



August 15, 2025

Rebecca Rothwell  
Rulemaking Lead  
Department of Ecology

RE: Preliminary Draft Rulemaking, Shoreline Management Act  
Delivered electronically via web portal

Dear Rebecca,

Thank you for the opportunity to provide comments on the preliminary draft rulemaking to amend Chapters 173-18, 173-20, 173-22, 173-26, and 173-27 WAC implementing the Shoreline Management Act (SMA). The WPPA and many of our members attended the Department of Ecology's informational listening sessions to hear some of Ecology's initial proposals on this rulemaking. We appreciate the insight provided and the time your team took recently to meet with us to discuss it further.

The Washington Public Ports Association (WPPA) is a coordinating agency that represents Washington's 75 port districts across the state. Ports play a critical role in Washington's economy, supporting water-dependent trade, transportation, recreation, and industrial activity while prioritizing environmental stewardship. We carry out our mission through advocating, educating, and connecting to serve our port members.

WPPA places a priority on practices that can benefit the environment and be implemented in ways that minimize negative impacts on our state's global trade competitiveness, basic port competitiveness, and local economic and environmental development opportunities in our port communities. As such, we have a strong interest in ensuring shoreline regulations are clear, practical, and reflective of the unique nature of port operations and infrastructure. Based on the preliminary draft rules and information shared by Ecology, we submit the following comments on behalf of Washington's public ports.

In the preliminary draft proposed by Ecology, there are positive improvements that create efficiencies and foster environmental benefit. These include many potential consistency proposals like SEPA and SMP integration and voluntary restoration streamlining.

We also support Ecology's intent to address climate resilience but request that vulnerability assessment requirements and sea level rise considerations be accompanied by consistent, practical guidance, developed collaboratively, including with special purpose districts like ports. We are concerned that the hazard-area mapping and standards may be inadequately applied to industrial land activities. In this process we recommend additional consideration of port or industry-specific infrastructure with activity along waterfronts. Vulnerability assessments should recognize that certain facilities or water-dependent uses differ from residential or recreational uses in design, operational requirements, and risk profiles.

Washington Public Ports Association

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We also recommend making consultation with ports a requirement when local governments prepare or amend SMPs or hazard area maps. This will avoid piecemeal, project-by-project implementation and ensure coordinated, long-term planning. Further, if shoreline jurisdiction is extended beyond 200 feet (e.g., to the 100-year floodplain), Ecology should provide clear parameters and criteria to guide local decision-making especially regarding publicly owned infrastructure.

The critical area updates also remove the option to meet SMP requirements by incorporating GMA critical-areas ordinances by reference. This could diverge across jurisdictions and may change expectations for port projects. We recommend guidance or model language tailored to publicly owned infrastructure, industrial waterfront, and water-dependent uses to limit a patchwork across jurisdictions (found in WAC 173-26-226 & 191).

Further, vulnerability assessments can be costly and require additional resources, so we ask for consistency to remain eligible for existing and future grant funding (e.g., RCO programs or FEMA) once vulnerability assessments are completed. This will ensure investments lead to actionable resilience measures across various programs. We support consistent interpretation and application of SMP requirements and the provision of resources to be able to implement the programs. Especially for ports located in smaller communities, additional guidance and resources to these jurisdictions with limited staff capacity will be needed.

We recommend permitting clarity for no-net-loss variances, and conditional use permits. Specifically, some port projects may demonstrate no-net-loss differently from other shoreline uses due to the nature of industrial waterfront operations and location. We ask that actions necessary for maintenance, repair and operations of Port facilities not require variances, and further recommend that enhancement or restoration activities (e.g., fill or shoreline stabilization for habitat protection) are not inappropriately triggering conditional use permits.

In the rule update, "marine" is defined as tidally influenced waters (WAC 173-22). We recommend that this should add "with salinity at or around 0.5 ppt" in the definition. We also recommend further consideration in the new marine spatial planning section for how that may impact vessel traffic and commercial fishing activities.

The SMA rule updates should clearly support repair, maintenance, and replacement of bulkheads, piers, wharves, and related engineering structures when required for operational safety and load-bearing needs. While soft-shore/nature-based approaches can be beneficial in some contexts, the updates should allow continued use of necessary hard infrastructure where alternatives would compromise safety or operations. We support an efficient method to determine when that approach is appropriate, i.e., industrial areas or a 0-foot setback, that may consider nature-based solutions which have been utilized in a similar environment to the degree of certainty required for infrastructure purposes.

Last, we recommend further consideration of the requirement to bring on a professional for assessment of 500 feet within known areas of cultural significance. This would be nearly everywhere for some locations in urban areas, and we would prefer to see the project and standard requirement more adequately match the risk. We suggest considering an exemption or method for something like repair

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and maintenance projects, many of which do not include disturbance of native materials which is typically where cultural artifacts are found and could be considered very low risk.

Washington's public ports are committed to working with Ecology and provide input to the SMA rules that balance environmental protection, climate resilience, and economic competitiveness. We appreciate Ecology's openness to feedback and look forward to continued collaboration throughout the rulemaking process.

Again, thank you for the opportunity to provide some feedback on the preliminary draft rule to the SMA. Please do not hesitate to reach out if there are questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Carly Michiels". The signature is fluid and cursive, with a large, stylized "C" and "M".

Carly Michiels  
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