

May 31, 2011

Text Location	Text	WA DNR comment	WA DNR objective on state-owned aquatic lands	DPD comments
1 - General Comment	Shorelines of Statewide Significance.	<p>There does not appear to be a discussion within this plan on shorelines of statewide significance. A detail of the intention of the City of Seattle for how to ensure the following is needed:</p> <p><i>(1) Recognize and protect the statewide interest over local interest;</i></p> <p><i>(2) Preserve the natural character of the shoreline;</i></p> <p><i>(3) Result in long term over short term benefit;</i></p> <p><i>(4) Protect the resources and ecology of the shoreline;</i></p> <p><i>(5) Increase public access to publicly owned areas of the shorelines;</i></p> <p><i>(6) Increase recreational opportunities for the public in the shoreline;</i></p> <p><i>(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."</i></p> <p>Map these areas in an appendix.</p>		<p>Shorelines of Statewide significance are addressed in the City's Comprehensive Plan the location of these areas are described here. Will add a map as suggested.</p> <p>Additionally, these concepts are found in the different shoreline environments, which are mapped, in the standards for development, uses and modifications, and in the use tables for each environment. See also regulations such as 23.60.160 priority habitat protection.</p>
2 - General Comment	Mitigation on State-owned aquatic lands	<p>The City of Seattle should be aware of WAC 332-30-107 for mitigation activities on state-owned aquatic lands which may be inconsistent with the City of Seattle's mitigation program proposed.</p> <p>The City's definition of mitigation should be brought forward into the text of the draft SMP</p>	<p>WAC 332-30-107 Aquatic Land Planning</p> <p>6. Mitigation. Shoreline master program planning and additional planning processes described in subsection (5) of this section will be the preferred means for identifying and mitigating adverse impacts on resources and uses of statewide value. In the absence of such planning directed to these values and uses, the department (for aquatic lands not covered under port management agreements) or port</p>	<p>Ch 79.105 RCW and WAC 333-30 regulates how the state manages its property. The SMA, Ch.90.58 RCW, directs the state's planning for all shorelines by requiring the City to adopt permit regulations consistent with the SMA and its regulations. Two different statutes regulating two different activities and entities.</p> <p>Additionally, the City describes mitigation sequencing in the</p>

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		from the definitions section.	<p>districts (for aquatic lands managed under port management agreements) will mitigate unacceptable adverse impacts on a case-by-case basis by the following methods in order of preference:</p> <p>(a) Alternatives will be sought which avoid all adverse impacts.</p> <p>(b) When avoidance is not practical, alternatives shall be sought which cause insignificant adverse impacts.</p> <p>(c) Replace, preferably on-site, impacted resources and uses of statewide value. It must be demonstrated that these are capable of being replaced.</p> <p>(d) Payment for lost value, in lieu of replacement, may be accepted from the aquatic land user in limited cases where an authorized use reduces the economic value of offsite resources, for example, bacterial pollution of nearby shellfish beds.</p>	text of the SMP in Section 23.60.158 as required by WAC 173-26-201(2)(e)
3- Proposal Summary January 2011; Page 12	Waterfront Shoreline Property defined in the Shoreline Market Study	<p>The first bullet within this discussion suggests an allowance for 20% of a waterfront shoreline property to be used for identified uses. DNR Comment: Explicitly define ‘waterfront shoreline property.’ Explain if these properties would include ports and harbor areas. DNR Comment: What is the 20% figure based upon? Where was it derived?</p> <p>Under the second bullet under ‘additional proposed changes.’ Explicitly define ‘institutional uses overwater.’ Does this include pre-existing non-conforming uses?</p> <p>Under the third bullet under ‘additional proposed changes.’ The discussion states that ‘recreational use and industrial use of the water will be prevented.’ DNR comment: Provide an explanation of how this will be accomplished within the context of the goal of no net loss.</p>		<p>Waterfront shoreline property means a waterfront lot within the shoreline district. Waterfront lots are defined in the definitions section. See Section 23.60.944 included below:</p> <p>"Lot, waterfront" means a lot any portion of which is offshore or abuts upon the ordinary high water mark or mean high water mark and any other lot or parcel partially or entirely within the Shoreline District (which) that is not separated (as of March 17, 1977,) from the water by a street, arterial, highway, railroad right-of-way, or government-owned or controlled property (which) that prevents access to and use of the water. Vacation or relocation of a legal right-of-way after March 17, 1977, shall convert a lot (which) that was an upland lot because of the existence of such right-of-way into a waterfront lot.</p> <p>For purposes of determining the appropriate use and development standards applicable to developments in railroad or street rights-of-way, the railroad or street right-of-way shall be considered to be a waterfront lot unless separated from the water by another railroad or street right-of-way.</p> <p>And these are areas in the Urban Industrial and Urban Maritime shoreline environments.</p> <p>The 20% figure is based on allowing a small portion of the dry land portion of a property to provide uses that benefit water dependent and water-related uses as described in the Industrial Market Study.</p> <p>See Section 23.60.442; use table for the UH environment regarding the institutional uses allowed overwater. Regarding “recreational use and industrial use will be</p>

