Brian Shay

As the City Administrator of the City of Hoquiam with over 30 years experience working with the SMA and SEPA, please see my attached comments. These new rules should be withdrawn and reconsidered in accordance with the Governor's Executive Order 26-06.

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November 16, 2026

Casey Sixkiller, Director
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

RE: Ecology's Proposed Shoreline Management Act Regulations – Request for Withdrawal

Dear Director Sixkiller:

A large number of local governments, ports, and business interests will be requesting that the Department of Ecology ("Ecology") withdraw its proposed Shoreline Management Act regulations ("SMA regulations"). (See attached information from ILTA and BIAW). These and other organizations recognize the Legislature's recent direction to address climate change in local planning. But the proposed rules do not answer that direction. They impose sweeping new state mandates through Chapter 173-27 WAC and related rules that will shut down economic development at our ports and in rural and economically disadvantaged communities that can least afford to lose it. The Shoreline Management Act has always been implemented cooperatively, with local governments exercising the discretion and flexibility needed to fit the wide variety of shoreline uses, structures, and conditions across Washington. These rules end that partnership and replace it with one-size-fits-all dictates from Olympia. In addition, 2023 legislation regarding climate change planning and the Growth Management Act ("GMA") directed the following:

> "The department shall update its shoreline master program guidelines to require shoreline master programs to address the impact of sea level rise and increased storm severity on people, property, and shoreline natural resources and the environment." RCW 90.58.630

Ecology's proposal does the opposite. Many of its provisions would make it more difficult and costly, and in some cases impossible, to protect people and property from sea level rise and other climate-driven impacts. The rules also reach well beyond the Legislature's direction by extending shoreline permitting to wetlands and critical areas, and to creeks, rivers, and lakes as shorelines of the state. Many of these areas face no meaningful sea level rise risk, yet they would be locked down by significant new restrictions.

Ecology should stop and take a phased approach. First, local governments should identify the shoreline areas actually at risk from sea level rise and increased storm severity. Then local governments and Ecology should review the existing regulations that apply in those areas and decide how existing and new shoreline structures and uses should be regulated, and in many cases protected, consistent with the Legislature's direction to address impacts on people and property and with the other goals of the SMA and GMA.

The Proposed SMA Regulations Will Stop Economic Development at Our Ports and in Rural Communities

Washington's ports are the state's trade gateways and anchor employers. Rural and disadvantaged communities depend on working waterfronts, marinas, utilities, and shoreline industrial and commercial land for the family-wage jobs and local tax base they need. The proposed SMA rules threaten all of it. They would prohibit or choke off new docks, piers, moorage, utility crossings, and other waterfront infrastructure; restrict expansion and replacement of existing facilities; make land effectively unbuildable; and add costly studies, delay, and uncertainty to every project. Capital will not wait through that process. Employers will take their investments, and the jobs and tax revenue that come with them, to other states or to places that welcome development. Communities with the fewest alternatives will be hit hardest.

Selected Examples of Significant Problems in Proposed SMA Regulations

Many of our organizations have submitted or will submit more detailed comments on the proposed SMA rules. The following examples illustrate the damage these regulations would do to shoreline structures and uses.

1. Protecting shoreline property from erosion would become more difficult and expensive.

Current rules require evidence of erosion risk and favor less damaging alternatives, but allow replacement of existing shoreline protection when needed to protect primary structures. WAC 173-26-231(3)(a)(iii)(B)–(E). The proposed SMA rules would impose a far more expansive and prescriptive review. Before a seawall or bulkhead could be approved, owners would have to evaluate options such as moving buildings or using natural

materials, substantially increasing the time and expense of securing approval. Id. at (4)(b)(v)(A)–(C), (e)(i)–(iii). New protection would be prohibited along certain bluffs, shorelines where sediment builds up, and in flood-prone areas where the project does not address or mitigate the flood risk. Id. at (4)(c)(v)(A)–(C). If any part of an existing protective structure is beyond repair, the entire project would face replacement review. Id. at (4)(c)(vii)(A). Even emergency approval would authorize only temporary measures, followed by removal and restoration. Id. at (4)(c)(viii)(B)–(D). Owners facing erosion would confront costly studies, limited options, and no assurance that lasting protection will ever be allowed.

2. Fewer repairs and improvements would qualify for exemptions, increasing costs and the number of permit decisions required of local governments and Ecology.

Current rules exempt from a shoreline substantial development permit work restoring development to a comparable original condition, and replacement of a structure where replacement is the customary repair method. WAC 173-27-040(2)(b). The proposed SMA rules would narrow the exemption to minor repairs and replacement of individual components, potentially requiring a permit for previously exempt work. Proposed WAC 173-27-040(3)(a). This is more red tape, more delay, and more cost for routine maintenance, and it comes at a time when the State claims to be cutting red tape.

