
HOUSE BILL 2178

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By Representatives Schindler and Mielke

Read first time 02/28/2003. Referred to Committee on Local Government.

1 AN ACT Relating to shoreline management; amending RCW 90.58.020,
2 90.58.030, 90.58.065, 90.58.090, 90.58.100, 90.58.120, 90.58.130,
3 90.58.140, 90.58.180, 90.58.190, 90.58.195, 90.58.200, 90.58.250, and
4 90.58.340; adding a new chapter to Title 90 RCW; and repealing RCW
5 90.58.060 and 90.58.080.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The purpose of this chapter is to:

8 (1) Serve as standards for implementation of the policy of chapter
9 90.58 RCW for regulations of uses of the shorelines; and

10 (2) Provide criteria to local governments and the department in
11 developing master programs.

12 NEW SECTION. **Sec. 2.** The provisions of this chapter shall apply
13 state-wide to all shorelines and shorelines of statewide significance
14 as defined in chapter 90.58 RCW and section 3 of this act.

15 NEW SECTION. **Sec. 3.** The definitions in this section apply
16 throughout this chapter unless the context clearly requires otherwise.

17 (1) "Department" means the department of ecology.

1 (2) "Development" means a use, consisting of the construction or
2 exterior alteration of structures; dredging; drilling; dumping;
3 filling; removal of any sand, gravel, or minerals; bulkheading; driving
4 of piling; placing of obstructions; or any project of a permanent or
5 temporary nature which interferes with the normal public use of the
6 surface of the waters overlying lands subject to chapter 90.58 RCW at
7 any state of water level.

8 (3) "Director" means the director of the department of ecology.

9 (4) "Extreme low tide" means the lowest line on the land reached by
10 a receding tide.

11 (5) "Guidelines" means those standards adopted to implement the
12 policy of this chapter for regulation of use of the shorelines of the
13 state prior to adoption of master programs. Such standards shall also
14 provide criteria to local governments and the department in developing
15 master programs.

16 (6) "Hearings board" means the shorelines hearings board
17 established under chapter 90.58 RCW.

18 (7) "Local government" means any county, incorporated city, or town
19 that contains within its boundaries any lands or waters subject to
20 chapter 90.58 RCW.

21 (8) "Master program" means the comprehensive use plan for a
22 described area, and the use regulations, together with maps, diagrams,
23 charts, or other descriptive material and text, a statement of desired
24 goals and standards developed in accordance with the policies
25 enunciated in RCW 90.58.020.

26 (9) "Ordinary high-water mark" means the mark on all lakes,
27 streams, and tidal waters, which will be found by examining the beds
28 and banks and ascertaining where the presence and action of waters are
29 so common and usual, and so long continued in all ordinary years, as to
30 mark upon the soil a character distinct from that of the abutting
31 upland, in respect to vegetation, as that condition exists on June 1,
32 1971, as it may naturally change thereafter, or as it may change
33 thereafter in accordance with permits issued by a local government or
34 the department. In any area where the ordinary high-water mark cannot
35 be found, the ordinary high-water mark adjoining salt water shall be
36 the line of mean higher high tide and the ordinary high-water mark
37 adjoining fresh water shall be the line of mean high water.

1 (10) "Permit" means that required by chapter 90.58 RCW for
2 substantial development on shorelines, to be issued by the local
3 government entity having administrative jurisdiction and subject to
4 review by the department and the attorney general.

5 (11) "Shorelines" means all of the water areas of the state,
6 including reservoirs, and their associated wetlands, together with the
7 lands underlying them, except:

8 (a) Shorelines of statewide significance;

9 (b) Shorelines on segments of streams upstream of a point where the
10 mean annual flow is twenty cubic feet per second or less, and the
11 wetlands associated with such upstream segments; and

12 (c) Shorelines on lakes less than twenty acres in size and wetlands
13 associated with such small lakes.