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				prevented” the full sentence states the following: Non-conforming uses will not be created from this proposal and future conflicts between recreational use and industrial use of the water will be prevented. This refers to potential conflict between these uses.
4 - General Comment	Harbor Areas	There does not appear to be a discussion within this plan on harbor areas within the City of Seattle’s jurisdiction. A detail of the nexus between this shoreline management plan and the harbor areas management plans needs to be included. Map these areas in an appendix.		Harbor areas are distinguished in shoreline environments, specifically, Urban Harborfront, Urban Industrial and Urban Maritime, which encourages “harbor uses” of these areas.
5 - General Comment	Bank Armoring	It is surprising to not find any reference to the extraordinary publication, <i>Green Shorelines- Bulkhead alternatives for a healthier Lake Washington</i> , within the City of Seattle’s shoreline management plan considering that the guide was co-published by the City of Seattle. WA DNR suggests that an in depth examination of the guide occurs and the information within the guide is carried over into the shoreline management plan for policy and regulation.		The <i>Green Shorelines- Bulkhead alternatives for a healthier Lake Washington</i> , is a non-regulatory approach to shoreline armoring. This publication is referred to Seattle’s shoreline restoration plan.
6 - General Comment	Concept of No Net Loss	It is unclear to the WA DNR how the City of Seattle is approaching and is going to achieve no net loss. It is unclear where there is any discussion of the goal of no net loss of ecological function other than within the Director’s Report & Proposal Summary. Somewhere within this plan, the City of Seattle needs a detailed discussion of its goals and objectives to meet no net loss of ecological function.		Seattle’s Comprehensive Plan describes the goals and policies of the SMP including NNL. And the regulations in Chapter 23.60 describe how NNL will be achieved. Specifically NNL is required as a condition for all action in Sections 23.60.152 and 158. Section 23.60.172 describes the impacts that should be considered when achieving NNL and NNL is defined in 23.60.928.
7 - General Comment	Aquatic Vegetation	The WA DNR is especially concerned with protective measures, foremost avoidance then minimization, to native submerged aquatic vegetation both in the marine and freshwater environments. It is unclear from the proposed plan if the City of Seattle intends to provide protections to native submerged aquatic vegetation. Details for WA DNR protections are highlighted within this comment summary		Native aquatic vegetation is protected and removal of this vegetation is required to follow mitigation sequencing which the 1 st step is avoidance. Additionally, subsection 23.60.190.B.1 was revised to clarify this requirement.

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		in the section on light transmitting features. Please review these protections which will be site specifically applied to all authorized uses of state-owned aquatic lands. WA DNR is available to assist the City of Seattle upon request.		
8General Comment	Natal River Concept	The Duwamish River is a 'natal river.' The concept being that juvenile salmonids out-migrate from this waterway. The WA DNR has been paying closer attention to protections in these natal rivers & their estuaries as well as the adjacent 5 mile perimeter of the river estuaries. Due to the extensive development, industry and degradation of this waterway it is difficult to ascertain the degree to which avoidance and minimization would actually be effective in achieving no net loss within this area, even with extensive restoration and clean-up however; it is important to recognize the ecological significance of this area and plan appropriately for the endangered and threatened species of the area.		This concept is covered in the WAC 173-26-221(2)(c)(iii and iv) and the City's SMP in subsection 23.60.160. Note: the WAC uses the term "critical saltwater" and "critical freshwater" habitat and the City uses the term "priority saltwater" and "priority freshwater" habitat.
General Comment	Sensitive Habitat	WA DNR is especially concerned with activities in aquatic habitats which will be authorized and regulated by the City of Seattle in the areas of Lake Washington, Alki Beach, West Point and Magnolia Bluffs. These areas have been identified by the WA DNR as habitat of significance for endangered and threatened species. WA DNR would like to collaborate with the City of Seattle to ensure optimal implementation of planning efforts for these areas of concern.		Fish and wildlife habitat areas are protected as critical areas in SMC 23.60.156, which incorporates by reference the definitions and regulations in the City's ECA regulations, Ch. 25.09, which focuses on areas identified by WDFW. In addition the vegetation regulations 23.60. 190 protect such vegetation. And Section 23.60.160 provides protection for priority saltwater and freshwater habitat.
General Comment	Boat Launches/Ramps	WA DNR would like to see boat launches and ramps addressed for policy and regulation within this shoreline management plan.	New or renovated ramps and launches must be an elevated design of sufficient height off the substrate within the nearshore area to minimize the obstruction of currents, alteration of sediment transport, and eliminate the accumulation of drift logs and debris under the ramps or be level with the beach slope within the nearshore area. In instances where the substrate is suitable for forage fish spawning, the structure must also span the spawning area.	Suggested language included in the proposed regulations.
General Comment	Zoning	It is unclear from this planning document how the City of Seattle is going to address zoning		See Sections 23.60.016 and 23.60.022

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		issues in conjunction with new shoreline designations. WA DNR suggests a discussion somewhere within the text of the document which details how this being incorporated into the planning efforts of the City.		
General Comment	Street Ends	WA DNR would like to discuss with the City of Seattle the specific requirements of how street ends are utilized in accordance with RCW 79.120.010 and the DNR's guidance to ensure public access		Discuss with DNR staff
General Comment	Floating Homes	It appears that there would be a removal of the floating homes in the northeast corner of Lake Union. Where is the basis for the removal or rezoning on state-owned aquatic lands?		No floating homes are required to be removed as a result of the proposed regulations.
General Comment	Exemptions	WA DNR has not been consistently receiving notifications for shoreline permit exemptions. This is becoming an ever increasing issue for the WA DNR as state-owned aquatic land lessees are going through the exemption process with the City and the permitting process with WDFW and the Corps, then approach the WA DNR with permits in hand and at no point was there a discussion with the land owner (WA DNR). WA DNR would like to collaborate with the City of Seattle on efficient ways to minimize these issues for city planners, project proponents and lessees of state-owned aquatic lands.		DPD will work with DNR staff to resolve this issue.
Chapter 4 Page 9 Line 16	C. Exemptions. exempt from obtaining a Shoreline Substantial Development Permit from the Director. b. Replacement of a structure or development	WA DNR objects to this exemption. The City of Seattle should evaluate the necessity of structures in their shorelines before agreeing and exempting an automatic replacement. If replacement of a structure "is the common method of repair for the type of structure or development," additional scrutiny should be given to the frequency of impacts associated with in or over water work. The City of Seattle should additionally require replacements to be designed with the highest environmental standards to ensure longevity of the development with the least		(1) An exemption from applying for a SSDP is not an exemption from complying with the SMP regulations. All the requirements of the SMP apply to exemptions; (2) Additionally, the exemptions are established by the State through the SMA and the WAC; the City cannot alter them.