3. Wetland restrictions could leave owners with little or no room to build or improve their property.

The proposed SMA rules would prohibit many construction and site activities in wetlands and their surrounding buffers, while eliminating or narrowing allowances owners currently rely on to maintain and improve constrained properties. Proposed WAC 173-26-221(2)(e)(i)(F)(II). For some properties containing wetlands, these restrictions could make the land effectively unbuildable.

4. Utilities would be prohibited from developing new or modifying existing energy generation and transmission infrastructure.

The draft regulations prohibit any development activities within wetlands and associated wetland buffers located in shoreline jurisdictions, including development required for critical energy infrastructure and modifications to existing infrastructure. That would undermine the capacity of electric utilities to meet their statutory obligation to serve customers who request service, including customers within shoreline jurisdictions, and it would obstruct the clean energy generation and transmission the State says it wants. The draft regulations also limit vegetation management within shoreline jurisdictions, which would limit utilities' ability to maintain safety clearances and significantly impact

compliance with state and federal safety requirements and industry standards governing vegetation clearances around electric infrastructure.

5. Wetland protections would leave less room for local flexibility.

The proposed SMA rules would expressly confirm that shoreline rules cover entire associated wetlands (which the proposed rules define broadly), including portions beyond 200 feet, and would prohibit exemptions for small or isolated wetlands within shoreline jurisdiction. Local governments would be forced to follow Ecology's shoreline requirements, with far less freedom to tailor protections and allowances than under their own critical areas regulations. Owners would be left with fewer options for obtaining approval to maintain wetland-constrained properties. Proposed WAC 173-26-221(2)(a)(iv), (2)(a)(v)(A)(I), (2)(e)(i)(F)(IX).

6. New docks and waterfront structures could be prohibited.

The proposed SMA rules add a new category of protections for critical freshwater habitat that would prohibit new docks, piers, hard stabilization, bridges, fill, floats, jetties, utility crossings, and other structures or shoreline modifications from intruding into or over critical saltwater or freshwater habitat (much of which was already prohibited in critical saltwater habitat). This could block marina expansion, new moorage, and the waterfront infrastructure that ports and rural waterfront communities need to grow.

7. Future sea level rise projections could prevent owners from building on land that is usable today.

Once local rules take effect, owners could be barred from constructing, expanding, or replacing buildings based on Ecology-provided data projecting that the land will become submerged or intertidal 70 or more years in the future, unless the buildings support water-dependent uses, recreation, or public access. Local governments could also extend shoreline restrictions beyond the usual 200-foot boundary to cover projected sea level rise hazard areas. Owners' ability to develop or improve their property would depend on projections reaching at least seven decades ahead, with no fixed endpoint for that planning horizon. Proposed WAC 173-26-246(5)(b)(iii), (9)(a), (c)(i)–(ii).

8. Owners would be prevented from subdividing near critical areas, with significant cost impacts on new housing supply.

The proposed SMA rules would prohibit new lots in erosion and landslide prone areas and their buffers. Proposed WAC 173-26-221(2)(e)(ii)(E)(IV). They would also block land divisions "that would allow more nonwater dependent development" in flood-prone areas, including the 100-year floodplain and locally designated areas affected by high groundwater, tides, shifting rivers, or sea level rise. Id. at (2)(e)(iv)(A)(I), (2)(e)(iv)(A)(III),

(2)(e)(iv)(C)(II)–(IV), (2)(e)(iv)(E)(V). The proposal does not clarify whether this prohibition turns on the development an owner actually proposes or simply on what the new lots could accommodate, leaving owners uncertain whether a land division could be denied even without plans to build. And even where new housing construction could occur, Ecology's own rulemaking analysis estimates added costs of $58,520 to $234,080 per affected single-family project. That is the opposite of housing affordability.

9. Stricter limits on existing nonconforming shoreline uses and structures.

Before altering, expanding, or replacing nonconforming uses and structures, owners would have to show that compliance is infeasible and take steps to avoid or offset environmental harm. Id. at (3)(c)(iii). Expansion of a nonconforming development would be allowed only when necessary to support a currently permitted use, and only with additional environmental analysis. Id. at (3)(d)(i)(F), (H). Replacement buildings would have to meet current standards wherever feasible. Id. at (3)(d)(i)(I). Owners, including existing port tenants and rural businesses, would face costly studies and redesign, or find that the rules leave them no practical way to expand or replace existing buildings.

10. Improvements could be treated (and therefore prohibited) as expansion.

The proposed SMA rules define "expansion" as increasing a structure's size in any dimension, potentially subjecting ordinary building improvements to expansion restrictions even when they do not enlarge the building's footprint. Proposed WAC 173-26-020(16).

