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Public Comments on Proposed SMA Rule Amendments

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	c. Administrative Interpretations
Relevant RCW:	RCW 90.58.050; 90.58.130; 90.58.200
Relevant WAC:	WAC 173-27-075
Comment Focus:	Public Request for Administrative Interpretation

I strongly support proposed WAC 173-27-075.

A disputed application of an SMP does not always arise from a shoreline permit. At Soundview Dr NW, public access was affected through parking restrictions, a “No Beach Access” sign, ghost sheriff towing signage, unresolved obstructions within the public right-of-way, right-of-way administration, and changing County positions.

A 50 ft wide right-of-way was dedicated to public use in 1909. In 2009, Snohomish County Traffic Operations stated that Soundview Dr NW ‘ends in non-developed public access to the beach.’ County records also stated ‘no reason @ this time to limit access’ and ‘restricting access not recommended.’ In 2014, the County described Soundview Dr NW as ‘a single lane access road leading to a public beach access point’ and stated, ‘Public access to the beach is still open.’

Six years later, County staff stated, “It has been determined that there is no public beach access off this segment of Soundview Drive,” but I have not located a shoreline permit proceeding, public notice, or formal administrative interpretation supporting that change.

In June 2023, Snohomish County Deputy Director and County Engineer Douglas McCormick described the issue internally as having “gone back and forth depending on which neighbor calls.”

I repeatedly raised the resulting SMA and SMP concerns with Planning and Development Services, Public Works, County Council, individual councilmembers, and the County Executive’s Office. I was trying to use a public right-of-way to do exactly what WAC 173-26-221 defines as public access: “reach, touch, and enjoy the water’s edge.” Yet I could not identify a process by which I, as a member of the public, could place the underlying SMP question before Ecology for review.

In its court filings, the County acknowledged that the right-of-way extends to the line of ordinary high tide, has never been vacated, and that the public may use both its opened and unopened portions.

Yet the underlying shoreline interpretation still never reached Ecology. At the hearing, County counsel defended the “No Beach Access” position by asserting that “beach is not a legal term,” even though Snohomish County Code 30.91B.037 expressly defines “Beach” for shoreline regulation.

That illustrates the problem proposed WAC 173-27-075 needs to address. A governmental position affecting shoreline access can rest on an interpretation of an SMP term, even an

interpretation contradicted by the jurisdiction’s own shoreline code, without ever being identified as an administrative interpretation or reaching Ecology for review.

The County’s acknowledgment of public use of the entire right-of-way remains unreconciled with its “No Beach Access” position through a formal SMP interpretation reviewed by Ecology.

Proposed WAC 173-27-075 provides a strong process once an administrative interpretation begins. The local government must consult Ecology, prepare its analysis and findings, and obtain Ecology’s written concurrence before the interpretation becomes final. What is missing is a reliable way for the public to invoke that safeguard when the disputed application of an SMP arises from governmental action rather than a shoreline permit.

I ask Ecology to add a narrow public trigger:
“Any person may request an administrative interpretation by identifying a material question concerning the intent, meaning, or application of a specific master program provision.”

To strengthen the proposed public-request provision, I also ask Ecology to add:
“Within 60 days after receiving a request, the local government shall either initiate the interpretation process or provide the requester and the department a written determination explaining why an interpretation is not warranted. The requester may ask the department to review a refusal or failure to respond.”

Had that process existed at Soundview Dr NW, a member of the public could have placed the shoreline question directly into a process requiring a written response before years of administrative frustration, litigation, and the practical erosion of a century-old shoreline access point.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	Administrative Interpretations
Relevant RCW:	RCW 90.58.020; 90.58.050; 90.58.340
Relevant WAC:	WAC 173-27-075
Comment Focus:	Consistency Determinations for Material Access Restrictions

A shoreline question should be addressed before a governmental restriction takes effect, when the opportunity to preserve access still exists. RCW 90.58.050 requires local administration consistent with the Act. Current WAC 173-26-191(2)(a)(i) also directs SMP policies to guide public investment and other nonregulatory initiatives. RCW 90.58.340 requires governmental review of administrative and management policies for adjacent lands to achieve consistency with the shoreline framework. These responsibilities extend the analysis beyond permit administration.

I ask Ecology to add a separate requirement to WAC 173-27-075 addressing governmental actions that materially restrict existing lawful public shoreline access:

“Before permanently closing or materially restricting existing public shoreline access for nonemergency reasons, a local government shall document and make publicly available its determination of consistency with the applicable shoreline master program, including any demonstrated, compelling reason for departing from an applicable ‘should’ provision.”

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	e. Review and Evaluation
Relevant RCW:	RCW 90.58.080; 90.58.100(2)(b), (c)
Relevant WAC:	WAC 173-26-090(2)(b)(iii)(D)
Comment Focus:	Evaluation and Response to Documented Public Shoreline Access Losses

RCW 90.58.080 requires periodic review and necessary revision. Proposed WAC 173-26-090(2)(b)(iii)(D)(III) already requires consideration of whether the evaluation warrants amendments under its “should” standard, and subsection (iv)(A) requires revisions needed for compliance. A separate gap remains when the policy is adequate but its implementation has failed.