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		environmental impact. Exemption for replacements would not assure this and therefore WA DNR finds objection.		
Chapter 4 Page 9 Line 23	C. Exemptions. exempt from obtaining a Shoreline Substantial Development Permit from the Director. 2. Construction of the “normal protective bulkhead” common to single-family residences.	WA DNR objects to this exemption. The City of Seattle should require project proponents to exhaust all soft armoring solutions (as detailed in the City of Seattle’s <i>Green Shorelines-Bulkhead alternatives for a healthier Lake Washington</i>), prior to any hard armoring on the shoreline. An exemption for this activity allows armored shorelines to remain armored and does not address the long term cumulative impacts of this activity. This should not be exempted rather it should be thoroughly scrutinized through a conditional use permit process.		See comments above. Additionally see the requirements of 23.60.188, which apply to exempt bulkheads.
Chapter 4 Page 10 Line 16	e. Beach nourishment, or non-structural or soft engineering is proposed	WA DNR objects to this exemption. The City of Seattle should not exempt this activity but should require a conditional use permit which is consistent with the WA Dept of Fish & Wildlife HPA permit, the U.S. Army Corps of Engineers Nationwide Permits 3, 13 & 27 (whichever is applicable) as well as a WA DNR use authorization, if the project extends onto state-owned aquatic lands. WA DNR is concerned with projects which are permitted as beach nourishment or restoration but actually act to fill or hard armor.		See comments above. Additionally, projects are required to meet the standards of Section 23.60.188 and the standards apply which do not include hard engineering. Fill can be used in soft engineering if it meets certain requirements.
Chapter 4 Page 12 Line 1	C. Exemptions. exempt from obtaining a Shoreline Substantial Development Permit from the Director. 5. Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of	WA DNR objects to this exemption. The City of Seattle should not exempt this activity but should require a conditional use permit which is consistent with the WA Dept of Fish & Wildlife HPA Permit, the U.S. Army Corps of Engineers Nationwide Permits 1, 9, 10(whichever is applicable) as well as the WA DNR Mooring Registration Program, if the mooring is placed onto state-owned aquatic lands.		See comments above

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	navigational aids, such as channel markers and anchor buoys;			
Chapter 4 Page 12-13 All of #7	C. Exemptions. exempt from obtaining a Shoreline Substantial Development Permit from the Director. Construction of a pier accessory to residential structures	WA DNR objects to this exemption. The City of Seattle should not exempt this activity but should require a conditional use permit which is consistent with not only the WA Dept of Fish & Wildlife HPA , the U.S. Army Corps of Engineers Regional General Permits 3 & 6(whichever is applicable) as well a WA DNR use authorization, if the project extends onto state-owned aquatic lands.		See comments above
Chapter 4 Page 15 All of #16	C. Exemptions. exempt from obtaining a Shoreline Substantial Development Permit from the Director. A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage	WA DNR objects to this exemption. The City of Seattle should not exempt this activity but should require a conditional use permit which is consistent & permitted by the WA Dept of Fish & Wildlife, the U.S. Army Corps of Engineers Nationwide Permits 4, 27 & 30(whichever is applicable) as well as a WA DNR use authorization, if the project extends onto state-owned aquatic lands.		See comment above
Chapter 4 23.60.027 Ecological restoration and mitigation program Page18-19	2. Determine the costs of actions that either provide mitigation or contribute to restoration of ecological functions. B. The Director may authorize payment for mitigation impacts into a dedicated fund to be used for ecological mitigation in the Shoreline District, in lieu of requiring physical mitigation.	WA DNR is often concerned with mitigation programs with financial options to project proponents. Although WA DNR recognizes that providing a financial option for mitigation can be one of the best ways to streamline restoration efforts by a local jurisdiction, it also has the potential for project proponents to buy their way out of the mitigation sequence of avoid, minimize then compensate. The City of Seattle must ensure that the project proponents are truly first avoiding then minimizing and lastly financially compensating for impacts and not allowing project proponents to skip directly to 'how much will it cost to get this project financially compensated for?' WA DNR would like the City of Seattle to address these concerns		Proposed regulations amended, all projects will start at the first step of mitigation sequencing – “avoid.” The purpose of this section, which has been revised, is to authorize payment, not to minimize initial steps of mitigation sequencing.

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	The Director may also authorize payment for habitat units required by this Chapter into a fund to be used for restoration of ecological functions.	within their restoration plan in the SMP.		
Chapter 4 Page 29-30	23.60.062 Procedures for determining consistency with the chapter and for obtaining exemptions from Shoreline Substantial Development Permit requirements and for determining consistency with the chapter.	WA DNR requests that the agency be included for concurrence to an exemption for any substantial development permit if the project is proposed on state-owned aquatic lands.	2. If the development, shoreline modification or use requires a Section 10 Permit under the Federal Rivers and Harbors Act of 1899, a use authorization from the WA DNR , a Section 404 permit under the Federal Water Pollution Control Act of 1972, or a Hydraulic Project Approval permit under the State Hydraulic Code of 1943 a Letter of Exemption as specified in WAC 173-27-050 and the determination of consistency shall be sent to Ecology	Section revised as follows to address comment. 2. If the development, shoreline modification or use requires a Section 10 Permit under the Federal Rivers and Harbors Act of 1899, a use authorization from the WA DNR , a Section 404 permit under the Federal Water Pollution Control Act of 1972, or a Hydraulic Project Approval permit under the State Hydraulic Code of 1943, <u>or is located on state-owned aquatic lands</u> , a Letter of Exemption as specified in WAC 173-27-050 and the determination of consistency shall be sent to Ecology <u>and also to WA DNR for projects on state-owned land</u> .
Chapter 4 Page 54 Lines 14-16	23.60.122 Nonconforming uses 1. Reconfiguration of a nonconforming moorage under sub set d. if the moorage includes covered moorage:	An additional requirement should be added in a bullet to include allowance for light transmission through existing covered moorage. New covered moorage and boat houses are not be allowed on state-owned aquatic land. Where WA DNR determines that existing covered moorage, covered watercraft lifts and boathouses are impacting or occur within important habitats for covered species and their prey, the structures must either be removed by the end of the life of the structure or moved out of the nearshore and littoral areas. In areas not identified as predicted habitat for covered species or their prey, the structures must be replaced or renovated with structures that maximize light transmission within a period defined in the authorizing agreement. Where covered moorage and covered watercraft lifts are allowed to continue, the replacement structures must be 100 percent translucent or transparent roofing	3) Covered moorage roofing materials must be 100 percent translucent or transparent materials that are rated by the manufacturer as having 90 percent or better light transmittance.	Covered moorage requirement is provided in 23.60.152.L and was revised but continues to use the term “feasible because standards change and depend on whether it is an existing structure.

