

8/15/25

| WAC Section                        | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | From                                                      |
|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| 173-26-020                         | We noticed the definition for adaptive capacity added to the definitions is not the same definition of adaptive capacity used in the Department of Commerce Climate Element Intermediate Guidance or draft rules. We would recommend, as much as possible, for statewide definitions to be consistent across materials and recommend coordination with Commerce and other departments also working on HB1181-related rulemaking and technical support documents.                                                                                                                                                                                                                                                                                                                                                                                                                   | Clark County Community Planning and Community Development |
| 173-26-020                         | We noticed the definitions for environmental justice and vulnerable populations has slightly different wording that in HB1181 and the draft rules for the GMA related to HB1181. Recommend all state agencies doing HB1181 rulemaking collaborate and align on definitions as much as possible.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Clark County Community Planning and Community Development |
| 173-26-191(2)(b);<br>173-26-226(1) | The new language requiring critical areas be within the master program rather than through incorporation by reference will result in a substantial amount of work needed by our jurisdiction (and likely others) who currently use the incorporation by reference approach for critical areas ordinances. If this moves forward, it would only seem fair if a substantial amount of funding is made available for local jurisdictions to completely revamp this significant portion of their SMPs. For our jurisdiction this would lead to needed changes not only in the SMP regulations but also the county's critical areas ordinances, to split them apart and remove cross-referencing. It also means, all local jurisdictions will need to manage two sets of critical areas codes, which in some ways could simplify things, but in other ways could create duplicate work. | Clark County Community Planning and Community Development |
| 173-26-226(2)(d)(ii)               | Regarding degraded shoreline buffers language: From a local jurisdiction perspective, this is legally problematic to implement, particularly without clear objective standards to determine how much to enhance or expand.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Clark County Community Planning and Community Development |
| 173-26-226(2)(e)(ii)(D)            | If this is going to be based on Site Potential Tree Height (SPTH), the SMA needs to be extended to the SPTH when its greater than 200 ft. If local jurisdictions have adopted a riparian habitat designation (RMZ) based on SPTH, that should be the basis of any expansion the SMA if supported by the local WDFW regional habitat program. As an example, Clark County has aggregated SPTH by "site class" as defined in WAC 222 and has established RMZs at 205' for Site Class III and 235' for Site Class II soils.                                                                                                                                                                                                                                                                                                                                                           | Clark County Community Planning and Community Development |

Shoreline Management Act Rulemaking Feedback

8/15/25

|                              |                                                                                                                                                                                                                                                                                                                       |                                                           |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| 173-26-226(3)(g)(iv) and (v) | Is this intended to be an outright prohibition overriding permit pathways otherwise provided for in Critical Areas regulations?                                                                                                                                                                                       | Clark County Community Planning and Community Development |
| 173-26-226(3)(q)(i) and (ii) | This is potentially creating new inconsistencies with Critical Areas regulations and Shoreline. Also, prohibitions are not "bulk" or "dimensional" standards and are not eligible for a variance, which leaves no administrative remedy for constitutional takings.                                                   | Clark County Community Planning and Community Development |
| 173-26-226(3)(r)(iv)         | Same comment as on retaining walls, same applies: This is potentially creating new inconsistencies with Critical Areas regulations and Shoreline. Also, prohibitions are not "bulk" or "dimensional" standards and are not eligible for a variance, which leaves no administrative remedy for constitutional takings. | Clark County Community Planning and Community Development |
| 173-26-226(3)(r)(vii)        | Is management of non-noxious invasive vegetation necessarily Shoreline development? What about use of hand operated tools to clear english ivy and himalayan blackberry? Also application of herbicides?                                                                                                              | Clark County Community Planning and Community Development |
| 173-27-030                   | Normal appurtenance definition: What about garages? Please address specifics related to attached, detached, and any size limitations.                                                                                                                                                                                 | Clark County Community Planning and Community Development |

Shoreline Management Act Rulemaking Feedback

8/15/25

|                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                           |
|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| 173-27-030                                    | Significant vegetation removal: same comment regarding when clearing is not shoreline development -- is management of non-noxious invasive vegetation necessarily Shoreline development? What about use of hand operated tools to clear english ivy and himalayan blackberry? Also application of herbicides?                                                                                                                                                                                        | Clark County Community Planning and Community Development |
| 173-27-035(4)                                 | Does this and related changes mean that such developments do not require a Statement of Exemption?                                                                                                                                                                                                                                                                                                                                                                                                   | Clark County Community Planning and Community Development |
| 173-27-040(2)(f)(iv)                          | Regarding the use of "garage" in this section. We have the same comment as on "normal appurtenance" definition, please address garages-attached, detached, and any size limitations to garages.                                                                                                                                                                                                                                                                                                      | Clark County Community Planning and Community Development |
| Formerly 173-24-040(2)(p). On PDF pages 22-23 | Loss of this exemption will require restoration projects supported by our WDFW regional habitat program to obtain an shoreline substantial development permit where the local government review may not substantively alter the project. Under the exemption we have been able to adequately assure compliance with the applicable Critical Area standards. In-water work still trigger's SEPA which ensures adequate notification to the public and agencies that my have overlapping jurisdiction. | Clark County Community Planning and Community Development |
| 173-27-100(2)(d)                              | Does this completely prohibit changes to vegetation and critical areas impacts or just ensure that any such revisions meet all of the SMP mitigation requirements?                                                                                                                                                                                                                                                                                                                                   | Clark County Community Planning and Community Development |

Shoreline Management Act Rulemaking Feedback

8/15/25

|                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                       |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| 173-27-170(2)(d) | Re: no net loss of shoreline ecological function: This criteria is problematic for residential properties that cannot avoid critical area or vegetation impacts and do not have adequate opportunity to provide compensatory mitigation on site to meet no net loss. There may also be cases where the mitigation cost becomes a rough proportionality concern or violates reasonable investment backed expectations (e.g. for mitigation bank credit purchase). This becomes particularly challenging when coupled with the concept that degraded buffers need to be expanded or enhanced. | Clark County<br>Community<br>Planning and<br>Community<br>Development |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|