The proposed tracking system begins in the 2029-2032 review cycle. The required evaluation under (D)(II) begins at the next scheduled review, ordinarily 2039-2042 under the current ten-year schedule. Documented access losses already known to local government should enter the first review without waiting for ten more years of project data.

I ask Ecology to add the following independent requirement after proposed WAC 173-26-090(2)(b)(iii)(D)(III):
“At each periodic review, local governments shall consider reasonably available records, including public submissions, documenting material changes to existing public shoreline access, regardless of shoreline authorizations. Where a material loss is identified, the review shall document whether master program revision, corrective action, or referral is warranted, including reasons for taking no action.”

Ecology’s preliminary regulatory analysis, section 6.3.3, rejected a mandatory full update of public-access plans during every periodic review because of the burden. This proposal uses reasonably available records within the scheduled review. It calls for evaluation of identified losses and a documented response, rather than a new comprehensive access survey or wholesale plan rewrite. The task has a cost, but its scope is tied to known conditions affecting a statutory shoreline objective.

A record that identifies a loss but leaves responsibility and follow-up unaddressed cannot show whether implementation is improving. The review should distinguish an adopted policy that needs revision from an existing policy that needs to be carried out.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	Permit Tracking
Relevant RCW:	RCW 90.58.020; 90.58.100(2)(b), (c)
Relevant WAC:	Relevant WAC: WAC 173-27-195; WAC 173-27-990; WAC 173-27-995
Comment Focus:	Recording Changes to Existing Public Access

Proposed WAC 173-27-195 correctly reaches all project authorizations in shoreline jurisdiction, including authorizations that do not require a shoreline permit or exemption. But subsection (3)(m) asks only whether the project included a public-access component. That does not reliably distinguish creation of access from removal or restriction of existing access.

RCW 90.58.020 and .100(2)(b) and (c) make preservation of access and recreational opportunities relevant to program effectiveness. A system intended to evaluate that effectiveness needs both sides of the record.

Replace proposed WAC 173-27-195(3)(m) with:
“Whether the project included a public access component; whether the authorization created, preserved, restored, relocated, restricted, or removed existing public shoreline access; and the location and terms of any conditions governing that access.”

I also ask Ecology to add corresponding fields to both the permit data sheet in WAC 173-27-990 and the exemption data sheet in WAC 173-27-995. For each recorded change, the fields should identify its location, the nature of the change, and the relevant condition or determination. The current permit form’s yes-or-no public-access question is insufficient; the exemption form also needs these fields.

For actions outside project authorizations, add a separate paragraph to WAC 173-27-195:
“Local governments shall retain an indexed record of the access-consistency determinations prepared under WAC 173-27-075, and of material access changes identified during the periodic review under WAC 173-26-090(2)(b)(iii)(D). These records shall be available to the department and used in the evaluation of master program implementation.”

The project fields and the nonproject record serve different purposes. Together they allow the review to consider both changes approved through authorizations and changes documented through government operations or periodic review.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	Public Access
Relevant RCW:	RCW 90.58.020; 90.58.100(2)(b), (c)
Relevant WAC:	WAC 173-26-221(4)(c)
Comment Focus:	Barriers to Existing Public Shoreline Access

I ask Ecology to require public-access planning to identify conditions that materially prevent the public from using legally existing shoreline access. A public right-of-way can remain legally intact while private obstructions, inaccurate signs or governmental restrictions prevent its practical use.

RCW 90.58.020 directs preservation of public shoreline enjoyment, and RCW 90.58.100(2)(b) and (c) identify access and preservation of recreational opportunities as master program elements when appropriate. Current WAC 173-26-191 requires regulations sufficient to implement local policies and makes those policies relevant to nonregulatory action. Planning must therefore examine the conditions affecting use, as well as the existence of an access point on a map.

At Soundview Dr NW, County records described concrete pillars as blocking public beach access.

The pillars remain, and a signed and stamped professional survey documents additional private encroachments within the dedicated right-of-way. Public records requests seeking authorizations for private structures within the right-of-way produced no responsive encroachment authorizations.

In response to public records request K252083, Snohomish County reported on September 25, 2026, that Public Works and the Auditor’s Office were unable to locate records, while Planning and Development Services produced right-of-way permits showing “approvals for access.” A follow-up request, K254734, specifically sought operative authorizations for private structures within the 50-foot Soundview Dr NW public right-of-way adjoining 18520, 18618, and 18632 Soundview Dr NW. On October 5, 2026, the County closed that request, stating, “We do not have responsive records to your request.”

The County acknowledged public use of both opened and unopened portions of the right-of-way, yet the location remained marked “No Beach Access.” The July 2026 trespass warning also illustrates how threatened enforcement can discourage use where the location of the public corridor is disputed. The legal extent of access, the physical conditions, and the basis for restrictions each need to be recorded and evaluated.

I ask Ecology to add to WAC 173-26-221(4)(c):
“Public access planning shall identify and address physical obstructions and governmental restrictions that materially interfere with existing lawful public shoreline access.”