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		materials that are rated by the manufacturer as having 90 percent or better light transmittance. No side walls or barrier curtains are allowed.		
Chapter 4 Page 61 Line 9	with beneficial natural shoreline processes such as	Include biological and ecological function	B. All shoreline development, shoreline modifications and uses shall be located, designed, constructed and managed first to avoid and second to minimize adverse impacts or interference with beneficial natural shoreline processes such as biological and ecological , water circulation, littoral drift, sand movement, erosion and accretion.	Biological and ecological functions are natural shoreline processes; therefore, adding the requested language is redundant and confusing.
Chapter 4 Page 63 Line 22	J. Durable, non-toxic components are the preferred materials for in-water and over-water structures. Wooden components that will be in contact with standing water or floodwaters shall not contain polycyclic aromatic hydrocarbons, pentachlorophenol, creosote, chromate copper arsenate (CCA), arsenic, or comparably toxic substances. If treated wood is necessary, it shall be applied and used in accordance with the American Wood Preserver Association (AWPA) standards for aquatic use.	WA DNR suggests that the City of Seattle write this regulation with more detail. Under what circumstances would treated wood be deemed necessary? The current language leaves it open to project proponents, everyone will say that the treated wood is necessary for all projects. The City of Seattle must define when treated wood is necessary and when it is not. Additionally, “durable, non-toxic components are the preferred materials for in-water and over-water structures,” is not a regulation. The word ‘preferred’ implies that there is a choice. Replace the words “are the preferred” with “shall be used for in-water....”	The following language is the standard for use authorizations on state-owned aquatic lands. No creosote, chromate copper arsenate, or pentachlorophenol treated wood, or other comparably toxic compounds may be used as part of the decking, pilings, or other components of any in-water structures such as docks, wharves, piers, marinas, rafts, floats, shipyards and terminals. Treated wood may only be used for above water structural framing and may not be used as decking, pilings or for any other uses. During maintenance, existing treated wood must be replaced with alternative materials such as untreated wood, steel, concrete, or recycled plastic, or encased in a manner that prevents metals, hydrocarbons and other toxins from leaching out.	Section revised as follows to address comment. <u>J. Durable, non-toxic components are the first priority for in-water and over-water structures and shall be used unless it is infeasible, cost consideration can be used when determining feasibility. Material treated with toxic substances shall be the least toxic according to industry standards and wooden components that will be in contact with standing water or floodwaters shall not contain polycyclic aromatic hydrocarbons, pentachlorophenol, creosote, chromate copper arsenate (CCA), or comparably toxic substances. If treated wood is necessary, it shall be applied and used in accordance with the American Wood Preserver Association (AWPA) standards for aquatic use.</u>
Chapter 4 Page 64		Tires and unencapsulated floatation are well documented as sources of degradation in aquatic environments. Upon request, WA DNR staff will provide the City of Seattle literature summaries on these topics. Additional regulations should be included in or near this page to include for specifications on the prohibition of the use of tires and	The following language is the standard for use authorizations on state-owned aquatic lands. Tires are prohibited as part of above and below water structures or where tires could potentially come in contact with the water (e.g., floatation, fenders, hinges). Existing tires used for floatation must be replaced with inert or encapsulated materials such as plastic or encased foam, during maintenance or repair of the structure.	Proposed regulations edited as suggested.

