developed in the legislative process in a process that is cooperative with the affected jurisdictions, and that the first set of jurisdictions would be consistent with the proposed funding in the first biennium;
 - (b) There would be a process in the Legislature or in legislation that develops deadlines for remaining jurisdictions, which would be developed during session based on input from the jurisdictions and the parties with adoption deadlines continuing and spread steadily over the period of time from 2005 to 2014. All parties may advocate for any particular order of jurisdictions to be placed on any list developed in Legislation. No particular local government or party must support a particular order of jurisdictions on a statutory list.
 - Within this context, the parties may consider various worksheets to illustrate lists of jurisdictions, but such consideration would be bound by this principle.
 - Consistent with this principle, the parties would support legislation that results in future synchronization between the SMA guideline review, SMP review, and GMA review of critical areas ordinances to facilitate efficiency.
 - (c) Legislation shall state that the Legislature intends that the state will provide funding to local government that is reasonable, adequate to accomplish the costs of updating master programs, and consistent with the schedule adopted by (b) above .
 - (d) Legislation shall change the last sentence of RCW 90.58.250 to remove the limit on Ecology authority to distribute or provide grant funds.
4. That the parties will be open to legislative and administrative approaches that encourage early action on updating SMA master programs pursuant to guidelines, including possibilities that leverage limited funds, provide incentives, or seek additional federal funding.

Commitment to Developing Legislative Language

The parties shall work through their representatives to develop draft legislation implementing this stipulation by December 15. The parties will support legislation that is substantially similar to what they develop, and shall be faithful to the principles for Legislation identified above.