A useful plan should show why an identified access point cannot reasonably be used and who can address that condition. That makes a documented obstruction or governmental restriction part of shoreline implementation rather than a reason for the access point to disappear from consideration.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	e. Review and Evaluation
Relevant RCW:	RCW 90.58.080; 90.58.100(2)(b), (c)
Relevant WAC:	WAC 173-26-090(2)(b)(iii)(D)
Comment Focus:	Material Changes to Existing Public Shoreline Access

I strongly support proposed WAC 173-26-090(2)(b)(iii)(D). Requiring local governments to evaluate whether their SMPs are actually working is an important improvement.

My concern is that the minimum review focuses on “activities approved by shoreline authorizations.” Public access can also be materially changed by signage, parking, maintenance, enforcement, right-of-way decisions, or tolerated obstructions that never become shoreline authorizations.

Soundview Dr NW demonstrates that blind spot. An authorization-based review could show nothing wrong while practical public access is disappearing on the ground.

In 2015, County records described large cement pillars as “blocking the public beach access.” Traffic Operations stated, “we wouldn’t authorize such action,” while Fire District 14 identified the location as “their only access to this beach.”

The same blind spot appears in the County’s signage history. In 2021, an adjoining property owner asked County staff for a sign like one used elsewhere that would say ‘by authority of the sheriff’ and warn ‘don’t park here, you’ll be towed,’ and suggested chaining it to the existing ‘no parking, no beach access’ sign. County records show that a ‘ghost sheriff’ sign was installed in response. In 2023, a County sign-history record stated that ‘a replacement was requested by the residents,’ and County staff requested another ‘BY ORDER OF THE SHERIFF VIOLATORS WILL BE TOWED’ sign with the Sheriff’s emblem. In 2025, when the County Engineer asked whether County ‘No Parking’ signs state ‘by order of the Sheriff,’ Traffic Operations responded: ‘No. None of our signs would have that verbiage.’

I ask Ecology to add the following independent requirement immediately after the five minimum-evaluation items in proposed WAC 173-26-090(2)(b)(iii)(D)(II):

“The review shall also evaluate material changes to, and removal of existing public shoreline access, whether or not associated with a shoreline authorization.”

Public access can be diminished or disappear in practice between periodic reviews. At least once every ten years, the review should ask whether the public can still reach, touch, and enjoy the water’s edge, and whether that access has been preserved for future generations.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	f. Shorelines of Statewide Significance
Relevant RCW:	RCW 90.58.090(5); 90.58.020
Relevant WAC:	WAC 173-26-090(2)(b)(iii)(F), WAC 173-26-251
Comment Focus:	Review of Implementation

I strongly support the proposed requirement in WAC 173-26-090(2)(b)(iii)(F) that local governments document continued optimum implementation on shorelines of statewide significance.

Implementation is missing from this particular review requirement. Small, informal, or otherwise unreviewed choices and decisions can cumulatively erode public access and frustrate the objectives of the SMA.

I request that “and their implementation” be added to read:
“…document that the master program policies, regulations, and their implementation affecting those shorelines of statewide significance continue to optimize the policy and objectives of the act…”

The distinction matters. WAC 173-26-251 requires shorelines of statewide significance to be “managed with a higher level of effort to achieve optimum implementation” and gives preference to uses that recognize the statewide interest over local interest, produce long-term over short-term benefit, increase public access to publicly owned shoreline areas, and increase recreational opportunities.

Port Susan is identified as a shoreline of statewide significance, yet at Hillman Place implementation repeatedly moved opposite the Act’s stated priorities. Parking was reduced; “No Beach Access” signage was maintained; County-described “ghost sheriff” towing signage threatened enforcement; concrete obstructions remained within the public right-of-way; and uncertainty over the right-of-way and shoreline access was allowed to persist. The County now acknowledges that the right-of-way has never been vacated and that the public may use both its opened and unopened portions, yet the site remains posted “No Beach Access.”

Public access cannot be measured solely by whether nearby residents continue to enjoy the shoreline. WAC 173-26-221(4)(a) defines public access by the ability of the general public to reach, touch, and enjoy the water’s edge.

In *State v. Belmont Improvement Co.,* 80 Wn.2d 438, 443 (1972), the Washington Supreme Court recognized that predominant use of a public road by adjoining landowners does not alter its public character. Where governmental restrictions or tolerated private obstructions leave adjoining residents enjoying a public street end while discouraging broader public use, the continued neighborhood use cannot establish that public access has been preserved.

WAC 173-26-251(3)(d)(iii) further directs local governments to establish development standards that provide for the public's right to use, access, and enjoy public shoreline resources of statewide importance. These requirements reinforce the need to examine whether Soundview's

actual administration preserves access for the general public rather than merely accommodating neighborhood use, consistent with RCW 90.58.020's preference for statewide over local interests and WAC 173-26-251's optimum-implementation standard.

Adjacent tideland owner Penny Buse also offered to donate the beach and tidelands for public access. County staff understood the offer as creating a ‘50’ wide public access’ and a ‘new public beach access,’ yet the County declined the acquisition without documenting any demonstrated, compelling reason for not taking the action.