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		unencapsulated floatation.	All foam material whether used for floatation or for any other purpose must be encapsulated within a shell that prevents breakup or loss of the foam material into the water and is not readily subject to damage by ultraviolet radiation or abrasion. During maintenance, existing un-encapsulated foam material must be removed or replaced.	
Chapter 4 Page 64 Line 14	L. Light transmitting features are required to be installed for all replaced covered moorage, piers and floats, over-water boat repair facilities and similar structures to the maximum extent feasible.	<p>'Light transmitting features' is not clearly defined in this regulation and should be. Based on the goals and objectives of the City of Seattle, the regulation should ensure that light is available for migrating salmonids and aquatic vegetation in both fresh and marine environments.</p> <p>The U.S. Army Corps of Engineers programmatically permits all of the listed activities detailed within this regulation. Suggested review includes Regional General Permit 3 & 6.</p>	<p>The following language is the standard for use authorizations on state-owned aquatic lands.</p> <p>Covered moorage roofing materials must be 100 percent translucent or transparent materials that are rated by the manufacturer as having 90 percent or better light transmittance.</p> <p>Enclosed structures, such as boat houses and covered moorage, must be removed where they impact important habitats for ESA species.</p> <p>Artificial night lighting must be minimized by focusing the light on the dock surface, and using shades that minimize illumination of the surrounding environment.</p> <p>All new activities and structures must avoid existing, native aquatic vegetation attached to or rooted in the substrate.</p> <p>New and expanded docks, wharves, piers, marinas, rafts, floats, shipyards and terminals must be at least a specified buffer distance from existing native aquatic vegetation attached to or rooted in substrate. The buffer distance for structures docks, piers, wharves, rafts and floats not associated with motorized watercraft is either 8 meters (25 feet) from the edge of the structure or the maximum distance shade will be cast by the structure, whichever is larger. To avoid prop dredging and prop scour associated with motorized watercraft. For docks, piers, wharves, rafts and floats associated with motorized watercraft, the horizontal buffer distance for structures associated with watercraft is 8 meters (25 feet) from the outside of the vessel whenever there is a vertical buffer of 2 meters (7 feet) of water above the vegetative canopy at the lowest low water within the diameter of the turning circle. When the vertical buffer is less than 2 meters (7 feet) within the diameter of the turning circle, the horizontal buffer distance will be either 8 meters (25 feet) from the outside of the vessel, the maximum distance shade will be cast by the structure, or the diameter of the turning circle, whichever is greater. For this measure the turning circle is defined as 3.5 times the length of the longest vessel to use the structure.</p>	<p>Defined "light transmitting features"</p> <p>Included suggested language regarding artificial night lighting. See subsection 23.60.152.O</p> <p>DPD cannot require the removal of structures. DPD is a regulator not a property owner.</p> <p>Regarding native aquatic vegetation see Sectoins 23.60.156, 158, 160 and 190</p> <p>Regarding piers see Sections 23.60.187 and 200.</p> <p>Specific standards provided for piers and wharves cannot be applied to every situation in the City. The use of the structure needs to be taken into consideration when reviewing a permit application. WA DNR has different authority as a land owner then DPD has as a regulator and one of the goals of the SMA is to provide for water-dependent use of the shoreline environment. NNL of ecological function is required for new and expanded docks, wharves, piers, marinas, rafts, floats, shipyards and terminals; therefore, the impacts are required to be avoided, minimized and then compensated for.</p>

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			<p>Existing docks, piers, rafts and floats that are not located at the appropriate buffer distance from existing native aquatic vegetation attached to or rooted in substrate must be moved, or renovated so that they allow at least 30 percent of ambient light to reach the vegetative canopy. The value of 30 percent was chosen because it is the minimum light value required by vegetation protected by WA DNR. Timeframes for relocation and renovation will be based on the expected lifespan of the materials used in the structure. Ambient light is measured as the amount of light between the wavelengths of 400 to 700 nanometers, the photosynthetically active range.</p> <p>The portions of piers, elevated docks, and gangways that are over the nearshore/littoral area must have unobstructed grating over at least 50 percent of the surface area. Floating docks 1.5 meters (5 feet) or greater in width, must have unobstructed grating over at least 50 percent of the surface. Floating docks less than 1.5 meters (5 feet) in width must have unobstructed grating over at least 30 percent of the surface. All grating material must have at least 60 percent functional open space. Grating requirements can also be met if the combination of grated surface area and grating open space are equal to or better than the above standards.</p> <p>Gangways must incorporate 100 percent grating with 60 percent functional open space.</p> <p>Private recreational docks must meet or exceed the minimum standards established by the appropriate regulatory authorities for residential overwater structures.</p> <p>Skirting is prohibited. When existing structures undergo maintenance or repair the replaced portions must meet these standards.</p>	
Chapter 4 Page 67 Lines 4-5	R. Navigation channels shall be kept free of hazardous or obstructing development or uses.	Map these areas		Navigation channels are located in the Conservancy Navigation shoreline environment and these areas are mapped.
Chapter 4 Page 69	23.60.156 Standards for environmentally critical areas in the Shoreline District	Map identified environmentally critical areas		ECAs are mapped, but they are also delineated (defined). Because there may be areas that have not been identified and therefore are not mapped.
Chapter 4 Page 87	23.60.166 Standards for developments in	WA DNR requests the City of Seattle have project proponents contact WA DNR first	Any proposed activity occurring within public rights of way located on state-owned aquatic lands must be authorized by the WA DNR	New standard added to Section 23.60.172 that states

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	public rights-of-way	prior to submitting permits to ensure that the state-owned aquatic land is available for leasing.	prior to obtaining City of Seattle shoreline permits. For further information for authorization on state-owned aquatic land see: Aquatic Land Leasing and Other Uses	<u>B. Any proposed shoreline modification located on state-owned aquatic lands must be authorized by the WA DNR prior to obtaining authorization from the Director.</u>
Chapter 4 Page 92 Page 93 Line 12-16	23.60.174 Standards for artificial reefs E.	WA DNR requests the City of Seattle have project proponents contact WA DNR first prior to submitting permits to ensure that the state-owned aquatic land is available for leasing.	Any proposed artificial reef project located on state-owned aquatic lands must be authorized by the WA DNR prior to obtaining City of Seattle shoreline permits. For further information for authorization on state-owned aquatic land see: Aquatic Land Leasing and Other Uses WA DNR follows specific guidance on requests for artificial reefs and underwater dive parks. If these projects are sited on state-owned aquatic lands, it will be imperative that the project proponent contact DNR prior to initiating the permitting process to ensure that the project would be allowed on state-owned aquatic lands.	See above regarding new standard in subsection 23.60.172.B
Chapter 4 Page 94 Line 12	B. The applicant is required to demonstrate that:	The City of Seattle should be aware of the standards for these activities on state-owned aquatic lands which may be inconsistent with shoreline permit regulation proposed.	The following language is the standard for use authorizations on state-owned aquatic lands. New fixed breakwaters will not be authorized on state-owned aquatic lands. If breakwaters are critical to safety or protection of a facility, floating breakwaters or wave boards may be authorized, if placed in a manner that does not block the predominant longshore current or fish passage. Existing solid breakwaters must be retrofitted over time to incorporate gaps either through or under the structure that allow for longshore transport of sediments, fish passage and water circulation.	Regulations included are required by the WAC 173-26-231(3)(d) and are allowed if necessary for the “safe operation of a water dependent use” and are required to mitigate impacts including longshore current and fish passage. If a breakwater is on state owned aquatic lands the applicant is required to coordinate permitting therefore, DNR will be involved in the permit review process. Additionally, see above regarding new standard in subsection 23.60.172.B
Chapter 4 Page 95	23.60.182 Standards for dredging	The City of Seattle should be aware of the standards for these activities on state-owned aquatic lands which may be inconsistent with shoreline permit regulation proposed.	The following language is the standard for use authorizations on state-owned aquatic lands. Dredging, including sand and gravel mining, is not allowed on state-owned aquatic lands except where required for navigation for trade and commerce, flood control, or maintenance of water intakes. For clarification purposes, WA DNR will not allow dredging for sediment maintenance of private recreational docks and piers if on state-owned aquatic lands.	See above regarding new standard in subsection 23.60.172.B
Chapter 4 Page 98 Line 7	J. Open-water disposal of dredged material is allowed at designated disposal sites.	A use authorization is required by the WA DNR for disposal of dredged materials onto state-owned aquatic lands.		See above regarding new standard in subsection 23.60.172.B
Chapter 4 Page 99	23.60.184 Standards for fill.	The City of Seattle should be aware of the standards for these activities on state-owned	The following language is the standard for use authorizations on state-owned aquatic lands.	See above regarding new standard in subsection 23.60.172.B