The Proposed SMA Regulations Contradict the State's Regulatory Reform, Affordability, and Strategic Investment Goals

The proposed SMA regulations are a textbook example of the state agency over-regulation that has made regulatory reform necessary. On November 5, 2026, Governor Ferguson issued Executive Order 26-06, "Improving Government Efficiency Through Regulatory Reform." That order follows Executive Order 26-02 creating the Governor's Economic Development Council. Ecology's proposed SMA rules are exactly the type of rule that should be reviewed under the purposes of Executive Order 26-06, which are to identify opportunities to:

> "a. Eliminate outdated, duplicative, or unnecessary requirements;
>
> b. Simplify rules and statutes to improve clarity, consistency, and ease of compliance;
>
> c. Reduce administrative burdens on businesses, individuals, nonprofit organizations, and local governments;

d. Streamline permitting, licensing, and other approval processes, including reducing unnecessary procedural steps;

e. Modernize administrative requirements and improve coordination across agencies to reduce duplication and inconsistent requirements; and

f. Identify statutory changes that would reduce unnecessary regulatory burdens or enable more efficient government operations."

The proposed rules do the reverse on every count. They add requirements that exceed the statute, complicate rather than simplify, increase administrative burdens on businesses and local governments, and lengthen permitting. The State cannot credibly promote strategic investments to create jobs and grow state tax revenue while its own agency rewrites the rules to make those investments harder, slower, and more expensive, particularly at ports and in rural communities that need new investment most.

Washington continues to struggle with complex and costly regulatory systems that result in low national rankings in areas such as housing affordability, new clean energy generation and transmission, basic infrastructure development, and the cost of construction. The Governor's Executive Orders show clear recognition of the need to improve affordability and reform permit and regulatory processes. Yet Ecology's proposed rules create new regulatory requirements that undermine the objectives of recent state laws on housing supply and affordability (i.e., HB 1110 (2023), SB 5290 (2023), HB 2418 (2026)) and ongoing efforts to streamline development of new energy supply and transmission.

We recognize the complexity of regulatory reform; streamlining the web of existing state and local regulations is difficult. But one step is immediately achievable and entirely within Ecology's control: stop adopting additional state agency regulations that exceed statutory requirements and impose new costs on the private and public sectors alike.

Unfunded Mandates on Cities and Counties

Ecology's 2027-29 Operating Budget request does not include the funding necessary for cities and counties to update their local Shoreline Master Programs. Ecology would impose the mandate and leave local taxpayers to pay for it. As described above, the narrowing of exempt activities and the increased complexity of permit decisions will increase the number of activities requiring city or county shoreline review, and the cost and time of that review for applicants and local governments alike.

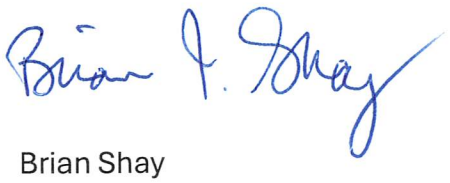
Conclusion

I agree that Ecology must update certain aspects of its SMA regulations. But the sweeping proposed rules go far beyond the statute and will harm local governments, ports,

utilities, and public and private shoreline owners. They will stop much-needed economic development in port and rural communities that are already disadvantaged, and they run directly against the State's own goals of reducing regulatory burdens and making strategic investments that create jobs and state tax revenue. I urge Ecology to withdraw the proposed rules and pursue a phased approach to new SMA regulations and local Shoreline Master Programs that meets Ecology's responsibilities under the Shoreline Management Act and is consistent with the State's effort to improve the regulatory environment.

I have submitted a meeting request with your office to discuss these proposed regulations and how the current regulatory climate prevents much needed economic development in our community and throughout the state. Regulatory reform to create permit certainty, particularly within the Department of Ecology is critical to the clean energy, climate resiliency and economic future of Washington state.

Sincerely,



Brian Shay
City Administrator
City of Hoquiam



November 2, 2026

Washington State Department of Ecology
Shorelands and Environmental Assistance Program
P.O. Box 47600
Olympia, WA 98504-7600

RE: Comments on Proposed Amendments to Shoreline Management Rules – Chapters 173-26 and 173-27 WAC

Dear Department of Ecology:

On behalf of the International Liquid Terminals Association (ILTA), thank you for the opportunity to comment on the Washington Department of Ecology's proposed amendments to the state's Shoreline Management Act regulations.

Founded in 1974, ILTA represents over 60 companies operating liquid terminals in all 50 states and in countries around the world. Terminals provide essential logistics services, support domestic and international trade, and foster the readiness of the United States armed forces by making fuels and liquid products available throughout the world—products such as petroleum fuels, aviation fuels, petrochemical products, chemicals, asphalt, alternative fuels like ethanol, and beyond.

ILTA appreciates Ecology's efforts to strengthen shoreline resilience and protect Washington's natural resources. Our members share these objectives and have made significant investments in environmental protection, spill prevention, infrastructure modernization, and operational safety.

However, we are concerned that the proposed regulations, as currently drafted, could impose additional costs and regulatory uncertainty on marine terminal development and modernization, particularly in rural and economically underserved communities such as Grays Harbor County. Without appropriate flexibility, these requirements could unintentionally discourage investment in existing facilities, delaying the very environmental and safety improvements the state seeks to encourage.