WAC 173-26-221(4)(d)(i) directs shoreline master programs to seek to increase the amount and diversity of public shoreline access. Snohomish County's SMP Policy 2 encourages acquisition of suitable upland shoreline properties for public access, while Policy 9 directs assistance to private property owners willing to provide shoreline access. RCW 90.58.240(1) expressly authorizes acquisition of shoreline lands and easements by gift. The County's decision to decline the offer has obvious relevance to whether the SMP is achieving its stated public-access objectives.

The proposed addition would require periodic review to examine whether governmental decisions and actions actually achieve optimum implementation of the Act's objectives for shorelines of statewide significance, rather than evaluating the adequacy of adopted policies and regulations alone.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	g. Sea Level Rise and Increased Storm Severity
Relevant RCW:	RCW 90.58.100(1)(c); 90.58.630
Relevant WAC:	WAC 173-26-246(6)(b)(vi)
Comment Focus:	Identification of Existing Shoreline Street Ends

I support Ecology’s proposed requirement to inventory shoreline assets that provide public access, including street ends.

I ask Ecology to clarify that a legally existing public street right-of-way does not cease to qualify as a street end because it is unopened, unimproved, overgrown, unsigned, obstructed, or not presently developed with public-access amenities.

If a public street right-of-way legally reaches the shoreline, it should be identified and counted as a public-access asset, regardless of its current condition.

Current WAC 173-26-201(3)(c)(vi) already includes existing and potential public-access sites, including rights-of-way. A legally existing unopened street end is an asset whose potential may be affected by shoreline change even when it has no developed path.

Dayton Street demonstrates the issue. County right-of-way research stated that “Hillman Place and Dayton Street go all the way to the tidelands (unless we have vacated a portion).” Whether a street end is improved, signed, maintained, or obstructed should not determine whether the underlying public asset appears in the inventory. Its condition can be evaluated separately.

I ask Ecology to revise proposed WAC 173-26-246(6)(b)(vi) to read:
“The location of sites that provide or could provide public access to the shoreline, such as parks, public piers, street ends (including unopened or unimproved public rights-of-way), and boat launches;”

The subsection’s relevant-and-reasonably-available-information standard would remain. The inventory should record whether access is presently available, potential, physically restricted or legally disputed. RCW 90.58.100(1)(c) supports use of pertinent records in planning, and RCW 90.58.630 supplies the specific sea-level-rise planning authority. Identifying a potential site preserves it for analysis; public use remains governed by the actual access right.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	k. Public Access
Relevant RCW:	RCW 90.58.100(1)(c); 90.58.130
Relevant WAC:	WAC 173-26-201(3)(c)
Comment Focus:	Documentation of Public-Access Inventory Removals

I ask Ecology to require a documented explanation when an existing public shoreline-access site is removed or reclassified in an official inventory.

WAC 173-26-201(3)(c)(vi) already requires shoreline inventories to identify existing and potential public-access sites, including public rights-of-way.

RCW 90.58.100(1)(c) directs consideration of relevant records during master program preparation and amendment, while RCW 90.58.130 requires public participation in both development and implementation. These principles support a transparent process for changes to previously identified access sites.

Soundview Dr NW demonstrates the need. In September 2010, Ecology's Coastal Atlas identified public-access site WS01390, recording pedestrian and visual access and roadside parking.

Following a private complaint, Ecology moved the site from its public-facing access map to a hidden layer.

Yet the underlying 50-foot public right-of-way was never vacated. Snohomish County has acknowledged that the public may use both its opened and unopened portions. Removing a public-facing map entry does not extinguish an existing public right-of-way.

I ask Ecology to add the following requirement to WAC 173-26-201(3)(c):
“When a previously identified public shoreline-access site is removed or reclassified in a state or local inventory, the responsible agency shall document the evidence and reasons for the change, retain the prior designation, and distinguish legal access rights from current site conditions.”

This requirement would permit agencies to correct inaccurate records while preserving the evidence and reasoning behind changes. It would also provide a basis for reviewing whether a site has been properly reclassified rather than simply disappearing from the public record.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	h. Definitions
Relevant RCW:	RCW 90.58.020; 90.58.200
Relevant WAC:	WAC 173-26-020, WAC 173-27-030
Comment Focus:	“Demonstrated” and “Compelling Reason”

I support Ecology’s clarification of “should,” but the definition needs one more step to make the requirement effective in practice.

Current WAC 173-26-020(37) and 173-26-191(2) provide that “should” means the action is required unless there is a demonstrated, compelling reason based on the Shoreline Management Act and chapter 173-26 WAC. Proposed WAC 173-26-191(2) expressly applies that framework to master program implementation, and proposed WAC 173-27-030(18) includes the applicable master program among the grounds for the reason. But the definitions do not specify how that reason must be demonstrated or what governmental act establishes it. Without a required process for establishing that reason, the “required unless” standard can still operate as discretion in practice.

My experience at Soundview Dr NW illustrates the consequences of that gap.

