

WSR 24-11-003
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 24-03—Filed May 2, 2024, 8:24 a.m.]

Subject of Possible Rule Making: Chapter 173-18 WAC, Shoreline Management Act—Streams and rivers constituting shorelines of the state; chapter 173-20 WAC, Shoreline Management Act—Lakes constituting shorelines of the state; chapter 173-22 WAC, Adoption of designations of shorelands and wetlands associated with shorelines of the state; chapter 173-26 WAC, State master program approval/amendment procedures and master program guidelines; and chapter 173-27 WAC, Shoreline management permit and enforcement procedures.

The department of ecology (ecology) is amending chapters 173-26 and 173-27 WAC to:

- Comply with the Shoreline Management Act (chapter 90.58 RCW) and address issues that have been identified through the review, adoption, and implementation of shoreline master programs (SMPs). These revisions will provide clarity around SMP approval/amendment procedures and permit and enforcement procedures. Additional amendments may be included for clarity.
- Add requirements for local governments to address the impact of sea level rise and increased storm severity on people, property, and shoreline natural resources and the environment.

Ecology is also amending chapters 173-18 and 173-20 WAC to update the list of streams, rivers, and lakes in completed SMP updates and amending chapter 173-22 WAC to clarify designations of shorelands and wetlands associated with shorelines of the state.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 90.58.060 Review and adoption of guidelines—Public hearings, notice of—Amendments, 90.58.200 Rules and regulations, 90.58.630 Shoreline master programs—Impact of sea level rise and storm severity.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Ecology is considering amendments to chapters 173-22, 173-26, and 173-27 WAC pursuant to RCW 90.58.060 as part of our periodic review and update of these rules. Ecology intends to provide clarity around these WAC sections to facilitate effective shoreline planning and permit implementation, compliance, and enforcement at the local level. Amendments to chapter 173-22 WAC will clarify definitions and designation criteria for shorelands and wetlands associated with shoreline of the state.

In addition, we will amend chapter 173-26 WAC to implement E2SHB 1181, which amends the Shoreline Management Act (chapter 90.58 RCW). RCW 90.58.630 requires ecology to update its SMP guidelines to address sea level rise and storm severity in SMPs managed by local governments. Ecology will also consider amendments to chapters 173-22 and 173-27 WAC to address sea level rise and storm severity.

Ecology is also amending chapters 173-18 and 173-20 WAC consistent with update requirements within these rules to remove the lists of streams, rivers, and lakes for each county that has already comprehensively updated its SMP. Updated SMPs contain the accurate lists of shoreline waterbodies; we intend to update lists from these WAC for the counties that have completed SMP comprehensive updates to align lists in WAC and the SMPs.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington

state department of commerce (commerce) establishes requirements for how local governments must address climate resilience in comprehensive planning. We are coordinating with commerce. Local governments regulate uses and developments on shorelines under the Shoreline Management Act. We will be coordinating with local governments.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rebecca Rothwell, Department of Ecology, Shorelands and Environmental Assistance Program, 300 Desmond Drive, Lacey, WA 98503, phone 360-810-0025, for Washington relay service or TTY call 711 or 877-833-6341, email SMARulemaking@ecy.wa.gov, website <https://Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-26-27-Shoreline-Management-Act>. Sign up to receive notifications through GovDelivery at https://public.govdelivery.com/accounts/WAECY/subscriber/new?topic_id=WAECY_324.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

Ecology will conduct an environmental justice assessment in accordance with RCW 70A.02.060 as a part of this rule making.

April 22, 2024

Joenne McGerr

Shorelands and Environmental Assistance Program Manager