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		aquatic lands which may be inconsistent with shoreline permit regulation proposed.	New fill, or additional placement of fill, will not be allowed on state-owned aquatic lands except when authorized for remediation of contaminated sediments, habitat creation or restoration projects. Washed gravel or shell may be applied as a substrate amendment for authorized shellfish aquaculture activities on a site by site basis where the authorizing agreement defines the bathymetric, seasonal and quantitative limits of the application. Gravel or shell may not be placed on forage fish spawning habitat or native aquatic vegetation.	
Chapter 4 Page 104	23.60.187 Standards for piers and floats and overwater structures	Refer to WA DNR comments on light penetrating features on comment page 4.		See above responses.
Chapter 4 Page 109	c) To a point where the depth of the water at the end of the pier reaches 8 feet below OHW in freshwater or below mean lower low water in tidal waters. 2) No pier shall extend waterward more than 100 feet from OHW mark, except where the water depth is less than 6 feet below OHW 100 feet from shore, the maximum pier length shall be to a point where the water depth at the end of the pier is 6 feet below OHW.	The City of Seattle should be aware of the standards for these activities on state-owned aquatic lands which may be inconsistent with shoreline permit regulation proposed. WA DNR acknowledges the City of Seattle's standards for piers and floats addresses by horizontal and vertical siting criteria. WA DNR's standard only addresses vertical siting criteria. Both would address impacts from scour. City of Seattle appears to be ensuring that overwater structures will not be longer than needed.	The following language is the standard for use authorizations on state-owned aquatic lands. Floating or suspended watercraft lifts must be located greater than 2.7 meters (9 feet) waterward from ordinary high water. For covered watercraft lifts, the lowest edge of the canopy must be at least 2.5 meters (8 feet) above the ordinary high water elevation with the canopy oriented in a north-south direction to the maximum extent practicable. While joint use watercraft lifts are encouraged, Only one canopy will be authorized for each lift. To prevent prop scour, boat mooring areas for new docks, marinas, shipyards and terminals, mooring buoys, rafts and floats must be located where the water will be deeper than 2 meters (7 feet) at the lowest low water, or where it can be shown that prop scour will not adversely impact aquatic vegetation or increase suspended sediment loads.	See above regarding new standard in subsection 23.60.172.B
Chapter 4 Page 110	9. The bottom of all structures over water except floats or floating piers shall be at least 1.5 feet above ordinary height water	This standard is consistent with WA DNR.	New overwater structures must be located in water sufficiently deep to prevent the structure from grounding at the lowest low water, or stoppers must be installed to prevent grounding, keeping the bottom of the structure at least 1.5 feet (0.5 meters) above the level of the substrate.	See above regarding new standard in subsection 23.60.172.B
Chapter 4 Page 110	12. Piers and floats shall be fully grated	This is confusing. Within the 'City of Seattle Proposal Summary' (January 2011) it states	The portions of piers, elevated docks, and gangways that are over the nearshore/littoral area must have unobstructed grating over at least 50	Minimum standard is not included because if engineered decking is developed that is greater than the stated standard