Snohomish County’s approved Shoreline Master Program states:
“Public access to shoreline areas provided by street ends, utility easements and rights-of-way should be preserved, maintained and enhanced.”

At Soundview Dr NW, the County’s SMP therefore calls for preservation, maintenance, and enhancement of an existing public shoreline access point. Yet access was restricted and posted ‘No Beach Access,’ and I have not located written findings establishing a demonstrated, compelling reason for departing from that policy. That leaves the ‘required unless’ standard without a clear documented act before the local government departs from the required action.

I ask Ecology to define ‘demonstrated’ and ‘compelling’ substantially as follows:

“Demonstrated” means established through written findings identifying the relevant facts and supporting evidence, the specific governing shoreline policies, and the reasoning that connects those facts and policies to the departure from the otherwise required action.

“Compelling reason” means a specific reason grounded in an identified policy of the Shoreline Management Act, its implementing rules, or the applicable master program, supported by findings explaining why that policy justifies departure from the otherwise required action.

The rule should therefore make preparation of written findings a mandatory procedural obligation before departure from an applicable “should” provision. The findings must establish why the reason is compelling under the governing shoreline policies.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	k. Public Access
Relevant RCW:	RCW 90.58.100(2)(b)
Relevant WAC:	WAC 173-26-221(4)(c)(i)
Comment Focus:	Accuracy of Public-Access Plans

I support Ecology’s proposed amendments to WAC 173-26-221(4)(c)(i).

I ask Ecology to change “current and relevant” to “current, accurate, and relevant.”

Ecology uses the same ‘current and accurate’ standard in proposed WAC 173-18-044 and 173-20-044 for shoreline mapping, and the same standard should apply to public-access planning.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	k. Public Access
Relevant RCW:	RCW 90.58.100(1)(c); 90.58.100(2)(b)
Relevant WAC:	WAC 173-26-221(4)(c)
Comment Focus:	Identification of Existing and Potential Public-Access Sites

Consistent with Ecology’s existing Shoreline Master Program guidance, I ask Ecology to expressly and consistently address existing shoreline street ends and public rights-of-way wherever the proposed rules address public shoreline access.

Ecology already requires shoreline inventories under WAC 173-26-201(3)(c)(vi) to identify “existing and potential shoreline public access sites, including public rights of way and utility corridors.” Ecology’s proposed sea-level-rise inventory separately identifies “street ends” as shoreline public-access sites. I ask Ecology to harmonize those provisions in the public-access planning section so that street ends, public rights-of-way, and utility corridors that reach the shoreline are expressly identified and retained in public-access planning.

I ask Ecology to add after WAC 173-26-221(4)(c)(i):

“Public access plans shall identify all existing and potential shoreline public access sites, including street ends, public rights-of-way, and utility corridors that reach the shoreline.”

Soundview Dr NW demonstrates why this distinction matters. In 2010, Ecology’s Coastal Atlas recorded the location as public-access site WS01390, identifying pedestrian and visual shoreline access. In 2014, Snohomish County described the road as “a single lane access road leading to a public beach access point” and stated, “Public access to the beach is still open.” In 2020, County staff instead stated, “It has been determined that there is no public beach access off this segment of Soundview Drive.”

The public right-of-way had not disappeared. The County nevertheless treated the shoreline access as closed, and Ecology moved the access point from its public-facing Coastal Atlas to a hidden layer following a private individual’s complaint. That is precisely why public-access plans and inventories must be accurate: they should reflect the underlying public asset, not merely inherit an administrative characterization or database status.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	k. Public Access
Relevant RCW:	RCW 90.58.020; 90.58.100(2)(b)
Relevant WAC:	WAC 173-26-221(4)(c)
Comment Focus:	Clear and Accurate Public-Access Signage

Ecology’s proposed WAC 173-26-221(4)(d)(iv) requires public access provided through development or subdivision to remain available for the life of the development and to include “installation and maintenance of clear public access signage.” I ask Ecology to apply the same signage principle to existing public-access points identified through public-access planning, and to make clear that the signage must also be accurate.

I ask Ecology to add the following requirement to WAC 173-26-221(4)(c), governing public-access planning:

“Public access plans shall provide for installation and maintenance of clear and accurate signage at existing public shoreline-access points identified as available for public use.”

Alternatively, a more detailed addition could be:

“Master programs shall require installation and maintenance of clear and accurate signage at existing public shoreline-access points identified as available for public use in a public access plan. The signage shall identify the extent of lawful public access and any applicable limitations. Potential sites not yet available for public use shall be identified separately in the plan.”

Soundview Dr NW demonstrates the consequence. The County now acknowledges that the right-of-way has never been vacated and that the public may use both its opened and unopened portions. In August 2025, Snohomish County Deputy Director and County Engineer Douglas McCormick also wrote that ‘the County has no authority to limit access to a public body of water.’ Yet the site remains posted ‘No Beach Access.’