14 (12) "Shorelines of statewide significance" means the following
15 shorelines of the state:

16 (a) The area between the ordinary high-water mark and the western
17 boundary of the state from Cape Disappointment on the south to Cape
18 Flattery on the north, including harbors, bays, estuaries, and inlets;

19 (b) Those areas of Puget Sound and adjacent salt waters and the
20 Strait of Juan de Fuca between the ordinary high-water mark and the
21 line of extreme low tide as follows:

22 (i) Nisqually Delta - from DeWolf Bight to Tatsolo Point;

23 (ii) Birch Bay - from Point Whitehorn to Birch Point;

24 (iii) Hood Canal - from Tala Point to Foulweather Bluff;

25 (iv) Skagit Bay and adjacent area - from Brown Point to Yokeko
26 Point; and

27 (v) Padilla Bay - from March Point to William Point;

28 (c) Those areas of Puget Sound and the Strait of Juan de Fuca and
29 adjacent salt waters north to the Canadian line and lying seaward from
30 the line of extreme low tide;

31 (d) Those lakes, whether natural, artificial, or a combination
32 thereof, with a surface acreage of one thousand acres or more, measured
33 at the ordinary high-water mark;

34 (e) Those natural rivers or segments thereof, as follows:

35 (i) Any west of the crest of the Cascade range downstream of a
36 point where the mean annual flow is measured at one thousand cubic feet
37 per second or more;

1 (ii) Any east of the crest of the Cascade range downstream of a
2 point where the annual flow is measured at two hundred cubic feet per
3 second or more, or those portions of rivers east of the crest of the
4 Cascade range downstream from the first three hundred square miles of
5 drainage area, whichever is longer;

6 (f) Those wetlands associated with (a), (b), (d), and (e) of this
7 subsection.

8 (13) "Shorelines of the state" means the total of all shorelines
9 and shorelines of statewide significance within the state.

10 (14) "State master program" means the cumulative total of all
11 master programs approved or adopted by the department.

12 (15) "Substantial development" means any development of which the
13 total cost, or fair market value, exceeds one thousand dollars, or any
14 development which materially interferes with normal public use of the
15 water or shorelines of the state; except that the following shall not
16 be considered substantial developments:

17 (a) Normal maintenance or repair of existing structures or
18 developments, including damage by fire, accident, or elements;

19 (b) Construction of the normal protective bulkhead, common to
20 single-family residences;

21 (c) Emergency construction necessary to protect property from
22 damage by the elements;

23 (d) Construction of a barn or similar agricultural structure on
24 wetlands;

25 (e) Construction or modification of navigational aids, such as
26 channel markers and anchor buoys;

27 (f) Construction on wetlands by an owner, lessee, or contract
28 purchaser, of a single-family residence, for his or her own use or for
29 the use of his or her family, which residence does not exceed a height
30 of thirty-five feet above average grade level and which meets all
31 requirements of the state agency or local government having
32 jurisdiction thereof.

33 (16) "Wetlands" or "wetland areas" means those lands extending
34 landward for two hundred feet in all directions, as measured on a
35 horizontal plane from the ordinary high-water mark and all marshes,
36 bogs, swamps, floodways, river deltas, and flood plains associated with
37 the streams, lakes, and tidal waters which are subject to the
38 provisions of chapter 90.58 RCW.

1 NEW SECTION. **Sec. 4.** (1)(a) The master program is to be developed
2 by local government to provide an objective guide for regulating the
3 use of shorelines. The master program should clearly state local
4 policies for the development of shorelands and indicate how these
5 policies relate to the goals of the local citizens and to specific
6 regulations of uses affecting the physical development of land and
7 water resources throughout the local governments' jurisdiction.

8 The master program developed by each local government will reflect
9 the unique shoreline conditions and the development requirements which
10 exist and are projected in that area. As part of the process of master
11 program development, local governments can identify problems and seek
12 solutions which best satisfy their needs.

13 (b) A master program, is general, comprehensive, and long range in
14 order to be applicable to the whole area for a reasonable length of
15 time under changing conditions.

16 (i) "General" means that the policies, proposals, and guidelines
17 are not directed towards any specific sites.

18 (ii) "Comprehensive" means that the program is directed towards all
19 land and water uses, their impact on the environment and logical
20 estimates of future growth. It also means that the program shall
21 recognize plans and programs of the other government units, adjacent
22 jurisdictions, and private developers.

23 (iii) "Long range" means that the program is to be directed at
24 least twenty years into the future, look beyond immediate issues, and
25 follow creative objectives rather than a simple projection of current
26 trends and conditions.

27 (c) Finally, chapter 90.58 RCW requires that the master program
28 shall constitute use regulations for the various shorelines of the
29 state. Specific guidelines are outlined in RCW 90.58.100(1) for
30 preparing the master programs to accomplish this purpose. It is the
31 intention of these guidelines, especially those related to citizen
32 involvement and the inventory, to aid in carrying out RCW 90.58.100.