Recognizing Washington's Existing Environmental Standards

Washington already maintains some of the nation's most comprehensive environmental and permitting requirements for marine terminal development and operations. New terminal projects and major facility

improvements are subject to extensive regulatory oversight, including requirements under the Shoreline Management Act, State Environmental Policy Act (SEPA), state and federal water quality regulations, and applicable local development standards.

Bulk liquid terminals must also comply with rigorous federal and state requirements governing spill prevention, containment, emergency response, stormwater management, and the safe handling and storage of materials.

These overlapping regulatory frameworks already require terminal developers to evaluate environmental impacts, incorporate protective measures, and implement mitigation where necessary.

ILTA encourages Ecology to recognize these existing protections and avoid introducing duplicative requirements that increase costs and permitting uncertainty without delivering corresponding environmental benefits.

Unintended Consequences: Discouraging Modernization of Existing Marine Terminals

ILTA is particularly concerned that the proposed regulations could have the unintended consequence of discouraging existing marine terminal operators from investing in facility modernization and environmental improvements.

Many of Washington's marine terminals have operated for decades, providing essential infrastructure that supports maritime commerce, energy distribution, and regional employment. These legacy facilities require ongoing capital investment to maintain safe operations, improve environmental performance, and incorporate new technologies.

However, the economic feasibility of these investments is increasingly challenged by rising construction costs and an expanding range of regulatory requirements.

Washington's recently updated building, energy, and fire codes, which took effect in March 2024, have already introduced additional compliance considerations and potential costs for industrial development and facility improvements. Depending on the project, these requirements can affect structural engineering, electrical systems, fire protection, energy efficiency, and other infrastructure essential to terminal operations.

These costs are particularly challenging for older industrial facilities, where even relatively modest improvements may require substantial engineering work or upgrades to existing systems.

The proposed shoreline regulations would introduce another layer of regulatory complexity and potential expense. Additional engineering studies, climate resilience assessments, mitigation requirements, and permitting uncertainty could materially increase the cost of projects that are already subject to extensive environmental and safety regulations.

The cumulative effect could create a significant disincentive for existing operators to modernize their facilities.

Faced with escalating project costs, an operator may determine that maintaining an existing facility in its current configuration is more economically viable than undertaking a modernization project that triggers additional regulatory requirements.

This outcome would directly undermine the state's environmental objectives.

Modern terminal infrastructure frequently incorporates improved spill prevention and containment systems, enhanced stormwater management, more efficient cargo-handling equipment, upgraded fire protection, and technologies that reduce emissions and improve operational safety.

If the regulatory costs associated with modernization become prohibitive, these improvements may be delayed or abandoned, leaving older infrastructure in service longer than would otherwise be necessary.

ILTA encourages Ecology to recognize that environmental progress is often achieved through reinvestment in existing industrial infrastructure. Regulations should facilitate these improvements rather than create financial or procedural barriers that discourage them.

Protecting Economic Opportunity in Rural and Underserved Communities

ILTA is particularly concerned about the potential impacts of the proposed rules on rural and economically underserved counties, including Grays Harbor County.

Communities such as Aberdeen, Hoquiam, and the broader Grays Harbor region have longstanding maritime and industrial economies. Their working

waterfronts provide critical opportunities for private investment, family-wage employment, and economic diversification.

Unlike larger metropolitan areas, rural coastal communities often have fewer alternative locations for industrial development, more limited infrastructure resources, and greater dependence on maritime industries for economic activity.

The proposed requirements addressing sea-level rise, shoreline stabilization, and redevelopment could create additional costs and regulatory uncertainty for projects in these communities. These challenges may be particularly significant for existing marine terminals seeking to modernize facilities, improve environmental performance, or expand operations.

While the proposed regulations appropriately recognize the importance of planning for future coastal conditions, they should not unintentionally discourage investment in the very communities that would benefit most from modern, resilient infrastructure.

In Grays Harbor and similar communities, the cumulative cost of environmental reviews, engineering studies, shoreline permits, mitigation, and infrastructure improvements can materially affect whether a project moves forward.

Additional regulatory requirements should be carefully evaluated against their potential to delay projects, increase development costs, and reduce the competitiveness of Washington's working waterfronts.

Maintaining Flexibility for Marine Terminal Infrastructure

Marine terminals are inherently water-dependent facilities. Their operations require docks, piers, bulkheads, shoreline stabilization, and other specialized infrastructure that cannot simply be relocated away from the waterfront.

ILTA is concerned that new requirements emphasizing nature-based shoreline stabilization and additional restrictions on redevelopment could create challenges for the construction, maintenance, and modernization of these essential facilities.

While nature-based solutions can provide important environmental benefits, they are not always technically feasible or appropriate for industrial marine terminals where vessel berthing, cargo transfer, structural stability, and operational safety require engineered shoreline infrastructure.