Public access on paper is of limited value if members of the public are incorrectly told that the access does not exist or cannot determine where lawful public access begins and ends.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	k. Public Access
Relevant RCW:	RCW 90.58.020; 90.58.100(2)(b), (c)
Relevant WAC:	WAC 173-26-221(4)(c)(v)
Comment Focus:	Preservation and Restoration of Existing Public Access

I support Ecology’s proposal to prioritize new public access for overburdened communities and vulnerable populations, but I suggest a small expansion. Rather than referring only to creation of new public access, the rule should recognize the value of preserving and restoring existing access.

I suggest revising the phrase to expressly prioritize preservation and restoration alongside creation: “prioritizing the preservation, restoration, and creation of public access.”

Existing access can be lost through neglect, obstruction, deterioration, or inaccurate identification. Restoring an existing access point may sometimes provide greater public benefit than creating an entirely new one.

Before the 2012 comprehensive update, Snohomish County’s Public Access Regulation 3 stated: “Public access provided by shoreline street ends, public utilities and rights-of-way shall not be diminished (RCW 35.79.035 and RCW 36.87.130).” The 2012 SMP retained the street-end preservation policy, now Policy 19, but omitted this separate mandatory protection. Arlington’s 2012 SMP retained a comparable regulation. This history illustrates why existing public access needs express regulatory protection, not merely recognition in policy.

Seattle demonstrates that this is a practical shoreline-management approach, not a theoretical one. Seattle identifies 149 designated shoreline street ends and maintains a program to preserve and improve these public rights-of-way for public use.

Its program formally recognizes these public rights-of-way, regulates private encroachments, and provides for boundary verification, signage, demarcation, maintenance, and public-access improvements.

Seattle’s 1996 shoreline street-end policy and subsequent legislation were specifically designed to preserve these scarce public shoreline-access assets and discourage their conversion to private use.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	k. Public Access
Relevant RCW:	RCW 90.58.240(1); 90.58.100(2)(b)
Relevant WAC:	WAC 173-26-186(4)
Comment Focus:	Documentation of Declined Public-Access Donations

RCW 90.58.240(1) authorizes shoreline land and easement acquisition by gift, and WAC 173-26-186(4) recognizes this as a means of implementing shoreline master programs. WAC 173-26-191(2)(a)(i) further directs that SMP policies guide public investment and other nonregulatory initiatives. Snohomish County’s SMP Policy 9 calls for assistance to owners willing to provide shoreline access, while Policy 19 calls for preservation, maintenance, and enhancement of street-end access.

I ask Ecology to add a simple accountability requirement when a local government receives a written offer that would provide, preserve, or complete public shoreline access:

“When a local government declines a written offer to donate shoreline land or an easement that would provide, preserve, or complete public shoreline access, the local government shall document in writing the reasons for declining the offer.”

At Soundview Dr NW, the adjacent tideland owner made written offers on at least three occasions to donate ‘the beach and tidelands adjacent to Hillman Place’ for public access. In 2020, she wrote to the County Executive that ‘the last public access to the beach at Warm Beach has recently been effectively closed by Snohomish County.’ County staff understood that accepting the property would create a ‘50’ wide public access’ and a ‘new public beach access.’ The County declined the offers without documenting a demonstrated, compelling reason.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	Public Access
Relevant RCW:	RCW 90.58.020; 90.58.100(2)(c)
Relevant WAC:	WAC 173-26-221(4)(d)(i)
Comment Focus:	Express Preservation of Existing Public Access

I ask Ecology to add the legislature’s chosen word “preserve” between “protect” and “enhance” in WAC 173-26-221(4)(d)(i).

The resulting phrase would be:
“establish policies and regulations that protect, preserve, and enhance both physical and visual public access.”

RCW 90.58.020 directs that the public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. RCW 90.58.100(2)(c) expressly identifies preservation, alongside enlargement, of recreational opportunities. Naming preservation in the general public-access standard would carry that statutory direction into implementation.

Protection already supports preservation. This clarification makes the treatment of existing opportunities explicit alongside enhancement and creation of new access. The separate proposed amendment to WAC 173-26-221(4)(c)(v) addresses public-access planning priorities, while this amendment to WAC 173-26-221(4)(d)(i) establishes preservation as an explicit requirement for SMP policies and regulations.

Existing access deserves to remain visible in both.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	g. Sea Level Rise and Increased Storm Severity
Relevant RCW:	RCW 90.58.020; 90.58.100(2)(c); 90.58.630
Relevant WAC:	WAC 173-26-246(9)(c)(xiv)(B)
Comment Focus:	Preservation of Public Access During Shoreline Adaptation

Proposed WAC 173-26-246 recognizes that existing public shoreline-access sites may be degraded or lost and provides for adaptation through relocation, realignment, and other measures. I support these provisions but ask Ecology to clarify that adaptation should preserve the public-access opportunity, not merely relocate a facility.

RCW 90.58.020 directs preservation of the public's opportunity to enjoy shorelines, while RCW 90.58.100(2)(c) expressly identifies preservation of recreational opportunities.

I ask Ecology to add the following sentence to proposed WAC 173-26-246(9)(c)(xiv)(B): “Where shoreline adaptation would materially reduce existing public access, master programs shall require evaluation of feasible alternatives to preserve access or provide substantially equivalent opportunities, consistent with ecological protection, public safety, and private property rights.”

