

Preliminary Draft Proposed Changes for Chapter 173-22 WAC under the Shoreline Management Act Rulemaking

June 2025

For public comment and review during the informal comment period

Summary of draft amendments to WAC 173-22, Adoption of Designations of Shorelands and Wetlands Associated with Shorelines of the State

This list of amendments under consideration will change as Ecology gathers more information during the informal comment period. Some minor revisions are not included in this list; please review the preliminary draft to see all revisions.

WAC section	Topic	Summary of change
173-22-010	Purpose	<ul style="list-style-type: none">• Includes edits for readability and/or clarification
173-22-020	Applicability	<ul style="list-style-type: none">• No changes
173-22-030	Definitions	<ul style="list-style-type: none">• Adds definitions for “marine” and “sea level rise”• Specifies that local governments may include additional areas as shorelands managed under the SMP, including critical area buffers• States that definitions in chapters 173-26 and-27 WAC apply• Includes edits for readability and/or clarification
173-22-035	Wetland identification and delineation	<ul style="list-style-type: none">• No changes
173-22-040	Shoreland area designation criteria	<ul style="list-style-type: none">• Adds new subsection regarding options for extending the shoreland area or shoreline jurisdiction• Includes edits for readability and/or clarification
173-22-050	Review and update of designations	<ul style="list-style-type: none">• No changes
173-22-052	Alterations of shorelines affecting designations	<ul style="list-style-type: none">• No changes
173-22-055	Conflicts between designations and criteria	<ul style="list-style-type: none">• No changes
173-22-070	Lands within federal boundaries	<ul style="list-style-type: none">• No changes

Chapter 173-22 WAC

ADOPTION OF DESIGNATIONS OF SHORELANDS AND WETLANDS ASSOCIATED WITH SHORELINES OF THE STATE

Last Update: 8/7/17

173-22-010 Purpose.

173-22-020 Applicability.

173-22-030 Definitions.

173-22-035 Wetland identification and delineation.

173-22-040 Shoreland area designation criteria.

173-22-050 Review and update of designations.

173-22-052 Alterations of shorelines affecting designations.

173-22-055 Conflicts between designations and criteria.

173-22-070 Lands within federal boundaries.

WAC 173-22-010 Purpose.

Pursuant to RCW 90.58.030 (2)(d), the department of ecology herein designates the shorelands associated with the streams, lakes, and tidal waters ~~which~~that are subject to the provisions of chapter 90.58 RCW.

[Statutory Authority: Chapter 90.58 RCW. WSR 17-17-016 (Order 15-06), § 173-22-010, filed 8/7/17, effective 9/7/17; Order DE 72-15, § 173-22-010, filed 6/30/72.]

WAC 173-22-020 Applicability.

The provisions of this chapter shall apply statewide.

[Order DE 72-15, § 173-22-020, filed 6/30/72.]

WAC 173-22-030 Definitions.

As used herein, the following words have the following meanings:

- (1) "Associated wetlands" means those wetlands ~~which~~that are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act;
- (2) "Flood-plain" is synonymous with one hundred-year flood-plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method ~~which~~that meets the objectives of the act;
- (3) "Floodway" has the meaning provided in RCW 90.58.030;

(4) "Lake" means a body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of the elevation of the lake's ordinary high water mark within the stream;

(XX) "Marine" means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries, and inlets associated therewith.

(5) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department. The following criteria clarify this mark on tidal waters, lakes, and streams:

(a) Tidal waters.

(i) In high energy environments where the action of waves or currents is sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the line of vegetation. Where there is no vegetative cover for less than one hundred feet parallel to the shoreline, the ordinary high water mark is the average tidal elevation of the adjacent lines of vegetation. Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide;

(ii) In low energy environments where the action of waves and currents is not sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the landward limit of salt tolerant vegetation. "Salt tolerant vegetation" means vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand;

(b) Lakes. Where the ordinary high water mark cannot be found, it shall be the line of mean high water;

(c) Streams. Where the ordinary high water mark cannot be found, it shall be the line of mean high water. For braided streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs;

(6) "River delta" means those lands formed as an aggradational feature by stratified clay, silt, sand and gravel deposited at the mouths of streams where they enter a quieter body of water. The upstream extent of a river delta is that limit where it no longer forms distributary channels;

(7) "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous flood-plain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.

