

Shoreline Management Act Rules

The Washington Department of Ecology (Ecology) adopted amendments on February 11, 2011 to the following rules of the Washington Administrative Code (WAC):

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

In September, Ecology held four public hearings on the proposed rule amendments in Moses Lake, Everett, Lacey and Aberdeen. Ecology provided an extended public comment period, accepting comments through November 23, 2010.

What are the Shoreline Management Act rules?

The Shoreline Management Act and its related rules define Ecology's authority and responsibilities for administering the state's shoreline master program. The state's program is centered on local shoreline master programs administered by over 260 towns, cities and counties throughout Washington.

The rules, Chapter 173-26 WAC, Part III in particular, guide local governments in preparing, amending, and enforcing local programs. The Shoreline Management Act is a partnership between the state and local governments. Together these partners ensure shorelines are managed to achieve key goals of the Act:

- Protect the natural character of Washington's shorelines.
- Promote public access to public lands and waters.
- Encourage reasonable and orderly development of shorelines, with an emphasis on planning for and managing water-oriented and related uses in a way that controls pollution and prevents damage to the natural environment.

MORE INFORMATION

These rule amendments change Ecology's existing guidance to local governments regarding shoreline master programs. Changes affect geoduck aquaculture and local shoreline programs. The new rule amendments fulfill statutory authorities and responsibilities driven by changes in statute.

Important dates:

Rule Proposal Notice filed

August 3, 2010

Public Comment Period ended

November 23, 2010

Adoption Date:

February 11, 2011

Effective Date:

March 14, 2011

Certain provisions are not enforceable until they are incorporated into a locally updated and adopted shoreline master program. Depending on the local government, this may be in 2011 or more than seven years from now.

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Special accommodations:

If you need this publication in an alternate format, call the Shorelands and Environmental Assistance Program at 360-407-6600. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

Rule Adoption Notice

Why are these Shoreline Management Act rules being amended?

The purpose of the adopted rule amendments is to:

- Respond to a legislative directive (RCW 43.21A.681) to “adopt, by rule” guidelines that address the potential use conflicts resulting from commercial geoduck aquaculture in shoreline areas.
- Clarify WAC 173-26-201(1) regarding limited (non-comprehensive) amendments of local shoreline master programs.
- Complete some housekeeping changes – updating the rules to make them more consistent with recent changes to state statutes.

Summary of the rule amendments adopted on February 11, 2010

There are three groups of adopted rule amendments:

- Housekeeping changes to better align the rules with current state statutes. These changes are related to the Growth Management Act and critical areas ordinances, and other statutes.
- Changes to WAC 173-26-201(1) that determine when and under what circumstances a limited (non-comprehensive) amendment to a local shoreline master is allowed.
- New provisions related to commercial geoduck aquaculture that:
 - Require local governments to better review water quality, contaminated sediment and other shellfish-related data and information during the updating of local shoreline programs.
 - Underscore existing requirements for local governments to have shoreline master program policies, regulations and standards that address aquaculture.
 - Require a conditional use permit for all new commercial geoduck aquaculture and guide the administration and content of these permits.
 - Outline requirements for local commercial geoduck aquaculture project applications.
 - Describe other requirements for reviewing and permitting new commercial geoduck aquaculture projects. These include the requirement for following the existing mitigation sequence in WAC 173-26-201(2)(e) for avoiding or mitigating environmental impacts. Also, this includes the requirement to address the impacts from noise, lights, vehicles, gear and other aspects of commercial geoduck siting and operations.

Rule Adoption Notice

- Ensure that local governments notify the public and tribes regarding proposed commercial geoduck aquaculture projects.

Response to comments

Ecology's response to comments received during the public comment period is now available. Download a copy at www.ecy.wa.gov/biblio/1106007.html

Who do these rules amendments affect?

These rule amendments affect over 260 towns, cities and counties who are required to have a shoreline master program in compliance with the Shoreline Management Act (Chapter 90.58 RCW). Ecology uses these rules to guide its own administration of the Act. Ecology regions are already accustomed to using these rules when making administrative and regulatory decisions regarding local shoreline master programs.

The rules also will affect businesses and tribes engaged in raising geoducks commercially. They will need to comply with local shoreline master program provisions based on the rule provisions regarding geoduck aquaculture. They will be most affected by needing to acquire a conditional use permit for all new geoduck projects.

Environmental interests are involved because of their concern about the effects of geoduck siting and operations on the health of intertidal wildlife and habitats – especially the health of Puget Sound. Shoreline property owners also are affected by local policies and regulations developed as a result of the rules, which define where geoduck aquaculture projects may be sited and how they are operated.

More information

Shoreline rule documents

<http://www.ecy.wa.gov/laws-rules/SMA2010/1007.html>

Shoreline Management Act: Rulemaking 2010-11

<http://www.ecy.wa.gov/programs/sea/shorelines/smp/rulemaking.html>

Shoreline Master Programs

<http://www.ecy.wa.gov/programs/sea/shorelines/smp/index.html>

To get updates on Ecology's rule-making activities, sign-up for the **WAC Track** e-mail list. Go to: www.ecy.wa.gov/maillist.html.



Rule Adoption Notice

Appeal procedures

This adoption can be appealed under procedures described in the Administrative Procedure Act (RCW 34.05.330) and the Shoreline Management Act (RCW 90.58.120). For additional information about appealing this adoption please contact Bari Schreiner at (360) 407-6998 or by email Bari.Schreiner@ecy.wa.gov.