Relocating an access facility does not necessarily preserve its function. Alternatives should be evaluated by whether the public can continue to reach and enjoy the shoreline, rather than simply whether another access location appears on a map.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	l. Vegetation Conservation
Relevant RCW:	RCW 90.58.020; 90.58.100(2)(f)
Relevant WAC:	WAC 173-26-221(6)(d)
Comment Focus:	Ongoing Maintenance of Required Vegetation

I support proposed WAC 173-26-221(6)(d), particularly Ecology’s expansion of vegetation conservation requirements throughout shoreline jurisdiction.

In practice, permit conditions requiring permanent vegetation can be lost after permit approval, including when vegetation is later replaced with impervious surfaces or following changes in ownership. I have seen this occur even after a formal complaint identified the condition, with no corrective action taken.

At 18520 Soundview Dr NW, Snohomish County issued retaining-wall permit 05124420 RW on June 2, 2006, requiring that “Permanent vegetation cover shall be installed prior to final inspection.” The project was finalized March 16, 2007. The November 2003 bulkhead mitigation plan also stated, “No ‘effective impervious surface’ will be installed.” Yet the area later contained hard surfacing. In response to my November 2025 PDS complaint concerning the bulkhead and associated development, Code Enforcement stated that because the permit was closed, “it is not subject to enforcement.” On November 20, 2025, the County closed the case with “No violation. Case closed,” without addressing the continuing vegetation requirement.

I suggest adding ‘and maintain’ immediately after ‘conserve’ in the first sentence of proposed WAC 173-26-221(6)(d)(i), to make the continuing obligation explicit:

“Master programs shall include planning provisions that address vegetation conservation and restoration, and regulatory provisions that conserve and maintain native vegetation throughout shoreline jurisdiction.”

Adding “and maintain” would make clear that vegetation conservation requirements continue after permit approval.

Revision Type:	Clarification
Ecology Topic:	h. Enforcement
Relevant RCW:	RCW 90.58.200; 90.58.210
Relevant WAC:	WAC 173-27-260
Comment Focus:	Ongoing Compliance with Permit Requirements

I support Ecology’s proposed enforcement revisions. I suggest one small clarification to WAC 173-27-260(2).

Specifically, I ask Ecology to make the ongoing nature of permit requirements explicit by revising the phrase “fails to conform to the terms of a permit issued under the act” so that it reads:

“fails to conform to, or maintain compliance with, the terms of a permit issued under the act”

This would clarify that enforceable permit conditions do not necessarily end when construction is completed or the permit is finaled.

At 18520 Soundview Dr NW, Snohomish County issued retaining-wall permit 05124420 RW on June 2, 2006, requiring that “Permanent vegetation cover shall be installed prior to final inspection.”

The permit received final inspection on March 16, 2007. The November 2003 bulkhead mitigation plan also stated that no effective impervious surface would be installed, yet the area later contained hard surfacing.

In a November 6, 2025 PDS code-enforcement investigation, the County stated, “Because the permit has been closed, it is not subject to enforcement.” On November 20, 2025, the County closed the complaint with “No violation. Case closed.”

Revision Type:	Clarification
Ecology Topic:	y. Parking
Relevant RCW:	RCW 90.58.020; 90.58.100(2)(b), (d)
Relevant WAC:	WAC 173-26-241(3)(j)
Comment Focus:	Removal or Restriction of Existing Parking

I support Ecology’s proposed requirement that transportation and parking decisions be consistent with shoreline public-access policies and plans. I suggest a small clarification so the requirement also reaches removal or restriction of existing parking.

Specifically, I ask Ecology to make clear that the consistency requirement applies not only to transportation and parking plans and projects, but also to actions that remove or restrict existing parking. I suggest revising the phrase so that it reads:

“Transportation and parking plans, projects, and actions, including the removal or restriction of existing parking, shall be consistent…”

Soundview Dr NW shows why. The County installed a public parking stall at the request of a former councilmember for a community member with disabilities and made it available to everyone. Public Works later stated that it intended to remove the stall and return the area to “complete no parking,” citing emergency-vehicle access. In 2021, however, County records stated that the relevant fire officials had “no concern for emergency vehicle access.” In 2025, the County Engineer located the work order installing the stall but asked, “there is not a work order for removing the stall?”

Removing existing parking can materially reduce practical shoreline access, particularly for people with mobility limitations, without a documented shoreline-consistency review or demonstrated, compelling reason for departing from an applicable SMP requirement.

Revision Type:	Changes Impacting Local Governments
Ecology Topic:	g. Sea Level Rise and Increased Storm Severity
Relevant RCW:	RCW 90.58.100(1)(c); 90.58.130
Relevant WAC:	WAC 173-26-246(6)(d)
Comment Focus:	Public Submission and Review of Shoreline Access Inventory Corrections

I support Ecology's proposed requirement to make shoreline asset inventory data publicly available for review and consideration. I ask Ecology to provide a corresponding process for the public to submit official records identifying omissions or inaccuracies and receive a documented determination.

RCW 90.58.130 requires Ecology and local governments to actively encourage public participation in both the development and implementation of shoreline management programs.

