RE: Formal Public Comment – September 2, 2026 Shoreline Management Act Rulemaking (CR-102)

Chapters 173-18, 173-20, 173-22, 173-26, and 173-27 WAC

To the Washington State Department of Ecology:

Thank you for the opportunity to provide public comments on the proposed amendments to the Shoreline Management Act rules.

I am submitting these comments out of concern for the effective implementation, consistent administration, and long-term protection of Washington's shorelines and public shoreline access. While the Shoreline Management Act establishes important statewide policies and assigns local governments significant responsibilities, I believe additional attention must be given to how those responsibilities are monitored, evaluated, and enforced in practice.

1. The need for independent oversight and county accountability

Before addressing the individual rule provisions, I would like to raise a broader question that I believe deserves serious consideration:

Is there an opportunity to establish an independent, external oversight mechanism responsible for evaluating whether counties are actually fulfilling their obligations under the Shoreline Management Act and their locally adopted Shoreline Master Programs?

Counties have an important role in administering and implementing the Act. However, when the same local government responsible for implementing shoreline protections is also responsible for evaluating its own performance, investigating concerns, determining whether its actions comply with adopted requirements, and deciding whether corrective action is necessary, there is an inherent need for independent accountability.

Local government decisions do not occur in a vacuum. Elected officials and county administrations operate within local political environments, longstanding relationships, constituent pressures, and competing interests. These relationships and considerations can create real or perceived conflicts when decisions involve politically influential individuals, established community relationships, or interests that may affect local elections and political support.

I am not suggesting that every county decision is improperly influenced. Rather, I am asking how the public can have confidence that the Shoreline Management Act is being implemented consistently and objectively when oversight rests primarily within the same local governmental structure responsible for making the decisions being evaluated.

An independent state-level oversight function, external compliance review, or designated independent entity could provide a more objective assessment of county performance. Such a mechanism could evaluate whether counties are:

- Implementing their adopted Shoreline Master Programs as required.
- Maintaining accurate inventories of existing and potential public shoreline access.
- Protecting established public access opportunities from inappropriate loss or restriction.
- Making administrative and regulatory decisions consistent with adopted shoreline policies and applicable state requirements.
- Properly documenting decisions that affect public access.
- Responding appropriately to documented concerns regarding potential noncompliance.
- Taking corrective action when deficiencies are identified.

This oversight should be based on consistent statewide standards, documented findings, transparent procedures, and objective compliance criteria rather than local political relationships or discretionary internal assessments alone.

I would encourage Ecology to consider whether the proposed rules could establish a stronger independent compliance review process, including periodic audits of local implementation and a clear mechanism for referring unresolved concerns for independent evaluation.

The public should not have to rely exclusively on the local government whose actions are being questioned to determine whether that government has fulfilled its obligations under state law.

2. Public shoreline access must be evaluated based on actual implementation, not simply permitting activity

I support the proposed improvements to shoreline project authorization tracking and periodic evaluation. However, I am concerned that the proposed framework remains too heavily focused on activities that pass through a formal shoreline permitting or project authorization process.

Public shoreline access can be materially diminished without a traditional development project or shoreline permit.

For example, administrative decisions involving signage, parking restrictions, physical barriers, public-facing access descriptions, or changes to how a county recognizes and manages an existing public access location can affect whether the public can realistically use that location.

These changes may occur without generating a shoreline project authorization that would be captured through the proposed tracking system.

Proposed WAC 173-26-090 should therefore be strengthened to ensure that periodic evaluations consider not only permitted projects, but also material administrative changes affecting previously identified public shoreline access.

I recommend that Ecology consider requiring counties to document significant changes in the status of existing or potential public shoreline access locations, including:

- The previously documented access status.
- The nature and date of the change.

- The governmental authority and justification relied upon.
- Whether the change affects the practical availability of public access.
- Whether the change is consistent with the applicable Shoreline Master Program.
- Whether the location remains appropriately represented in public-access inventories and related state records.

This would not require counties to reopen every historical permit, provide parking at every shoreline location, or disregard legitimate public-safety and private-property considerations. It would simply establish a transparent process for documenting and evaluating material changes that affect public shoreline access.

A location should not effectively disappear from public consideration simply because its status has been changed through administrative practices rather than a formal shoreline development decision.

3. Public access to independent review and formal administrative interpretations

I appreciate the proposed addition of WAC 173-27-075, which establishes a more formal process for local government administrative interpretations of Shoreline Master Programs and requires Ecology concurrence.

However, I am concerned that the proposed language focuses on the process when a local government chooses to issue an interpretation without clearly establishing how members of the public can request one.

I recommend that Ecology consider adding a provision allowing an affected member of the public to submit a written request for an administrative interpretation when there is a substantive question regarding how a local government is applying its Shoreline Master Program.

At a minimum, the local government should be required to:

- Acknowledge the request.
- Determine whether a formal interpretation is appropriate.
- Provide a written explanation if it declines to initiate the interpretation process.
- Identify the relevant Shoreline Master Program provisions and legal authority considered.
- Provide information regarding any available administrative or state review process.

This would not mean that every public request must result in a particular interpretation or that a county must reach the conclusion requested by the individual. It would, however, provide a transparent and documented process instead of leaving the public dependent on informal communications or changing explanations from different departments.