33 (2) To facilitate an effective implementation of chapter 90.58 RCW
34 throughout the state, the procedures in this chapter shall be observed
35 while developing master programs for the shorelines. Exceptions to
36 some of the specific provisions of these guidelines may occur where
37 unique circumstances justify such departure. Any departure from these
38 guidelines must, however, be compatible with the intent of chapter

1 90.58 RCW as enunciated in RCW 90.58.020. Further, in all cases, local
2 governments must meet the master program requirements specified in
3 chapter 90.58 RCW.

4 (3) Citizen involvement. While public involvement and notification
5 is required of the master program at the time of adoption by chapter
6 90.58 RCW, the general public must be involved in the initial planning
7 stage during formulation of the master plan.

8 Chapter 90.58 RCW requires that prior to approval or adoption of a
9 master program, or a portion thereof, by the department, at least one
10 public hearing shall be held in each county affected by the program for
11 the purpose of obtaining the views and comments of the public.

12 Chapter 90.58 RCW charges the state and local government with not
13 only the responsibility of making reasonable efforts to inform the
14 people of the state about the shoreline management program, but also
15 actively encourages participation by all persons, private groups, and
16 entities, which have an interest in shoreline management.

17 To meet these responsibilities, the local government agencies
18 responsible for the development of the master program should establish
19 a method for obtaining and utilizing citizen involvement. The extent
20 of citizen involvement in the formulation of the master program will be
21 considered by the department in the review of the program. A failure
22 by the local government to encourage and utilize citizen involvement,
23 or to justify not having done so, may be noted as a failure to comply
24 with chapter 90.58 RCW.

25 Though the department recognizes various forms of citizen
26 involvement as viable approaches for involving the public in the master
27 program, the local government will be encouraged to utilize the method
28 as suggested in these guidelines. If a local government does not
29 follow these guidelines, it should provide an explanation of the method
30 used. The department will be available to explain and help organize
31 the suggested approach to citizen involvement upon request.

32 The suggested approach to citizen involvement to be utilized by the
33 local government agency responsible for the development of the master
34 program includes the following:

35 (a) Appoint a citizen advisory committee whose function will be to
36 guide the formulation of the master program through a series of public
37 evening meetings and at least one public hearing. The committee
38 members should represent both commercial interests as well as

1 environmentalists. However, the advisory committee itself is not to be
2 a substitute for general citizen involvement and input. The aim of the
3 committee will be to utilize citizen input in:

4 (i) Studying existing public policies related to shorelines;

5 (ii) Defining the needs to satisfy local demands for shorelines;

6 (iii) Studying the type and condition of local shorelines relative
7 to needs;

8 (iv) Developing goals and policies for the master program with the
9 local government fulfilling the specifications of the master program,
10 including designation of the environments;

11 (v) Identifying use conflicts;

12 (vi) Proposing alternatives for the use of shorelines;

13 (vii) Examining the effects of the master program on the
14 environment.

15 (b) The citizen advisory committee should hold at least three
16 public meetings during development of the master program and
17 designation of the environments according to the following guidelines:

18 (i) Public notice must be provided seven days prior to the evening
19 meeting.

20 (ii) All meetings must be open to the public for free discussion.

21 (iii) Meetings should be held in the evening at a location
22 accessible to the general public.

23 (iv) Record of all meetings should be filed with the local
24 government and made available to the public.

25 (v) Local government should provide resource persons to assist in
26 the preparation, organization, and diffusion of information.

27 (vi) The final evening meeting should be held at least seven days
28 prior to the public hearing.

29 (c) A newsletter should be published by the advisory committee in
30 cooperation with the local government.

31 (i) The information sheet should be available to the public at
32 posted locations.

33 (ii) It should be available after the first evening public meeting
34 and prior to the second.

35 (iii) The date, time, and location of future meetings and hearings
36 should be stated.

37 (iv) A phone number should be provided to obtain further
38 information.

1 (v) Public notice should be made of the availability of the
2 newsletter as stated in (d) of this subsection.

3 (d) Publicity of the master program should utilize:

4 (i) Public notice postings as per (i) of this subsection;

5 (ii) Newsletter;

6 (iii) Radio, television, and local news media;

7 (iv) A local paper of general circulation;

8 (v) Announcements to community groups.

