

# Chapter 173-26 WAC

## STATE MASTER PROGRAM APPROVAL/AMENDMENT PROCEDURES AND SHORELINE MASTER PROGRAM GUIDELINES

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## Chapter 173-26 WAC

### STATE MASTER PROGRAM APPROVAL/AMENDMENT PROCEDURES AND SHORELINE MASTER PROGRAM GUIDELINES

*AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)*

#### **WAC 173-26-010 Authority and purpose.**

The provisions of this chapter implement the requirements of chapter 90.58 RCW, the Shoreline Management Act of 1971. RCW 90.58.200 authorizes the adoption of rules by the department as necessary and appropriate to carry out the provisions of the act. RCW 90.58.080 directs local governments to develop and administer local shoreline master programs for regulation of uses on shorelines of the state. Such local programs should be integrated with other local government systems for administration and enforcement of land use regulations. RCW 36.70A.480 provides that the goals and policies contained in a local shoreline master program shall be considered an element of the local comprehensive plan required by the Growth Management Act. All other portions of the local shoreline master program, including the use regulations, are considered a part of the local development regulations required by the Growth Management Act.

This chapter is drafted to also reflect RCW 90.58.050 which provides that the Shoreline Management Act is intended to be a cooperative program between local government and the state. It is the intent of this chapter to provide minimum procedural requirements as necessary to comply with the statutory requirements while providing latitude for local government to establish procedural systems based on local needs and circumstances.

Pursuant to the Shoreline Management Act, the department must approve master programs prepared by local governments or adopt them by rule consistent with the act. In order to facilitate this process, Part I of this chapter establishes a recordkeeping system for the department and defines the contents of the state master program. Part II sets forth procedures for approving and adopting master programs and amendments thereto. Parts III and IV comprise the guidelines pursuant to RCW 90.58.060 and provide alternative approaches to developing the content of shoreline master programs. Part V addresses the requirements of the state Ocean Resources Management Act.

*AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)*

**WAC 173-26-020 Definitions.**

As used herein, the following words and phrases shall have the following meanings:

- (1) "Act" means the Washington State Shoreline Management Act, chapter 90.58 RCW.
- (2) "Adaptive management" means the modification of management practices to address changing conditions and new knowledge. Adaptive management is an approach that incorporates monitoring and research to allow projects and activities, including projects designed to produce environmental benefits, to go forward in the face of some uncertainty regarding consequences. The key provision of adaptive management is the responsibility to change adaptively in response to new understanding or information after an action is initiated.
- (3) "Adoption by rule" means an official action by the department to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program.
- (4) "Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.
- (5) "Approval" means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.
- (6) "Aquatic" means pertaining to those areas waterward of the ordinary high-water mark.
- (7) "Bank full width" means the horizontal projection of bank full depth to the stream bank. Bank full depth means the elevation of the water surface of a stream flow having a return period of approximately 1.5 years measured from the line of maximum depth of the stream or thalweg. Most river channels are bordered by a relatively flat area or valley floor. When the water fills the channel completely, or is at bank full stage, this surface is level with the flood plain. The stream cuts down or builds up as climate and watershed conditions change because there is a new relation between discharge and sediment transport and storage. The channel will erode or modify its flood plain in response to changes in discharge and sediment. The former flood plain it had been constructing is thus abandoned. An abandoned flood plain is called a terrace. While a terrace is flooded on occasion, the active flood plain is frequently flooded by discharges that occur approximately every 1.5 years to 2.0 years in the annual flood series. In those valleys that narrowly confine the channel such that no flood plain can be built, this bank full stage projection still applies.
- (8) "Channel migration zone (CMZ)" means the lateral extent of likely movement along a stream reach with evidence of active stream channel movement over the past one hundred

years. Evidence of active movement can be provided from aerial photos or specific channel and valley bottom characteristics. A time frame of one hundred years was chosen because aerial photos and field evidence can be used to evaluate movement in this time frame. Also, this time span typically represents the time it takes to grow mature trees that can provide functional large woody debris to most streams. In large meandering rivers a more detailed analysis can be conducted to relate bank erosion processes and the time required to grow trees that function as stable large woody debris.

With the exception of shorelands in or meeting the criteria for the "natural" and "rural conservancy" environments, areas separated from the active channel by legally existing artificial channel constraints that limit bank erosion and channel avulsion without hydraulic connections shall not be considered within the CMZ. All areas, including areas within the "natural" and "rural conservancy" environments, separated from the natural channel by legally existing structures designed to withstand the 100-year flood shall not be considered within the CMZ. A tributary stream or other hydraulic connection allowing T&E species fish passage draining through a dike or other constricting structure shall be considered part of the CMZ.