(a) A local government may include additional areas as shorelands managed under its master program, including:

(i) ~~Any county or city may determine that~~All or a portion of a one hundred-year flood plain ~~to be included in its master program~~ as long as such portion includes, as a

minimum, the floodway and the adjacent land extending landward two hundred feet therefrom;

(ii) Lands necessary for buffer of critical areas, including areas identified as likely to be exposed to sea level rise under a selected scenario identified through a sea level rise vulnerability assessment or similar analysis.

(XX) "Sea level rise" means an increase to the height of sea level, both globally and locally due to a change in ocean volume as a result of a change in the mass of water in the ocean from melting glaciers and ice sheets, changes in ocean volume as a result of expansion of sea water under warmer conditions, changes in the shape of the ocean basins, and changes in Earth's gravitational and rotational fields, as well as local subsidence or uplift of the land.

(8) A "stream" is a naturally occurring body of periodic or continuously flowing water where:

(a) The mean annual flow is greater than twenty cubic feet per second; and

(b) The water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stock watering channels;

(9) "Tidal water" includes marine and estuarine waters bounded by the ordinary high water mark. Where a stream enters the tidal water, the tidal water is bounded by the extension of the elevation of the marine ordinary high water mark within the stream;

(10) "Wetlands" or "wetland areas" means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and (7) "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous flood-plain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology. Any county or city may determine that portion of a one hundred-year flood-plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom;

drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands; and

(11) The definitions set forth in chapter 90.58 RCW, chapter 173-26 WAC, and chapter 173-27 WAC shall also apply as used herein.

[Statutory Authority: RCW 90.58.120, 90.58.200, 90.58.060 and 43.21A.681. WSR 11-05-064 (Order 10-07), § 173-22-030, filed 2/11/11, effective 3/14/11. Statutory Authority: RCW 90.58.030 (3)(e), 90.58.045, 90.58.065, 90.58.140(9), 90.58.143, 90.58.147, 90.58.200, 90.58.355, 90.58.390, 90.58.515, 43.21K.080, 71.09.250, 71.09.342, 77.55.181, 89.08.460, chapters 70.105D, 80.50 RCW. WSR 07-02-086 (Order 05-12), § 173-22-030, filed 1/2/07, effective 2/2/07. Statutory Authority: RCW 90.58.140(3) and [90.58].200. WSR 97-04-076 (Order 96-12), § 173-22-030, filed 2/5/97, effective 3/8/97. Statutory Authority: Chapter 90.58 RCW. WSR 86-12-011 (Order 86-06), § 173-

22-030, filed 5/23/86. Statutory Authority: RCW 90.58.030 (2)(f), 90.58.120, and 90.58.200. WSR 80-08-086 (Order DE 80-22), § 173-22-030, filed 7/2/80; Order DE 73-11, § 173-22-030, filed 7/20/73; Order DE 72-15, § 173-22-030, filed 6/30/72.]

WAC 173-22-035 Wetland identification and delineation.

Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. Review copies are available at the department of ecology headquarters and regional offices. Links to the online versions are accessible through the department of ecology wetlands web page. Copies of the original published manual are available through the U.S. Army Corps of Engineers National Technical Information Service (phone 703-487-4650).

[Statutory Authority: RCW 90.58.120, 90.58.200, 90.58.060 and 43.21A.681. WSR 11-05-064 (Order 10-07), § 173-22-035, filed 2/11/11, effective 3/14/11. Statutory Authority: RCW 90.58.140(3) and [90.58].200. WSR 97-04-076 (Order 96-12), § 173-22-035, filed 2/5/97, effective 3/8/97.]

