Jill Cooper

Thank you for the opportunity to provide comments on the proposed Shoreline Management Act (SMA) rules (Chapters 173-18, 173-20, 173-22, 173-26, and 173-27 WAC). I have worked as an environmental consultant in Washington for the past seven years, focusing primarily on wetlands and shoreline properties and permitting. I care deeply about protecting aquatic ecosystems and supporting long-term shoreline ecology, and I appreciate the Department of Ecology's (ECY) commitment to those same goals. At the same time, our firm's day-to-day work navigating permitting and site design has given us a firsthand look at how these proposed revisions will play out in practice. I would like to share several practical concerns regarding shoreline stabilization, feasible alternatives, and the true cost of regulatory compliance, and I respectfully ask ECY to consider targeted adjustments to address them.

1) Severe underestimation of geotechnical reporting costs (reference: Publication 26-06-019, pg 49)
a. The Preliminary Regulatory Analysis severely underestimates the financial impact of the proposed rules on homeowners, particularly regarding the cost estimates for geotechnical reports on pg 49. By demanding rigorous proof that soft shore or nature-based stabilization is not feasible before hard armor can be considered, ECY is effectively mandating a "dual-track" engineering process. Applicants will need to pay specialized coastal engineers to fully design and analyze a soft shore alternative purely to show it's inadequate, only to have to pay more for the design of a necessary hard alternative.
b. ECY's cost estimates fail to reflect the compounding costs of iterative design reviews and current market rates for coastal engineers in Washington. The costs cited for a geotechnical report are severely underestimated and I urge you to reach out to practicing geotechnical companies in Western WA for current costs to accurately inform these estimates you are using.
c. I've worked with geotechnical engineers for the last 10+ years and have not seen any estimates with rates as low as those listed in your document.

2) Nature-based solutions are not feasible at many shoreline sites (WAC 173-26-231)
a. The proposed revisions to this section of code push heavily for nature-based stabilization approaches. These are ideal for sheltered, low-bank environments where there is substantial horizontal space to dissipate wave energy. On high-bank bluffs, narrow lots, or high energy marine shorelines, implementing soft armor is physically impossible without sacrificing a massive portion of the upland lot or the primary residence itself.
b. Furthermore, if a property is flanked by existing vertical bulkheads on neighboring properties, forcing a single middle lot to adopt soft armor creates severe "end-effect" erosion.
c. The rules must include clear, streamlined exemptions for properties located in high energy shoreline environments where soft shore alternatives are not feasible or where adjacent hard armor dictates the localized wave dynamics.
d. I've been to a handful of high energy marine shorelines where soft shore alternatives were tried and failed. Large wood became unanchored after the first big storm and cobble from berms was washed downdrift.

3) False dichotomy between erosion and flooding (WAC 173-26-246 & -231)
a. ECY differentiates between modifications meant to stop erosion versus those addressing flooding/inundation, stating that structures addressing flood risk and SLR are "not preferred". This completely ignores the physical reality of Puget Sound and coastal storms. King tides, storm surges, and wave-driven erosion happen simultaneously. A bulkhead prevents wave overtopping (i.e. flooding) which, in turn, prevents the upland soil from washing out (i.e. erosion). Separating these hazards creates an administrative Catch-22 where homeowners are denied the ability to raise an aging bulkhead to adapt to SLR, effectively forcing uncompensated managed retreat on small private parcels.

4) Shifting baselines and permitting repair/replacement of existing bulkheads
a. The push for relocating replacement structures landward as baselines shift penalizes homeowners for regulatory delays. If an aging bulkhead fails during a winter storm and the shoreline erodes landward while waiting a minimum of 1-2 years for the preparation of necessary documents for permit review AND the approval multi-agency permits (which is taking longer these days due to staffing shortages at local, state, and federal agencies), the proposed rules push to establish the new eroded line as the OHWM for the replacement structure. This permanently shrinks the homeowner's upland property and could threaten septic systems and upland structures.
b. The rules should clarify that routine maintenance and like-for-like replacement of legally established bulkheads remain protected under sections 2b. Normal maintenance or repair of existing structures... and 2d. Emergency construction necessary to protect property from damage by the elements... of WAC 173-27-040 and can be rebuilt in their original,

legal footprint without triggering "new stabilization" burdens.