Similarly, climate resilience requirements should provide sufficient flexibility to allow existing terminals to strengthen and adapt their facilities rather than creating regulatory barriers to reinvestment.

Modernization projects frequently deliver substantial environmental benefits, including improved spill containment, enhanced stormwater treatment, reduced emissions, and safer cargo-handling systems. Regulations should encourage these improvements rather than make them more difficult or expensive to implement.

Recommendations for the Final Rule

ILTA respectfully requests that Ecology consider the following recommendations as it finalizes the proposed regulations:

1. **Recognize existing environmental protections.** Avoid duplicative permitting, environmental studies, and mitigation requirements where existing state and federal regulations already provide adequate environmental protection.
2. **Evaluate cumulative regulatory costs.** Assess the combined financial impacts of the proposed shoreline requirements and Washington's recently updated building, energy, and fire codes, particularly for existing industrial facilities undertaking modernization projects.
3. **Provide flexibility for rural and underserved communities.** Consider the economic and fiscal capacity of smaller coastal jurisdictions, including Grays Harbor County, and provide implementation flexibility and technical assistance that minimizes additional costs to local governments and private investment.
4. **Protect existing water-dependent industrial uses.** Ensure that shoreline regulations expressly accommodate the continued operation, maintenance, modernization, and reasonable expansion of existing marine terminals and associated infrastructure.
5. **Allow engineered shoreline protection where necessary.** Preserve the ability to construct and maintain bulkheads, seawalls, docks, and other hardened infrastructure when required for maritime operations, public safety, environmental protection, or climate resilience.
6. **Encourage modernization and environmental improvements.** Establish streamlined and predictable permitting pathways for projects

that replace aging infrastructure, improve environmental performance, strengthen climate resilience, or enhance operational safety.

7. **Recognize site-specific conditions.** Allow local governments to consider existing industrial development, engineering constraints, economic conditions, and the operational requirements of water-dependent facilities when implementing sea-level-rise planning requirements.
8. **Evaluate impacts on rural economic development.** Consider the potential effects of additional regulatory costs on private investment, employment, local tax revenues, and the long-term competitiveness of rural ports and marine terminals.

Washington's working waterfronts are essential economic assets that support jobs, international trade, energy security, and industrial development. They are particularly important in rural and underserved communities where maritime infrastructure provides opportunities for long-term economic growth.

ILTA supports responsible shoreline management and recognizes the importance of preparing for changing coastal conditions. However, these objectives must be balanced with the practical realities of developing and operating marine terminals in a state that already maintains extensive environmental protections.

We are particularly concerned that the cumulative impact of additional regulatory requirements could discourage operators from modernizing existing facilities, delaying investments that would otherwise improve environmental performance, operational safety, and climate resilience.

Washington should not create a regulatory framework in which maintaining aging infrastructure becomes more financially attractive than investing in newer, safer, and environmentally superior facilities.

We encourage Ecology to adopt a flexible, risk-based approach that recognizes existing regulatory safeguards, protects water-dependent industrial uses, and avoids imposing unnecessary costs on rural communities and marine terminal operators.

By providing clear permitting standards and appropriate flexibility, Washington can strengthen shoreline resilience while continuing to attract investment in modern, environmentally responsible maritime infrastructure.

Thank you for considering our comments. ILTA welcomes the opportunity to work with Ecology to ensure the final regulations protect Washington's shorelines while supporting the communities and industries that depend upon them.

Sincerely,

Leakhena Swett

Leakhena Swett
President
International Liquid Terminals Association

Shoreline Rules Under Review: A Housing Action Guide

Key Costs, Development Risks and Advocacy Priorities

Filed on September 2, 2026
Comment period closes on November 17, 2026, at 11:59 p.m.
Links: Review rules and Submit Comments or attend a public hearing

Taken together, the proposed rules go well beyond the individual changes identified in each section and could significantly affect housing supply and affordability. We've highlighted the key issues below, followed by a section-by-section analysis to help inform written and verbal public comments.

Chapter Highlights

CHAPTERS 173-18 & 173-20: IDENTIFIES REGULATED WATERS: Updated local stream, river, and lake designations could bring additional property within shoreline jurisdiction, triggering requirements found in other chapters and local shoreline management programs.

CHAPTER 173-22: DETERMINES HOW FAR JURISDICTION EXTENDS ONTO LAND: Local governments could include additional floodplain land, shoreline-associated critical areas, and full critical-area buffers in shoreline jurisdiction. Chapters 173-26 and 173-27 would then govern development, permitting, monitoring, and enforcement within those areas.

CHAPTER 173-26: DEVELOPMENT REGULATIONS AND RESTRICTIONS: Regulations and restrictions related to sea level rise, hazard and buffer standards, tree replacement, vegetation conservation, housing limitations, public access, cultural-resource protections, shoreline stabilization, and no-net-loss requirements are established. These provisions are most likely to affect future development, property owners, and housing production.

