

WAC 173-26-104 Optional joint review process for amending shoreline master programs. This section establishes an optional joint review process a local government may elect to use for master program amendments other than comprehensive updates. The process combines the local and state public comment periods required by RCW 90.58.090. Recognizing that the optional review process requires close coordination in conducting a joint public review, early and continuous consultation with the department is required during the drafting of amendments. The department and local government should work collaboratively to address local interests while ensuring proposed amendments are consistent with the policy of RCW 90.58.020 and applicable guidelines.

(1) Local government solicits early public and agency feedback.

(a) Prior to commencing the amendment process, local governments shall notify the department of intent to develop an amendment under the optional joint review process.

The department will provide shoreline master program amendment checklists to help local governments identify issues to address. The checklists will not create new or additional requirements beyond the provisions of this chapter. The checklists are intended to aid in the preparation and review of master program amendments.

(b) Prior to submittal of a master program amendment to the department, local government shall solicit public and agency comment during the drafting of proposed amendments.

(i) The degree of public and agency involvement sought by local government should be gauged according to the level of complexity, anticipated controversy, and range of issues covered in the draft proposal.

(ii) Local government shall make all reasonable effort to consult with and solicit comments of any persons, groups, federal, state, regional, or local agency, and tribes, having interests or responsibilities relating to the subject shorelines or any special expertise with respect to any environmental impact. The consultation process should include adjacent local governments with jurisdiction over common shorelines of the state, where applicable.

(iii) For local governments planning under chapter 36.70A RCW, local citizen involvement strategies should be implemented to ensure early and continuous public participation consistent with WAC 365-196-600.

(c) Where amendments are proposed to a county or regional master program which has been adopted by cities or towns, the county shall coordinate with those jurisdictions and verify concurrence with or denial of the proposal. For concurring jurisdictions, the amendments should be packaged and processed together. The procedural requirements of this section may be consolidated for concurring jurisdictions.

(2) Local government and ecology conduct joint public comment period.

At a minimum, local governments and the department shall conduct the following steps:

(a) Local governments planning under the Growth Management Act shall notify the department of commerce of its intent to adopt shoreline policies or regulations, pursuant to RCW 36.70A.106.

(b) Local governments shall comply with chapter 43.21C RCW, the State Environmental Policy Act.

(c) Local governments and the department will provide a formal public comment period.

(i) Provide a public comment period of at least thirty days. The local government will provide reasonable notice and opportunity for

written comment to all parties of record who expressed interest regarding the proposal. The department will provide notice to the state interested parties list of persons, groups, agencies, and tribes that have requested in writing notice of proposed master programs or amendments generally or for a specific subject matter.

(ii) Conduct at least one joint local/state public hearing to consider the draft proposal. The local government will publish notice of the joint local/state hearing in one or more newspapers of general circulation in the area in which the hearing is to be held. The notice shall include:

(A) Reference to the authority(s) under which the action(s) is proposed;

(B) The date, time, and location of the hearing, and the manner in which interested persons may present their views;

(C) A statement or summary of the proposed changes to the master program; and

(D) Reference to the availability of the draft proposal for public review.

(d) Local governments shall make available to the public and shall accept comment on the following materials:

(i) Amended text clearly identifying the proposed changes;

(ii) Any amended environment designation map(s), showing both existing and proposed designations, with justification for changes;

(iii) A summary of proposed amendments together with explanatory text indicating the scope and intent of the proposal; and

(iv) An initial submittal checklist and other supporting material indicating how the proposed amendment is consistent with the policy of RCW 90.58.020 and applicable guidelines.

(e) Local governments shall prepare a response to public comments.

(i) Within thirty days after the close of the joint public comment period, the local government shall document the submitted comments and prepare a written response to the public comments. The response may identify changes to the proposed amendment in response to public comments. Any proposed changes shall be evaluated by the local government for consistency with the policy of RCW 90.58.020 and applicable guidelines.

(ii) A local government may request additional time to prepare responses. Such requests will be accompanied by estimates of additional time needed.

(3) Local government obtains initial determination from the department.

(a) After conducting the joint public comment period, and prior to local government adoption, the local government shall submit the proposed amendment to the department for initial review. In addition to providing the public comment record of materials, initial submittal shall include:

(i) Documentation of all public comments received during the comment period;

(ii) Local jurisdiction responses to public comments;

(iii) Description of any proposed amendments as a result of the public testimony, with findings supporting the consistency of the proposed amendments with the policy of RCW 90.58.020 and applicable guidelines;

(iv) Updated text and map amendments.

(b) The department shall provide the local government an initial determination of whether or not the proposal is consistent with the policy of RCW 90.58.020 and applicable guidelines.

(i) The department will provide the initial determination within thirty days of submittal. For complex proposals, the department may indicate to the local government that a longer review period of up to forty-five days is needed.

(ii) If the department's initial determination is that the proposal is consistent with applicable laws and rules, the department will provide a written statement of initial concurrence.

(iii) If the department concludes that the proposal is not consistent with applicable laws and rules, the department will provide a written statement describing the specific areas of concern.

(4) Approve the proposal. After receiving the initial determination from the department, the local government adopts the amendment through resolution or ordinance and submits it for final agency approval as outlined in WAC 173-26-110.

[Statutory Authority: Chapter 90.58 RCW. WSR 17-17-016 (Order 15-06), § 173-26-104, filed 8/7/17, effective 9/7/17.]