September 16, 2026

Washington State Department of Ecology
ATTN: Rebecca Rothwell
Rulemaking Lead
PO Box 47600
Olympia, WA 98504

RE: WAC 173-26-100, WAC 173-26-104, WAC 173-26-110, WAC 173-26-120

Dear Ms. Rothwell:

Thank you for this opportunity to comment on the 2026 Department of Ecology's amendments and rule making updates submission for the Shoreline Management Act.

The new requirements will make the SMP amendment approval process more clear. While all of these requirements are necessary, I find the penalty or consequence for not following or completing the WAC 173-26-120 Guideline missing. For example, WAC 173-26-120(4) Department Action can give the local government a conditional approval and then the local government can pass an ordinance with those required or suggested minor changes. Then the proposed amendment's local zoning aren't passed, as promised, that include the environmental safeguards proposed in their SMP amendment. While this might seem like an isolated and unusual problem, it has happened in our County. The amendment process was delayed by years because Ecology just continued to wait for the County to pass local zoning environmental safeguards attached to their SMP amendment. Eventually, the limited 2016 amendment was abandoned. What happened next was equally unsatisfactory and I have addressed that in a separate Comment submission.

I am suggesting the following changes to help clear up previous problems with the Guidelines when the locally initiated amendment process goes on for years instead of a reasonable amount of time.

WAC 173-26-120 references WAC 173-26-100, WAC 173-26-104, WAC 173-26-110.
WAC 173-26-120(3)(b):

(b) Review criteria. The department shall review the proposed master program or amendment solely for compliance with the requirements of chapter 90.58 RCW.
(i) Shorelines of statewide significance. The department shall approve those parts of a master program relating to shorelines of statewide significance only after determining that the program provides for optimum implementation of the statewide interest as set forth in the policy of RCW 90.58.020 and the applicable guidelines, including WAC 173-26-251.
(ii) Shorelines. In reaching its determination of consistency

with the policy of RCW 90.58.020 and the applicable guidelines, the department shall approve those parts of a master program relating to shorelines unless it determines that the submitted parts are not consistent with the policy of RCW 90.58.020 and the applicable guidelines.

The above WAC 173-26-120 changes are helpful. Additionally, this Guideline change has new text to require and not just suggest how a master program is approved. WAC 173-26-120 section 4 provides a provision that includes a decision "MUST" be made by the Department. However there are no time limits on local governments for any of the sections in these new rulemaking Guideline amendments.

*(4) WAC 173-26-120 - Department decision: The department **must** decide to: (a) approve the proposal as submitted; (b) conditionally approve the proposal to require changes and recommend specific changes necessary to make the proposal consistent with chapter 90.58 RCW policy and its applicable guidelines and implementing rules; or (c) deny the proposal in those instances where no alteration of the proposal appears likely to be consistent with the policy of RCW 90.58.020 and its applicable guidelines and implementing rules.*

While these provisions for Ecology's decision are now "must decide" it is missing the part where nothing happens because the local government can't complete the amendment as written with local zoning changes. Should Ecology just do nothing in that case or should the amendment have a time limit and be closed. This discussion is missing yet important. Local government can do nothing locally because their SMP is "pending" without any penalty by Ecology for years of delays.This stance by Ecology is unreasonable and does nothing for a public process that is pending for far too long.

Problems with reluctance to have time limits for amendments

The Department has been reluctant to put time limits on local government's SMP amendment proposals but that is what I saw as missing in these Guidelines for amendment submissions and approvals. In the past, the Rules have only suggested some time limits for Ecology decisions. Ecology's stated goal of partnerships with local government should also include a partnership with the public who must live with their decisions.

I would like to propose the following to address delays local governments can take leading to years long Shoreline Master Program amendment processes.

New clauses are needed for the establishment of limits on Ecology's authority to ignore unreasonable amount of time allowed for locally initiated amendments.

1. Any pending or incomplete locally initiated amendment must be closed by the Department of Ecology if a local government simply stops all required actions to complete the process. The process to do this is by contract which are simply binding

agreements. A set time period for completion of amendments proposed by a local government can be agreed to by both parties. That agreement should be necessary before Ecology accepts an amendment submission. Because amendments can vary in complexity, both parties must agree in writing to what is reasonable. This change should be treated like a binding agreement in writing and used to legally terminate a locally initiated amendment process.

2. As part of this new contract requirement, Ecology must also document in writing to the local government that amendment acceptance will only be granted after all documentation and analysis requirements and are met and must also be in writing before an amendment submission is accepted by Ecology.

3. SMP amendments by local governments can only receive final approval if written and submitted text is not be changed after a conditional approval(s) is issued and agreed to by both parties.

4. Ecology will be obligated to post the time agreements and any delays requested by the local government to their Active SMP Amendments online listings. *(https://ecology.wa.gov/water-shorelines/shoreline-coastal-management/shoreline-coastal-planning/shoreline-master-programs-amendments#WWW)*

5. Locally Initiated Amendments that never receive a written Final approval by Ecology can not be changed and then moved to a Periodic Review as already approved. In the past, this has happened while Ecology granted the action. Such actions by Ecology prevent public participation and avoid further review and discussion of changed amendment contents.

6. SEPA Reports: A Locally Initiated Amendment that disclose proposed environmental components in their declared SEPA report and then the local government removes those environmental components can no longer use that SEPA report for their final approval from Ecology.

Local Government SMP amendments should be treated like contracts between the local government and Ecology. Each amendment should be viewed as an individual contract to prevent delays and with full public disclose through the Ecology Active SMP Amendments Online webpage. Contracts would reduce staff costs for both parties and reduce new rulemaking changes to fix the next set of problems.

Past mistakes by Ecology's amendment approval process would be much less likely if both parties had in writing what is expected of them. We don't live in a perfect world and mistakes can happen and need to be planned for and not ignored.

Thank you for moving these rulemaking changes forward for public input.

Tani Sutley
Bellingham, WA