CHAPTER 173-27: PERMITTING AND ENFORCEMENT: Determines whether a project qualifies for an exemption, what documentation is required, how state and local review proceeds, whether plans may be revised, how projects are tracked, and how continuing permit conditions are enforced.

Significant Concerns

REPORTING REQUIREMENTS COULD OPEN THE DOOR TO ADDITIONAL REGULATIONS

The proposal would require local governments to collect and keep extensive information on permits, mitigation activities, vegetation, shoreline stabilization, public access, and building within buffers. That information could later support additional restrictions. Before expanding regulations, the state should show a clear need, seek public input, and carefully evaluate impacts on housing.

PERMIT REQUIREMENTS MAY NOT END WHEN A PROJECT IS BUILT
Ongoing obligations for mitigation, buffer restoration, tree replacement, shoreline stabilization, and public-access features could continue long after construction ends. Property owners should have clear answers about what is required, who is responsible, whether obligations transfer to future owners, and when those requirements end.

THE PROPOSAL RISKS DUPLICATING CULTURAL-RESOURCE REVIEW
Archaeological studies, tribal consultation, and related reviews could be required under Chapter 173-26, even when similar work has already been completed through another permitting process. The rules should recognize equivalent reviews to avoid unnecessary duplication, delay, and expense.

ENFORCEMENT TOOLS SHOULD INCLUDE APPROPRIATE SAFEGUARDS
Chapter 173-27 would authorize a range of enforcement actions after a permit is issued, including penalties, restoration requirements, damages, and even permit rescission. These actions should be tied to clear violations, supported by objective evidence, and accompanied by a reasonable opportunity to address concerns before more severe penalties are imposed.

VESTED PROJECT RIGHTS SHOULD BE RESPECTED
Permit applicants need certainty that the rules in place when a project vests will continue to apply. New requirements, interpretations, hazard projections, or shoreline-program changes should not be imposed retroactively on complete applications or approved projects except where immediate public-safety concerns exist.

LOCAL GOVERNMENTS ARE BEING ASSIGNED NEW DUTIES WITHOUT LONG-TERM FUNDING
The proposal would create ongoing obligations related to mapping, program administration, permitting, reporting, and enforcement. Temporary grants are not a dependable funding source for permanent responsibilities.

THE HOUSING CONSEQUENCES HAVE NOT BEEN FULLY JUSTIFIED
Consider a range of less burdensome alternatives before imposing these requirements. Options such as flexible mitigation, administrative adjustments, streamlined review processes, engineered solutions, and protections for existing homes could help meet shoreline objectives while protecting housing opportunities.

Ecology's Flawed Preliminary Cost Analysis

Ecology estimates substantial project costs but does not fully account for lost lots, reduced density, permitting delays, financing costs, cultural-resource review, long-term mitigation, increased local fees, or housing that is delayed or becomes infeasible to build.

- **SINGLE-FAMILY PROJECTS:** $58,520 to $234,080 per affected project

- **MULTIFAMILY PROJECTS:** $117,040 to $468,160 per affected development
- **3:1 TREE REPLACEMENT:** $1,250 to $9,600 per affected project
- **SHORELINE-STABILIZATION ANALYSIS:** $1,448 to $2,895 per application
- **ADDITIONAL VEGETATION INFORMATION:** ~ $202 per project

Ecology cannot establish that this is the least burdensome alternative by estimating only selected compliance expenses, assuming uncertain grants will cover local costs, and overlooking lost lots, reduced density, permit delays, continuing obligations, and projects that become infeasible. A valid comparison must assess whether targeted, site-specific, flexible, and fully funded requirements could achieve the same environmental goals.

More specifically:

UNMEASURED COSTS: Ecology does not fully account for technical studies, mitigation, legal and financing expenses, long-term monitoring and maintenance, corrective action, or potential permit-fee increases.

UNCLEAR RESPONSIBILITY: Rules do not adequately specify which obligations fall on builders, homeowners, HOAs, or future owners, and when those obligations end.

UNCERTAIN FUNDING: Competitive, suspended, or periodically funded grants cannot reliably support permanent local permitting, mapping, reporting, monitoring, and enforcement duties. If the state requires the work, it should provide dependable funding to local governments to complete the work.

Commentary

Washington lawmakers have spent years trying to increase housing supply, direct growth into urban areas, and remove barriers that drive up housing costs. These proposed shoreline rules move in the opposite direction.

The most significant concern may be what the proposal means for land already planned for growth. Beyond the new paperwork and permitting requirements, the rules would place additional restrictions on where housing can be built and how property can be used. In some cases, that could reduce development potential inside urban growth areas even as communities are being asked to accommodate more housing.

The proposal makes an already difficult permitting process more costly, more complicated, and less predictable. Some projects will work through those challenges. Others will be delayed, redesigned, or forced back through permitting after losing vested rights. Some will not "pencil-out" anymore. When projects stop moving forward, fewer homes get built, and housing costs keep climbing.