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	with the maximum light permeability feasible.	<p>on Page 16 that pier grating will be required to have at least 60 % light permeability but that is not what is within the actual text of the Draft SMP. The Draft SMP text should reflect what is in the proposal summary.</p> <p>This standard, as written, is incredibly weak and inadequate. An open space standard for functional grating must be set in order to achieve the goal of light permeability. This standard leaves it up to the project proponent and contractors to detail to the City of Seattle what is feasible. The City of Seattle should consult with state and federal agencies to determine what appropriate standards are based on the best available science.</p>	<p>percent of the surface area. Floating docks 1.5 meters (5 feet) or greater in width, must have unobstructed grating over at least 50 percent of the surface. Floating docks less than 1.5 meters (5 feet) in width must have unobstructed grating over at least 30 percent of the surface. All grating material must have at least 60 percent functional open space. Grating requirements can also be met if the combination of grated surface area and grating open space are equal to or better than the above standards.</p> <p>Gangways must incorporate 100 percent grating with 60 percent functional open space.</p>	<p>the code would need to be updated. Feasible encompasses existing and future products. For commercial and industrial piers the requirement for grating is dependent on the use of the site.</p>
Chapter 4 Page 110	13. Wood treated with pentachlorophenol, creosote, chromate copper arsenate (CCA), arsenic, or comparably toxic compounds is prohibited for decking or piling.	<p>This standard is consistent with WA DNR.</p> <p>Would the City of Seattle allow treated wood pilings to be encased or wrapped in a manner which prevents metals, hydrocarbons and other toxins from leaching out? This should be addressed here.</p>	<p>No creosote, chromate copper arsenate, or pentachlorophenol treated wood, or other comparably toxic compounds may be used as part of the decking, pilings, or other components of any in-water structures such as docks, wharves, piers, marinas, rafts, floats, shipyards and terminals. Treated wood may only be used for above water structural framing and may not be used as decking, pilings or for any other uses. During maintenance, existing treated wood must be replaced with alternative materials such as untreated wood, steel, concrete, or recycled plastic, or encased in a manner that prevents metals, hydrocarbons and other toxins from leaching out.</p>	<p>Code revised to include “sleeving” of piles. See 23.60.152.K</p>
Chapter 4 Page 112	23.60.188 Standards for shoreline stabilization	<p>The City of Seattle should be aware of the standards for these activities on state-owned aquatic lands which may be inconsistent with shoreline permit regulation proposed.</p>	<p>The following language is the standard for use authorizations on state-owned aquatic lands.</p> <p>New bulkheading or hard bank armoring is not allowed on state-owned aquatic land except under extraordinary circumstances such as the protection of bridges, roads, and other infrastructure; or in instances of sanctioned habitat creation or restoration. New structures proposed in nearshore and littoral areas must be designed and located in a manner that eliminates the need for bank armoring. Existing bank armoring on state-owned lands must be replaced with softer (less intrusive) shoreline protection systems. Bulkheads which cannot be replaced with softer shoreline armoring systems due to design or infrastructure protection issues may be considered for replacement, provided that the bulkhead occupies the same footprint, or smaller, than the existing one.</p>	<p>See above regarding new standard in subsection 23.60.172.B</p>
Chapter 4	23.60.194 Standards	<p>Include map of the current activities permitted</p>		<p>Comment is not clear is the request for a map of existing</p>

Text Location	Text	WA DNR comment	WA DNR objective on state-owned aquatic lands	DPD comments
Page 127	for aquaculture	activities in an appendix.		aquaculture facilities?
Chapter 4 Page 127	C. Aquaculture facilities shall not cultivate nonnative species.	The species allowed by the Seattle of City should be detailed.		Included a definition of non-native aquatic species to address comment.
Chapter 4 Page 128	23.60.199 Standards for intakes and outfalls	The City of Seattle should be aware of the standards for these activities on state-owned aquatic lands which may be inconsistent with shoreline permit regulation proposed.	The following language is the standard for use authorizations on state-owned aquatic lands. New and reconfigured outfalls must be located to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. The diffuser or discharge point(s) for new or expanded outfalls must be located offshore and at a buffer distance beyond the nearshore/littoral area, to avoid impacts to those areas. This buffer distance shall be calculated as the extent of the mixing zone (including both the acute and chronic mixing zones) as defined in the current National Pollutant Discharge Elimination System (NPDES) permit for the leasehold. Leaseholds without a current NPDES permit must requisition a mixing zone analysis for the outfall from a qualified party and the analysis must follow protocols approved by Washington DNR science staff. The outfall pipe must be subsurface within the nearshore.	See above regarding new standard in subsection 23.60.172.B
Chapter 4 Page 129	23.60.200 Standards for marinas, commercial and recreational	The City of Seattle should be aware of the standards for these activities on state-owned aquatic lands which may be inconsistent with shoreline permit regulation proposed. Siting and standard design criteria will also apply for projects on state-owned aquatic lands. Transient moorage from Section 23.60.926 should be included within this section so it is clear as to what the City of Seattle will be regulating. The way this is written has the reader flipping to the definitions section looking for the definition.	New complex facilities or expansions of complex facilities must be located in areas that have a flushing rate of at least 30 percent per 24 hours. In areas where flushing rates have not been documented, the proponent will be required to perform studies to document the rate. Maximize water flow within complex facilities (marinas, shipyards and terminals), to reduce effects on water quality. Measures to achieve this include but are not limited to: <ul style="list-style-type: none"> • Locating facility openings in a manner that promotes flushing (e.g., at opposite ends), to prevent water stagnation and to prevent or reduce the need for dredging. • Orienting docks with currents or prevailing winds to prevent trapping surface debris and oily residue. • Maintain dredged basins in a manner that prevents internal deeper pockets that can act as unflushed holding basins. Generally, depth should increase with distance from shore. Work on overwater structures and associated vessels that could introduce toxins into the water is prohibited, unless protective measures are enacted to prevent discharge to the water. Specific conservation measures are as follows:	Suggested standards for new and expansion of existing marinas added. See subsections 23.60.200.B.7 and C and D. BMPs for marinas has been revised to require applicants to follow Ecology's requirements. See subsection 23.60.200.B.2 included below. <u>Marinas shall be operated and managed in a manner to preserve water quality, pursuant to Chapter 22.stormwater code, and to protect the public health. The Director shall adopt a rule establishing model BMPs as a minimum standard based on Department of Ecology's Resource Manual For Pollution Prevention in Marinas May 1998, Revised 2009 Publication #9811.</u> Unfortunately all definitions cannot be included in the regulations and therefore referring to the definition section is required to fully interpret the code.