5) Protection of septic systems and critical infrastructure
a. The regulations restrict hard armor to protecting a "primary structure" in imminent danger. However, the rules frequently fail to protect shoreline-adjacent septic tanks, drainfields, and primary access stairs. If a waterfront home loses its drainfield to erosion, the property becomes legally uninhabitable, rendering the house structurally sound but entirely useless. ECY should explicitly define active septic systems, drainfields, and critical utilities as essential primary structures eligible for shoreline protection. This is also important for maintaining the state's water quality standards since compromised/flooded septic systems and drainfields would have adverse impacts to adjacent waterbodies.

6) Restrictive Exemption thresholds
a. The proposed amendments to WAC 173-27-040 consolidate the exemptions for single-family residential stabilization, maintenance, and emergency construction which creates unreasonable bottlenecks for applicants facing imminent property damage.
i. ECY's guidance dictates that "emergency construction" generally cannot include new permanent protective structures and mandates that temporary measures (e.g. sandbags) be removed after the event. When a winter storm undermines a bulkhead, a homeowner needs immediate, structural intervention. Forcing a homeowner to use temporary sandbags while they wait a minimum of 1-2 years (likely longer due to the extensive dual-track geotechnical reporting) to design and permit a permanent structure leaves the property dangerously exposed to subsequent storms.
ii. The proposed amendments to WAC 173-27-050 introduce new requirements for local planning departments to submit statements of exemption directly to ECY for review and documentation. By mandating that local governments transmit minor, exempt projects to the state, ECY is inserting an unnecessary layer of bureaucracy into local decision-making. This means further administrative bottlenecks, prolonged permit timelines (on top of the delays described earlier in this letter), and increased costs just to receive an exemption to maintain their existing property. ECY should trust local jurisdictions to administer SDP exemptions as authorized by the SMA without requiring additional oversight. ECY should consider ways to provide opportunities for local jurisdictions to provide additional training for local planners, or improve existing training.

7) Allowing stabilization "only if no net loss of ecological function will result"
a. In my experience, ECY is already applying this caveat and in doing so, has made this requirement nearly impossible to meet since their standard of "no net loss" is very subjective, unquantifiable, and depends on the whims of the ECY personnel reviewing the project. This gives regulators effectively unlimited discretion to demand expensive mitigation from single-family homeowners. Many homeowners have had to hire legal representation (yet another costly burden) in order to negotiate with ECY on this and come to an agreement.
b. Another costly aspect of this is the amount of money that must be paid to a biologist/consultant in order to find appropriate mitigation and then draft an extensive mitigation plan which usually goes through a few drafts before ECY will finally sign off. In the end, the amount of mitigation required just to maintain an existing wall is usually disproportionate in my experience.
c. This issue with "no net loss" is further complicated by the fact that some ECY personnel reviewing these projects do not seem to understand shoreline processes and repeat the same talking points regarding impacts from stabilization, regardless of the specific conditions at each project site. Additionally, in my experience, ECY's geotechnical engineers refuse to visit project sites but disregard the recommendations made by the geotechnical engineers that have been hired by applicants and have actually been on site. This constant back and forth puts further financial burdens on applicants who have to pay their consultants to communicate with ECY and provide further proof of what they've already stated in various reports.
d. ECY frequently wants mitigation to occur within the same area as the project but this is not possible most of the time. ECY should make it clear that mitigation options further away can be considered if the same shoreline processes are being restored as those being impacted at the project site. ECY should also consider purchase of credits from mitigation banks to meet "no net loss" since these are accepted by the federal agencies in order to meet federal "no net loss" requirements and WDFW has even accepted credits for shoreline projects.

Thank you again for considering these comments and the practical realities encountered on shoreline projects across Washington. As someone who works every day to balance environmental protection with responsible shoreline management, I believe we can achieve genuine ecological gains alongside workable, fair permitting outcomes when the rules account for site-specific conditions, realistic timelines, and actual compliance costs. I appreciate your time and consideration as you refine the final rule language.