Whether these rules technically conflict with a particular housing statute is not really the issue. The Legislature has spent the last several years trying to increase housing capacity and bring more predictability to the permitting process. These proposed rules move in the opposite direction. They add new restrictions, expand review requirements, and create additional opportunities for delays. The result is higher costs, less certainty, and fewer opportunities to build the housing Washington needs.

The proposal centralizes more authority with Ecology and reduces local discretion. For applicants, that means more uncertainty and another layer of review that can slow projects down.

If Ecology is going to have greater control over permitting decisions, the process for challenging those decisions should be clear. Applicants should be able to rely on local approvals without risking later second-guessing by the state.

Summary of Changes by WAC Chapter

Chapter 173-18 WAC: Shoreline Management Act — Streams and rivers constituting shorelines of the state

- The proposal does not appear to lower the basic statutory thresholds used to determine whether a stream or river qualifies as a state shoreline.
- Ecology proposes deleting the lists of regulated rivers and streams from state rule. Cities and counties would instead identify shoreline streams and rivers in their local shoreline management programs and maps. Those designations would be reviewed periodically and updated using new mapping, flow data, "best available science," etc.
- For housing, the concern is less about an immediate statewide expansion of shoreline protections and more about changing maps, increased local variation, and the possibility that newly identified shoreline segments will reduce housing development capacity.

Chapter 173-20 WAC: Shoreline Management Act — Lakes constituting shorelines of the state

- The proposal does not appear to lower the basic statutory thresholds used to determine whether a lake qualifies as a state shoreline.
- Ecology proposes deleting the lists of regulated lakes from state rule. Cities and counties would instead identify shoreline lakes in their local shoreline management programs and maps. Those designations would be reviewed periodically and updated using new mapping, flow data, "best available science," etc.
- While this may improve accuracy, without strong safeguards, it also means more local discretion, more variation between municipalities, more land disputes, and potentially less land for housing.

Chapter 173-22 WAC: Adoption of designations of shorelands and wetlands associated with shorelines of the state

This chapter does not automatically expand every shoreline boundary statewide. It strengthens local government discretion to bring additional floodplain land, shoreline-associated critical areas, and full critical-area buffers into shoreline jurisdiction. The result could be less buildable land for housing. Any decision to expand shoreline jurisdiction should also be treated as a housing-capacity decision.

- **REGULATED AREAS MAY NOT STOP AT CURRENT BOUNDARIES:** Although the official shoreline boundary remains the same (200 feet), local governments can apply shoreline regulations well beyond that line. That means the area regulated under shoreline rules may be significantly larger than the boundary shown on a map. Shoreline jurisdiction could also extend to additional portions of the floodplain, wetlands, habitat areas, geologically hazardous areas, and their buffers. For property owners, this could mean more permits, larger regulated areas, added

mitigation requirements, stricter development standards, and overlapping regulations that affect land already subject to local zoning and critical-area rules.

- **LAND FOR HOMES COULD DISAPPEAR**: When more of a property falls under regulation, less land remains available for housing and supporting infrastructure. On many sites, especially smaller or constrained parcels, this can reduce the number of homes or lots that can be developed, not just where they are located. This is especially concerning in urban growth areas, where state policy directs communities to accommodate future population growth. Expanding shoreline jurisdiction and regulated areas in these locations could further limit housing opportunities and make it more difficult to meet those growth objectives.
- **SMALL LOTS MAY HAVE FEW OPTIONS LEFT:** On a large property, building can sometimes be shifted to another part of the site. On a small lot, that may not be possible. When accounting for buffers, critical-area protections, shoreline regulations, access requirements, and utility needs, some lots could lose much of their usable building area. Existing homes could also face new restrictions, making it harder to expand, add an ADU, replace aging infrastructure, or rebuild after damage or destruction.
- **RULES COULD DEPEND ON WHERE YOU LIVE:** These expanded designations are not required statewide. Cities and counties would have significant discretion, meaning neighboring jurisdictions could regulate similar properties very differently. Property owners may face different restrictions simply because they are located on opposite sides of a city or county line.
- **OVERLAPPING REVIEWS COULD CREATE MORE RED TAPE:** While the proposal may allow some critical areas and buffers to be managed through the shoreline program, it is not always clear which standards would apply. Without clear direction in local codes, applicants may have to navigate multiple layers of shoreline, critical-area, floodplain, and environmental review for the same project.

Chapter 173-26 WAC: State master program approval/amendment procedures and master program guidelines

This chapter sets the rules cities and counties must follow when updating shoreline programs. Although Ecology claims it is mainly about process, the proposal includes development standards that could directly affect housing, property rights, and project costs. It could influence where homes can be built, how many homes fit on a property, whether existing homes can be replaced or expanded, how much permitting and mitigation cost, and what ongoing obligations remain after construction.