It would also give Ecology a clearer opportunity to identify recurring implementation concerns across local jurisdictions.

4. Protecting existing and potential public shoreline access in inventories and evaluations

Washington's shoreline policies recognize the importance of public access, including existing and potential access opportunities.

Current WAC 173-26-201(3)(c)(vi) already addresses the inventory of existing and potential shoreline public-access sites, including public rights-of-way and utility corridors.

I am concerned that the proposed evaluation and inventory provisions do not adequately ensure that previously recognized access opportunities remain visible when their practical availability changes.

A public right-of-way or other legally recognized access opportunity should not automatically be treated as nonexistent simply because it is unopened, unimproved, difficult to access, or currently subject to administrative restrictions.

Legal status, physical accessibility, public usability, and the existence of adjoining private property are separate considerations. They should be evaluated separately rather than allowing one to automatically determine the others.

I recommend that Ecology clarify how counties must account for these distinctions when maintaining public-access inventories and conducting periodic reviews.

Where a previously identified access location has been materially restricted, reclassified, or removed from public-facing records, the county should document the change and its supporting legal and factual basis.

This would help preserve an accurate historical record and allow Ecology to evaluate whether local implementation remains consistent with statewide shoreline policies.

5. Meaningful enforcement and implementation of adopted Shoreline Master Programs

The effectiveness of the Shoreline Management Act depends on more than the adoption of appropriate policies and regulations. Those provisions must be implemented consistently.

I am concerned that the distinction between having an adopted Shoreline Master Program and actually carrying out its requirements is not sufficiently addressed by the proposed framework.

Counties should not be able to rely solely on the existence of an approved Shoreline Master Program as evidence that its requirements are being fulfilled.

I encourage Ecology to strengthen the proposed implementation and enforcement provisions to ensure that:

- Counties have identifiable procedures for evaluating potential Shoreline Master Program noncompliance.
- Documented concerns receive appropriate consideration.
- Relevant decisions and supporting information are retained.
- Ecology can independently evaluate whether a county's response is consistent with the Act and its adopted Shoreline Master Program.
- Identified implementation deficiencies can be addressed through an established corrective process.

This is not a request for Ecology to assume responsibility for every local road, parking, property, or land-use dispute. Those matters may involve separate legal authorities and procedures.

It is a request for meaningful oversight when local governmental actions or inaction potentially affect the implementation of statewide shoreline protections.

6. Consistency and transparency across the proposed WAC chapters

Because the proposed amendments address multiple chapters of the Washington Administrative Code, I encourage Ecology to ensure that the definitions, administrative procedures, review requirements, and enforcement mechanisms operate consistently across Chapters 173-18, 173-20, 173-22, 173-26, and 173-27 WAC.

A statewide regulatory framework should provide consistent expectations for local governments, property owners, and the public.

In particular, the relationship between shoreline designations, local Shoreline Master Program implementation, administrative interpretations, public-access inventories, project authorizations, and enforcement should be sufficiently clear that responsibilities cannot be overlooked or shifted between agencies.

I also encourage Ecology to ensure that technical cross-references, appeal procedures, and administrative requirements are accurate and unambiguous before final adoption. Where the rules establish new corrective or enforcement procedures, the applicable review process, decision-maker, and deadlines should be clearly identified.

7. Conclusion and requested consideration

The Shoreline Management Act was established to protect Washington's shorelines for the benefit of the public and future generations. Its effectiveness depends on consistent implementation, transparency, and accountability at every level of government.

I recognize that counties have different resources, geographic conditions, and local circumstances. I also recognize that legitimate public-safety considerations, private-property rights, and competing land uses must be considered.

However, those considerations should not eliminate the need for objective oversight or allow the practical implementation of statewide shoreline policies to vary based on local political circumstances, individual relationships, or the willingness of a particular county administration to address concerns.

I respectfully ask Ecology to consider the following improvements before finalizing this rulemaking:

1. Establish or recommend an independent state-level oversight mechanism to evaluate county compliance with the Shoreline Management Act and adopted Shoreline Master Programs.
2. Strengthen periodic review requirements to evaluate material changes in existing public shoreline access, including changes that occur outside formal shoreline permitting processes.
3. Establish a public-requested administrative interpretation process with written responses and documented reasons when requests are declined.
4. Ensure that existing and potential public shoreline access opportunities remain accurately documented, including legally recognized but unopened or unimproved rights-of-way.
5. Provide meaningful, transparent procedures for identifying, reviewing, and correcting deficiencies in local implementation.
6. Ensure that all five proposed WAC chapters work together to establish clear, consistent, and enforceable administrative expectations.

Ultimately, the public should not have to depend solely on the discretion of the local government whose decisions are being questioned to determine whether that government is complying with its responsibilities under state law.

There must be a meaningful way to independently evaluate whether the requirements of the Shoreline Management Act are being carried out, whether public shoreline interests are being protected, and whether identified deficiencies are being addressed.

The existence of a law or an adopted policy is only meaningful if there is accountability for its implementation.

Thank you for considering these comments and for including these concerns in the rulemaking record.

Respectfully submitted,

Mistie Larch