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			<ul style="list-style-type: none"> • In-water repair and refinishing of boats is limited to decks and superstructures. • In-water hull scraping, or any process that removes paint from the boat hull underwater, is prohibited. • Refinishing work conducted from boats and temporary floats is prohibited, unless permitted by an industrial National Pollution Discharge Elimination System (NPDES) permit. • Dust, drip, and spill control measures, such as tarps placed to contain spills, are mandatory to ensure there is no discharge to waterways. <p>Marinas, shipyards and terminals must incorporate and post best management practices to prevent the release of chemical contaminants, wastewater, garbage and other pollutants, as specified in Resource Manual for Pollution Prevention in Marinas (Washington Department of Ecology 1998). As those guidelines are updated or new regulatory standards are established by the Washington Department of Ecology or any future agency charged with water quality regulation, the most current guidance or standard will apply.</p> <p>Docks and marinas with moorage for more than 10 boats must have a written plan that identifies sewage management options for vessels that have holding tanks or portable toilets and available upland restroom facilities. At least one pumpout station and one dump station must be available for every 300 boats over 16 feet in length. Onshore sewage treatment must have a capacity of at least 300 gallons for every 20 boats that have a holding tank or portable toilet, or at least 2,000 gallons for more than 100 boats with a holding tank or portable toilet. These standards are based on current guidelines from the Washington Department of Ecology (1998); as those guidelines are updated or new regulatory standards are established by the Washington Department of Ecology or any future agency charged with water quality regulation, the most current guidance or standard will apply.</p>	
Chapter 4 Page 133 Lines 23-27	In Lake Washington and the Puget Sound overwater projections, boat lifts, and areas used for vessel moorage shall be located a minimum distance of 30 feet waterward	<p>This is a higher depth standard that required by WA DNR. WA DNR would defer to the City of Seattle's standard.</p> <p>WA DNR would like to inquire where these standards came from. What was the rationale or best available science which framed this regulation? If this is based on science, it would be appropriate to cite where it came</p>		These standards come from Army Corps Regional General Permit and were developed with the expertise of Kurt Fresh and Roger Tabor.

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	from the OHW mark or in a minimum water depth of 8 feet, whichever is less. In Lake Union and Portage Bay overwater projections, boat lifts, and areas used for vessel moorage shall be located a minimum distance of 15 feet waterward from the OHW mark or in a minimum water depth of 8 feet, whichever is less.	from?		
Chapter 4 Page 137	23.60.202 Standards for floating homes and floating home moorages	<p>The City of Seattle should be aware of the standards for these activities on state-owned aquatic lands which may be inconsistent with shoreline permit regulation proposed.</p> <p>Floating homes, floating home moorage and floating home sites from Section 23.60.912 should be included within this section so it is clear as to what the City of Seattle will be regulating. The way this is written has the reader flipping to the definitions section looking for the definition.</p>	Washington DNR will not authorize new, expanded, or additional nonwater-dependent uses or water-oriented uses except in the exceptional circumstances defined under WAC 332-30-137 and when compatible with water-dependent uses existing in or planned for the area. Existing nonwater-dependent and water-oriented uses may be re-authorized, maintained, and improved, as long as the footprint is not expanded. Nonwater-dependent uses are defined as a use that can operate in a location other than on the waterfront. See RCW 79.105.060(11) and WAC 332-30-106(43). Examples include, but are not limited to, hotels, condominiums, apartments, restaurants, retail stores, and warehouses not part of a marine terminal or transfer facility. Water-oriented uses are uses that were historically dependent on a waterfront location, but can be located away from the waterfront. Examples include, but are not limited to, wood products manufacturing, watercraft sales, and house boats. See RCW 79.105.060(25) and WAC 332-30-106(77).	<p>Floating homes on DNR like any other use on DNR land are required to follow DNR's regulations. The City's regulations to not contradict this fact. However, the City's regulations do not need to replicate DNR's regulations and an applicant is required to receive DNR's approval for projects proposed on DNR's land.</p> <p>Regarding definitions, unfortunately all definitions cannot be included in the regulations and therefore referring to the definition section is required to fully interpret the code.</p>
General Comment	Floating Homes	WA DNR would like to discuss with the City of Seattle how regulations for floating homes may have implications on state-owned aquatic lands to ensure there is no conflict in management approaches.		See comment above regarding floating homes and floating home moorages.

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Chapter 4 Page 152	23.60.204 Standards for house barges	<p>The City of Seattle should be aware of the standards for these activities on state-owned aquatic lands which may be inconsistent with shoreline permit regulation proposed.</p> <p>House barges from Section 23.60.916 should be included within this section so it is clear as to what the City of Seattle will be regulating. The way this is written has the reader flipping to the definitions section looking for the definition.</p>	<p>WA DNR views floating homes and house barges as the same activity.</p> <p>Washington DNR will not authorize new, expanded, or additional nonwater-dependent uses or water-oriented uses except in the exceptional circumstances defined under WAC 332-30-137 and when compatible with water-dependent uses existing in or planned for the area. Existing nonwater-dependent and water-oriented uses may be re-authorized, maintained, and improved, as long as the footprint is not expanded. Nonwater-dependent uses are defined as a use that can operate in a location other than on the waterfront. See RCW 79.105.060(11) and WAC 332-30-106(43). Examples include, but are not limited to, hotels, condominiums, apartments, restaurants, retail stores, and warehouses not part of a marine terminal or transfer facility. Water-oriented uses are uses that were historically dependent on a waterfront location, but can be located away from the waterfront. Examples include, but are not limited to, wood products manufacturing, watercraft sales, and house boats. See RCW 79.105.060(25) and WAC 332-30-106(77).</p>	See above comment regarding floating homes and floating home moorages.
Chapter 4 Page 167	Subchapter IV Shoreline Environments	<p>The purpose of this section is to define what activities will be allowed in each designation. We suggest taking this entire section and creating a matrix or a table so the reader can clearly see what activities are and are not allowed in each designation. The average public person will not be able to understand the allowed uses in the current format.</p>		The general definition of shoreline environments and their functions in subchapter IV is required by the WAC and is needed for rezones, etc. The table suggested is at the beginning of each environment in the following subchapters.