WAC 173-22-040 Shoreland area designation criteria.

The following criteria contain the standards for the department's designation of shoreland areas associated with shorelines of the state which are subject to the jurisdiction of chapter 90.58 RCW:

(1) Tidal waters. The shoreland area shall include:

- (a) Those lands which extend landward two hundred feet as measured on a horizontal plane from the ordinary high water mark; and
- (b) Those wetlands which are in proximity to and either influence or are influenced by the tidal water. This influence includes but is not limited to one or more of the following: Periodic tidal inundation; hydraulic continuity; formation by tidally influenced geohydraulic processes; or a surface connection through a culvert or tide gate;

(2) Lakes. The shoreland area shall include:

- (a) Those lands which extend landward two hundred feet as measured on a horizontal plane from the ordinary high water mark; and
- (b) Those wetlands which are in proximity to and either influence or are influenced by the lake. This influence includes but is not limited to one or more of the following: Periodic inundation or hydraulic continuity;

(3) Streams. The shoreland area shall include the greater of:

- (a) Those lands which extend landward two hundred feet as measured on a horizontal plane from the ordinary high water mark;
- (b) Those flood-plains which extend landward two hundred feet as measured on a horizontal plane from the floodway: Provided, that local government may, at its discretion, include all or a larger portion of the one hundred-year flood-plain within the associated shorelands. Designation of this shoreland area shall be in accordance with chapter 173-26 WAC, the state master program. If the applicable master program does not designate the shoreland area for a stream, it shall be designated under the rules which applied at the time of adoption by the department;

(c) Those wetlands which are in proximity to and either influence or are influenced by the stream. This influence includes but is not limited to one or more of the following: Periodic inundation; location within a flood plain; or hydraulic continuity; and

(d) Those lands within a river delta flood-plain except for those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

(4) Options for extending the shoreland area or shoreline jurisdiction:

(a) The local government may, at its discretion, include all or a larger portion of the one-hundred-year floodplain within the associated shorelands.

(b) The local government may, at its discretion, include within its shorelands lands necessary for buffers for critical areas, including areas identified as likely to be exposed to sea level rise. These areas must be identified through a sea level rise vulnerability assessment or other similar analysis of sea level rise projections and hazard modeling. Extending the shoreland area to include areas likely to be exposed to sea level rise would enable a local government to manage this entire area under the authorities of the master program rather than managing only a portion of the area under the master program.

[Statutory Authority: Chapter 90.58 RCW. WSR 17-17-016 (Order 15-06), § 173-22-040, filed 8/7/17, effective 9/7/17. Statutory Authority: RCW 90.58.030 (3)(e), 90.58.045, 90.58.065, 90.58.140(9), 90.58.143, 90.58.147, 90.58.200, 90.58.355, 90.58.390, 90.58.515, 43.21K.080, 71.09.250, 71.09.342, 77.55.181, 89.08.460, chapters 70.105D, 80.50 RCW. WSR 07-02-086 (Order 05-12), § 173-22-040, filed 1/2/07, effective 2/2/07. Statutory Authority: RCW 90.58.140(3) and [90.58].200. WSR 97-04-076 (Order 96-12), § 173-22-040, filed 2/5/97, effective 3/8/97. Statutory Authority: Chapter 90.58 RCW. WSR 86-12-011 (Order 86-06), § 173-22-040, filed 5/23/86. Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. WSR 85-09-043 (Order DE 85-05), § 173-22-040, filed 4/15/85. Statutory Authority: RCW 90.58.030 (2)(f), 90.58.120, and 90.58.200. WSR 80-08-086 (Order DE 80-22), § 173-22-040, filed 7/2/80; Order DE 76-30, § 173-22-040, filed 7/27/76; Order DE 73-11, § 173-22-040, filed 7/20/73; Order DE 72-15, § 173-22-040, filed 6/30/72.]