- (9) "Department" means the state department of ecology.
- (10) "Developed shorelines" means those shoreline areas that are characterized by existing development or permanent structures located within shoreline jurisdiction.
- (11) "Development regulations" means the controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.
- (12) "Document of record" means the most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.
- (13) "Drift cell," "drift sector," or "littoral cell" means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.
- (14) "Ecological functions" or "shoreline functions" means the physical, chemical, and biological processes that contribute to the proper maintenance of the aquatic and terrestrial environments that constitute the shoreline ecosystem. Ecological functions relevant to specific shoreline ecological systems include, but are not limited to:
  - (a) Riverine:
    - Hydrologic processes: Maintaining a natural range of flow variability, sideflow and overflow channel functions, reducing peak flows and downstream erosion, and helping to maintain base flows.
    - Water quality: Temperature; removing excessive nutrients and toxic compounds.

- Dynamic sediment processes: Sediment removal, stabilization, transport, deposition, and providing spawning gravels.
  - Habitat for: Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.
  - Hyporheic functions: Water quality, water storage, vegetation base, and sediment storage.
- (b) Lacustrine:
- Water quality: Removing excessive nutrients and toxic compounds and removing and/or stabilizing sediments.
  - Habitat for: Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.
- (c) Marine:
- Water quality: Removing excessive nutrients and toxic compounds.
  - Dynamic sediment processes: Sediment removal, stabilization, transport, deposition, and providing spawning gravels.
  - Wave attenuation.
  - Habitat for: Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.
- (d) Wetlands:
- Flood attenuation.
  - Water quality: Removing excessive sediment, nutrients, and toxic compounds.
  - Ground water recharge.
  - Maintenance of base flows.
  - Nutrient filtering.
  - Habitat for: Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

When used in Part IV, sections 270 through 350 of this chapter, the term "ecological functions" shall include all functions necessary for properly functioning condition for T&E species.

- (15) "Ecologically altered shorelines" means those shorelines where humans have directly or indirectly modified the vegetation or shoreline configuration in a manner that significantly influences or reduces the natural shoreline functions.
- (16) "Ecologically intact shorelines" means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In unmanaged forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.

Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

The term "ecologically intact shorelines" applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.

- (17) "Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition and specific chemical processes (e.g., flocculation) that shape landforms within a specific shoreline ecosystem and determine both the types of habitat that are present and the associated ecological functions and their processes. Ecosystem-wide processes include, but are not limited to:
- (a) Riverine processes: Landform and channel erosion; sediment transport and load in channel and overbank; channel dynamics, including channel gradation and migration; and changes in channel form during flooding.
  - (b) Lacustrine, tidal, wave, and current processes: Wave erosion (including refraction), littoral drift, vertical transport, and tidal erosion and deposition.
- (18) "Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:
- (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
  - (b) The action provides a reasonable likelihood of achieving its intended purpose; and
  - (c) The action does not physically preclude achieving the project's primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. For the provisions of Part IV, this evaluation shall give special consideration and precedence to protecting PFC for T&E species.

- (19) "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.
- (20) "Flood plain" is synonymous with one hundred-year floodplain 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 meets the objectives of the act.
- (21) "Geotechnical report" or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers (or geologists) who have professional expertise about the regional and local shoreline geology and processes.
- (22) "Grading" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.
- (23) "Guidelines" means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.
- (24) "In-stream structure" means a structure placed by humans within a stream or river waterward of the bank full width that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.
- (25) "Lacustrine" means pertaining to a lake.
- (26) "Letter of exemption" means a letter or other official certificate issued by a local government to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may

include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act, this chapter, and the applicable master program.

- (27) "Local government" means any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.
- (28) "Marine" means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries.
- (29) "May" means the action is acceptable, provided it conforms to the provisions of this chapter.
- (30) "Mitigation" or "mitigation sequencing" means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority.
- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
  - (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
  - (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  - (d) Reducing or eliminating the impact over time by preservation and maintenance operations;
  - (e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
  - (f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.
- (31) "Must" means a mandate; the action is required.
- (32) "Nonpoint pollution" means pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.
- (33) "Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.
- (34) "Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:
- Comparatively high fish or wildlife density;
  - Comparatively high fish or wildlife species diversity;
  - Fish spawning habitat;

- Important wildlife habitat;
- Important fish or wildlife seasonal range;
- Important fish or wildlife movement corridor;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

- (35) "Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.
- (a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
  - (b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
  - (c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
  - (d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.
- (36) "Properly functioning condition" or "PFC" means conditions that create and sustain natural habitat-affecting processes (such as sediment routing, riverine community succession, precipitation runoff patterns, a natural range of flow variability and channel migration) over the full range of environmental variation and that support productivity at a viable

population level of T&E species. The term "properly functioning condition" indicates a level of performance for a subset of the more broadly defined "ecological functions," reflecting what is necessary for the recovery of T&E species.

