Shaun Hubbard

November 15, 2026

Attn: Rebecca Rothwell
Department of Ecology Shorelands and Environmental Assistance
PO Box 47600
Olympia, WA 98504-7600

Re: Comments on Proposed amendments to Chapters 173-18, -20, -22, -26, and -27 WAC under the Shoreline Management Act.

Submitted to the online portal comment form and via email: shorelinerulemaking@ecy.wa.gov

Dear Ms. Rothwell, Washington State Department of Ecology,

I am writing in support of the comments submitted by Mr. K'allen Specht, specifically his below-mentioned support as well as requested revisions. Mr. Specht has first-hand knowledge of these policies, having engaged with Snohomish County regarding a beach access issue at Soundview Drive NW in Stanwood, Washington.

My interest in public access to shorelines stems from the fact that I am a member of the public who loves being near water, as well as being a resident of Seattle near the so-called String of Pearls -- street-end beach accesses to Lake Washington. Access to the lake on these public street-ends was fought by adjacent private landowners, but eventually the State Supreme Court ruled that public use supersedes private interests. It should not have to go to court if the law is written clearly -- and enforced.

Thank you for your attention to these comments.

Ms. Shaun Hubbard

626 38th Avenue, Seattle WA 98122

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Comments Re: RCW 90.58.020; 90.58.100(2)(b); WAC 173-26-221(4)(c)
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."

Request: 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.

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Comments Re: RCW 90.58.100(1)(c); 90.58.630; WAC 173-26-246(6)(b)(vi)
Identification of Existing Shoreline Street Ends

Support for: Ecology's proposed requirement to inventory shoreline assets that provide public access, including street ends.

Request: 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.

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Comments Re: RCW 90.58.080; 90.58.100(2)(b), (c); WAC 173-26-090(2)(b)(iii)(D)
Material Changes to Existing Public Shoreline Access

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

Concern: 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.

Request: 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.

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Comments Re: RCW 90.58.020; 90.58.100(2)(b), (c); WAC 173-26-221(4)(c)
Barriers to Existing Public Shoreline Access

Request: 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.

Request: 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.

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Comments Re: RCW 90.58.020; 90.58.100(2)(b), (c); WAC 173-27-195; WAC 173-27-990; WAC 173-27-995
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.

However, 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.

Request: 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."

Request: 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.

Request: 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 non-project 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.

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Comments Re: RCW 90.58.020; 90.58.050; 90.58.340; WAC 173-27-075
Consistency Determinations for Material Access Restrictions

When the opportunity to preserve access still exists, a shoreline question should be addressed before a governmental restriction takes effect.

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.

Request: 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."

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