WAC 173-22-050 Review and update of designations.

Each local government master program shall include a map of shorelands constituting shorelines of the state within the jurisdiction of the master program that complies with the requirements of RCW 90.58.030 (2)(d).

[Statutory Authority: Chapter 90.58 RCW. WSR 17-17-016 (Order 15-06), § 173-22-050, filed 8/7/17, effective 9/7/17. Statutory Authority: RCW 90.58.030 (3)(e), 90.58.045, 90.58.065, 90.58.140(9), 90.58.143, 90.58.147, 90.58.200, 90.58.355, 90.58.390, 90.58.515, 43.21K.080, 71.09.250, 71.09.342, 77.55.181, 89.08.460, chapters 70.105D, 80.50 RCW. WSR 07-02-086 (Order 05-12), § 173-22-050, filed 1/2/07, effective 2/2/07. Statutory Authority: Chapter 90.58 RCW. WSR 86-12-011 (Order 86-06), § 173-22-050, filed 5/23/86. Statutory Authority: RCW 90.58.030 (2)(f), 90.58.120, and 90.58.200. WSR 80-08-086 (Order DE 80-22), § 173-22-050, filed 7/2/80; Order DE 73-11, § 173-22-050, filed 7/20/73; Order DE 72-15, § 173-22-050, filed 6/30/72.]

WAC 173-22-052 Alterations of shorelines affecting designations.

Alterations of the existing conditions of shorelines and wetlands of the state which affect the boundary or volume of those water bodies, whether through authorized development or natural causes, shall warrant a review of the designation of those shorelines and their associated wetlands.

[Statutory Authority: Chapter 90.58 RCW. WSR 86-12-011 (Order 86-06), § 173-22-052, filed 5/23/86.]

WAC 173-22-055 Conflicts between designations and criteria.

In the event that any of the shoreland designations in a shoreline master program conflict with the criteria set forth in this chapter the criteria shall control. The boundary of the designated shoreland areas shall be governed by the criteria set forth in WAC 173-22-040 except that the local government must amend the local master program to reflect the new designation within three years of the discovery of the discrepancy.

[Statutory Authority: Chapter 90.58 RCW. WSR 17-17-016 (Order 15-06), § 173-22-055, filed 8/7/17, effective 9/7/17. Statutory Authority: RCW 90.58.030 (3)(e), 90.58.045, 90.58.065, 90.58.140(9), 90.58.143, 90.58.147, 90.58.200, 90.58.355, 90.58.390, 90.58.515, 43.21K.080, 71.09.250, 71.09.342, 77.55.181, 89.08.460, chapters 70.105D, 80.50 RCW. WSR 07-02-086 (Order 05-12), § 173-22-055, filed 1/2/07, effective 2/2/07. Statutory Authority: Chapter 90.58 RCW. WSR 86-12-011 (Order 86-06), § 173-22-055, filed 5/23/86. Statutory Authority: RCW 90.58.030 (2)(f), 90.58.120, and 90.58.200. WSR 80-08-086 (Order DE 80-22), § 173-22-055, filed 7/2/80; Order DE 73-11, § 173-22-055, filed 7/20/73.]

WAC 173-22-070 Lands within federal boundaries.

Those nonfederal lands lying within the exterior boundaries of federal lands and those federal lands leased to other persons, which fall within the definition of shorelands, shall be subject to the jurisdiction of chapter 90.58 RCW. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

[Statutory Authority: Chapter 90.58 RCW. WSR 17-17-016 (Order 15-06), § 173-22-070, filed 8/7/17, effective 9/7/17. Statutory Authority: RCW 90.58.140(3) and [90.58].200. WSR 97-04-076 (Order 96-12), § 173-22-070, filed 2/5/97, effective 3/8/97; Order DE 73-11, § 173-22-070, filed 7/20/73; Order DE 72-15, § 173-22-070, filed 6/30/72.]