RCW 90.58.100(1)(c) directs Ecology and local governments, when preparing master programs and amendments, to consider relevant plans, studies, surveys, inventories, and classification systems to the extent feasible, including those prepared by private individuals.

Existing WAC 173-26-201(3)(c) requires shoreline inventories to incorporate pertinent available information from individuals and other appropriate sources. Subsection (vi) expressly identifies existing and potential shoreline public-access sites, including public rights-of-way.

The proposed rules reinforce these principles. WAC 173-26-246(5)(a)(iii) requires the solicitation and incorporation of relevant information submitted by interested parties during master program amendments. Subsection (iv) requires consultation with Ecology when conflicting information must be evaluated.

Yet proposed WAC 173-26-246(6)(d) provides for public availability of state inventory data without establishing a corresponding process for the public to submit documented corrections directly to Ecology and receive a determination.

Ecology has already identified the importance of this gap. Its February 2026 *Washington Coastal Zone Management Program Section 309 Assessment & Strategy*, page 60, acknowledges that the Coastal Atlas public-access inventory originated in 2009–2011 and that Ecology has had very limited capacity to add new access locations or remove defunct ones. Page 62 further identifies limitations in consolidating locally maintained public-access information across coastal jurisdictions.

Soundview Dr NW in Snohomish County provides a documented example.
Ecology's historical Coastal Atlas identified the site as WS01390, recording pedestrian and visual access and roadside parking in September 2010. Following a private complaint, the site was moved from the public-facing access map to a hidden layer.

The underlying 50-foot public right-of-way was never vacated. Snohomish County subsequently acknowledged that the right-of-way extends to the line of ordinary high tide and that the public

may use both its opened and unopened portions. A signed and stamped professional survey provides additional boundary evidence.

On October 25, 2026, I submitted this information to Ecology, together with a request to consider nearby Dayton Street. On October 27, an Ecology representative confirmed that the updated public-access dataset was undergoing final quality control and described an opportunity to revisit internal processes for receiving feedback about these locations. The response identified no procedure for evaluating my submitted records or obtaining a documented determination.

Although the Coastal Atlas and proposed shoreline asset inventory serve different purposes, this experience demonstrates the importance of a reliable correction process for state-maintained public-access information. I ask Ecology to extend that principle beyond sea-level-rise inventories to state-maintained shoreline public-access information generally.

I ask Ecology to add one sentence to proposed WAC 173-26-246(6)(d), immediately following its first sentence:

“The department and local governments shall accept and evaluate public requests to add or correct their respective shoreline public-access inventory data supported by official records and provide a written determination.”

This addition does not dictate the outcome of any request. It establishes a means for official records to be considered, conflicting information to be evaluated, and a reasoned determination to be provided.

Public availability is an important first step. A reliable shoreline-access inventory also needs a means to correct documented errors and omissions when better evidence becomes available. The accuracy of public shoreline-access information should not depend solely on when an inventory was last updated or whether the public had an opportunity to participate before publication.

Revision Type:	Editorial and Clarification
Ecology Topic:	Technical Corrections
Relevant RCW:	RCW 90.58.180(1)(a); 90.58.200
Relevant WAC:	WAC 173-26-120, WAC 173-26-231, WAC 173-27-050, WAC 173-27-295
Comment Focus:	Corrections to Proposed WAC Language

I ask Ecology to correct the following six errors in the September 2, 2026 proposed rule language. Page numbers refer to the printed pages of the proposed Chapter 173-26 WAC (RDS-7309.2) and Chapter 173-27 WAC (RDS-7310.2).

1. **WAC 173-26-120(3)(a), page 33.** Change both references to subsection “(2)(f)” to “(2)(e)”. The local-government response procedure appears in subsection (2)(e), and no subsection (2)(f) exists in the proposal.

2. **WAC 173-27-050(1)(c)(iii), page 21.** Replace “WAC 173-27-040(3)” with “WAC 173-27-040(2)”. Subsection (2) establishes the application-material requirements, while subsection (3) identifies exemption categories.

3. **WAC 173-26-231(2), page 127.** Delete the orphaned subsection label “(g)”. Its accompanying text is marked for deletion, but the label remains.

4. **WAC 173-26-231(4)(c)(iii)(B), page 141.** Replace the reference to “(b)(iv)” with “(b)(v)”. Subsection (b)(v) establishes the shoreline stabilization preference hierarchy referenced in the alternatives analysis. Subsection (b)(iv) addresses waterward placement of nature-based stabilization.

5. **WAC 173-27-295(3)(e), page 54.** Replace “within 21 days from the date of receipt of the local government notice” with “within 21 days of the date of filing”. This would make subsection (3)(e) consistent with subsection (7), RCW 90.58.180(1)(a), and WAC 461-08-340(2)(a).

6. **WAC 173-27-295(7), page 54.** Replace “WAC 461-08-315(2)(a)” with “WAC 461-08-340(2)(a)”. The former establishes the Shorelines Hearings Board's jurisdiction; the latter establishes the 21-day filing deadline for appeals of local permit-rescission decisions.