- (37) "Provisions" means policies, regulations, standards, guideline criteria or environment designations.
- (38) "Restoration" or "ecological restoration" means the significant reestablishment or upgrading of ecological shoreline functions through measures such as revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not necessarily imply returning the shoreline area to aboriginal or pre-European settlement conditions.
- (39) "Restore" means to significantly reestablish or upgrade shoreline ecological functions through measures such as revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic sediments. To restore does not necessarily imply returning the shoreline area to aboriginal or pre-European settlement conditions.
- (40) "Riverine" means pertaining to a river or stream system, including associated lakes and wetlands.
- (41) "Shall" means a mandate; the action must be done.
- (42) "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.
- (43) "Shoreline master program" or "master program" means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations; and

- (44) "Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.
- (45) "Shoreline property" means an individual property wholly or partially within shoreline jurisdiction.
- (46) "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

(47) "Significant ecological impact" means an effect or consequence of a human-caused action if any of the following apply:

- (a) The action degrades or changes an ecological function or ecosystem-wide process to such a degree that the ecosystem can no longer perform the function at levels within its natural range of variability or that the performance of the function falls outside the range needed to maintain the integrity of other ecological processes in shoreline areas. As used in this definition, the normal range of variability does not include alterations caused by catastrophic events.
- (b) Scientific evidence or objective analysis indicates that the action could cause degradation or change to those ecological functions or ecosystem-wide processes described in (a) of this subsection under foreseeable conditions.
- (c) Scientific evidence indicates that the action could contribute to degradation or change to ecological functions or ecosystem-wide processes described in (a) of this subsection as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

Significant ecological impacts do not include impacts that are inconsequential to attaining the objectives of the act or to the protection and restoration of shoreline ecological functions or ecosystem-wide processes.

(48) "Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

(49) "Site potential tree height" means the average height, at age one hundred years, of the tallest mature native tree species that is capable of growing in the soils found at the site and for which height measurements are noted in the soil survey reports published by the natural resource conservation service and other sources. Each local natural resource conservation service field office maintains the surveys for its area.

- (a) West of the Cascade summit, the site potential tree height will generally be based on either Douglas fir or western hemlock, unless based on another species due to local conditions. East of the summit, the species could be ponderosa pine, lodgepole pine, western larch, Englemann spruce, subalpine fir, grand fir, or Douglas fir.
- (b) For sites that historically supported cottonwoods as the largest tree, the site potential tree height generally is the average height, at age seventy-five years, of a black cottonwood tree growing under those site conditions.

(50) "State master program" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

- (51) "Storm water" means that portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.
- (52) "Substantially degrade" means to cause significant ecological impact.
- (53) "Threatened and endangered species" or "T&E species" means those native species that are listed in rule by the Washington state department of fish and wildlife pursuant to RCW 77.12.020 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened or endangered species under the federal Endangered Species Act, 16 U.S.C. 1533.
- (54) "Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water but is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses include ship cargo terminal loading areas, fishing, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, hydroelectric dams, surface water intake, and sewer outfalls.
- (55) "Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to:
- Parks with activities enhanced by proximity to the water;
  - Piers and other improvements that facilitate public access to shorelines of the state;
  - Restaurants with water views and public access improvements;
  - Museums with an orientation to shoreline topics;
  - Aquariums;
  - Scientific/ecological reserves;
  - Resorts with uses open to the public and public access to the shoreline; and any combination of those uses listed above.
- (56) "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.
- (57) "Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for

purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

(58) "Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Water-related uses include manufacturing of ship parts large enough that transportation becomes a significant factor in the product's cost, professional services serving primarily water-dependent uses, and storage of water-transported foods. Other examples of water-related uses include the warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and upland log storage for water-borne transportation.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

*NEW SECTION*

**WAC 173-26-105 Review by ecology under Part III--Election by local governments of intent to develop pursuant to Part IV.**

- (1) Local governments shall develop new or amended master programs according to this chapter.
- (2) Parts III and IV of this chapter are distinct and separate methods for developing new or amended master programs. Part III is the default path for local government submissions. Absent a declaration of intent pursuant to subsection (3) of this section, the department will review a new or amended master program submitted to the department pursuant to WAC 173-26-110 for consistency with Part III.
- (3) At any time prior to submittal to the department of a new or amended master program pursuant to WAC 173-26-110, a local government may provide written notice to the department declaring that its submission has been or will be developed according to Part IV. Upon receipt of such a declaration, the department will review the submitted master program for consistency with Part IV.
- (4) A local government who has declared its intention to proceed under Part IV may, at any time prior to approval by the department, revert to Part III by providing written notice to the department.