- **SEA-LEVEL RISE, FLOODING, AND HAZARD-AREA RESTRICTIONS:** The proposal could expand areas considered hazardous because of flooding, sea-level rise, high groundwater, tides, channel migration, and extreme weather. These areas could restrict new homes, replacement homes, lot creation, and expanded septic systems. Hazard designations could also reduce developable acreage by requiring portions of a property to remain permanently undeveloped.
- **BUFFERS, VEGETATION, AND 3:1 TREE REQUIREMENTS THAT ADD COST:** Larger buffers, buffer restoration requirements, expanded vegetation standards, and mandatory tree replacement could reduce a property's usable area. For many sites, that could mean less space for homes and the infrastructure they need, including roads, utilities, septic systems, stormwater facilities, and fire access.

- **ADUS AND HOUSING DENSITY:** The proposal could make it more difficult to add housing by restricting ADUs, treating some homes with ADUs as multiunit development, and subjecting middle housing and multifamily projects to additional requirements. These provisions could limit housing options and reduce overall housing capacity in shoreline areas.
- **PUBLIC ACCESS AND ONGOING OBLIGATIONS:** Housing projects could be required to provide public access and take on long-term responsibilities for maintenance, mitigation, vegetation, buffer restoration, and other site conditions. These obligations could continue after construction and may be transferred to future property owners or HOAs.
- **IMPACT ON EXISTING HOMES AND LOTS:** Existing property owners could face new challenges if regulatory or mapping changes make homes or lots nonconforming. Property owners seeking to protect shorelines may also have to demonstrate that nonstructural alternatives are inadequate before using hard stabilization measures.
- **CULTURAL RESOURCES REVIEWS AND LONG-TERM REGULATION:** The proposal could affect nearly every shoreline project by making cultural resources review a regular part of the permitting process. It would also require cities and counties to maintain ongoing records of permits, mitigation activities, vegetation, buffers, and cumulative impacts, which could support future changes to shoreline regulations.

Chapter 173-27 WAC: Shoreline management permit and enforcement procedures

This chapter sets the rules for reviewing and enforcing shoreline permits and exemptions, and those decisions can affect whether a project moves forward, how much time and money it takes to permit and study, whether plans can change during construction, and what responsibilities remain long after the work is complete.

- **MORE PROJECTS COULD REQUIRE SHORELINE REVIEW:** An exemption would no longer mean a project is exempt from shoreline rules. Even exempt projects could still be subject to buffers, vegetation requirements, mitigation, and other shoreline standards. The proposal also narrows the single-family exemption, and adding something like an ADU, dock, or stabilization project could bring a larger project into the shoreline permit process.
- **ADDITIONAL REVIEWS AND STUDIES COULD BE REQUIRED:** Many projects could require more documentation than they do today. Applicants may need site plans, technical studies, mitigation plans, and other supporting information. Variances and conditional-use permits may also face additional review and stricter approval standards.
- **MORE LOCAL DECISIONS COULD DEPEND ON STATE APPROVAL:** The rule change would give Ecology a larger role in decisions traditionally handled locally. Local interpretations of shoreline regulations would not be final until Ecology signs off, affecting questions about exemptions, buffers, accessory structures, housing classifications, and repair versus replacement. Variances and conditional-use permits may also require separate state review after local approval. Ecology could take up to 30 days to determine whether an application is complete and up to 90 additional days to decide, with requests for more information extending the timeline further. The

rule change would also require cities and counties to report exemption decisions and supporting project information to the state.

- **LOCAL GOVERNMENTS BECOME RESPONSIBLE FOR MORE TRACKING AND REPORTING:** Local governments' workloads would increase because new requirements would require them to track and report substantially more information on the following: permits, exemptions, mitigation activities, vegetation changes, development in buffer areas, public access, and shoreline stabilization projects. They must also report exemption decisions to the state, creating a record that could influence future regulations and enforcement.
- **PROJECT CHANGES TRIGGER DELAYS, NEW PERMITS, AND LOST VESTING:** Design changes discovered during engineering or construction may no longer qualify as minor permit revisions, especially when vegetation, mitigation, buffers, or critical areas are involved. Instead, applicants could be pushed into a new permit process. The rule change also makes variances harder to obtain and limits their ability to provide relief from shoreline restrictions.
- **PERMIT OBLIGATIONS DO NOT END WHEN CONSTRUCTION IS COMPLETE:** Finishing construction doesn't end the obligations. Developers may still be responsible for mitigation, tree replacement, buffer restoration, shoreline stabilization, public access, and vegetation survival years after a project is built. Those costs can continue long after the project is built, sold, and families have moved into their homes. The rule change also expands state and local enforcement tools, including penalties, restoration requirements, damages, attorney fees, and even permit revocation.
- **NEW LOCAL RESPONSIBILITIES COULD DRIVE HIGHER PERMIT FEES:** The rule change adds new tracking, reporting, recordkeeping, inspection, and enforcement responsibilities for cities and counties. If the state does not fully fund those requirements, cities and counties could pass the costs on through higher permit fees and other local charges.