9 (e) At least one public hearing should be held by the local
10 government after the three public meetings have been held to discuss
11 the proposed master plan.

12 (i) Public notice must be made a minimum of once in each of three
13 weeks immediately preceding the hearing in one or more newspapers of
14 general circulation in the area in which the hearing is to be held.

15 (ii) The master program should be available for public inspection
16 at the local government office and available upon request at least
17 seven days prior to the public hearing.

18 (f) Prior to adoption of the master program, all reasonable
19 attempts should have been made to obtain a general concurrence of the
20 public and the advisory committee. The method of obtaining or
21 measuring concurrence must be established by the local government and
22 must provide a clear indication of how citizen input is utilized.

23 (g) If the level of concurrence on the master program is not
24 considered adequate by the advisory committee at the conclusion of the
25 public hearing, the local government should hold subsequent public
26 meetings and public hearings until such time as adequate concurrence as
27 per (f) of this subsection is reached.

28 (h) Attached to the master program upon its submission to the
29 department shall be a record of public meetings and citizen
30 involvement. A discussion of the use of citizen involvement and
31 measurement on concurrence should be included.

32 (i) Public notice shall include:

33 (i) Reference to the authority under which the rule is proposed;

34 (ii) A statement of either the terms or substance of the proposed
35 rule or a description of the subjects and issues involved;

36 (iii) The time, place, and manner in which interested persons may
37 present their views thereon, as stated in RCW 34.05.320.

1 (4) Policy statements. Each local government shall submit policy
2 statements, developed through the citizen involvement process,
3 regarding shoreline development as part of its master program. Because
4 goal statements are often too general to be useful to very specific
5 decision problems, the policy statements are to provide a bridge for
6 formulating and relating use regulations to the goals also developed
7 through the citizen involvement process. In summary, the policy
8 statements must reflect the intent of chapter 90.58 RCW, the goals of
9 the local citizens, and specifically relate the shoreline management
10 goals to the master program use regulations.

11 Clearly stated policies are essential to the viability of the
12 master programs. The policy statements will not only support the
13 environmental designations explained below, but, also being more
14 specific than goal statements, will provide an indication of needed
15 environmental designations and use regulations.

16 The following methodology for developing policy statements is
17 recommended:

18 (a) Obtain a broad citizen input in developing policy by involving
19 interested citizens and all private and public entities having interest
20 or responsibilities relating to shorelines. Form a citizen advisory
21 committee and conduct public meetings as outlined in subsection (3) of
22 this section to encourage citizens to become involved in developing a
23 master program;

24 (b) Analyze existing policies to identify those policies that may
25 be incorporated into the master program and those which conflict with
26 the intent of chapter 90.58 RCW. Further, identify constraints to
27 local planning and policy implementation which are a result of previous
28 government actions, existing land-use patterns, actions of adjacent
29 jurisdictions, or other factors not subject to local control or
30 influence;

31 (c) Formulate goals for the use of shoreline areas and develop
32 policies to guide shoreline activities to achieve these goals.

33 The policies should be consistent with RCW 90.58.020 and provide
34 guidance and support to local government actions regarding shoreline
35 management. Additionally, the policies should express the desires of
36 local citizens and be based on principles of resource management which
37 reflect the statewide public interest in all shorelines of statewide
38 significance.

1 (5) Master program elements. Consistent with the general nature of
2 master programs, the following land and water use elements are to be
3 dealt with, when appropriate, in the local master programs. By dealing
4 with shoreline uses, systematically as belonging to these generic
5 classes of activities, the policies and goals in the master programs
6 can be clearly applied to different shoreline uses. In the absence of
7 this kind of specificity in the master programs, the application of
8 policy and use regulations could be inconsistent and arbitrary.

9 The plan elements are:

10 (a) Economic development element for the location and design of
11 industries, transportation facilities, port facilities, tourist
12 facilities, and commercial and other developments that are particularly
13 dependent on shoreland locations;

14 (b) Public access element for assessing the need for providing
15 public access to shoreline areas;

16 (c) Circulation element for assessing the location and extent of
17 existing and proposed major thoroughfares, transportation routes,
18 terminals, and other public facilities and correlating those facilities
19 with the shoreline use elements;

20 (d) Recreational element for the preservation and expansion of
21 recreational opportunities through programs of acquisition,
22 development, and various means of less-than-fee acquisition;

23 (e) Shoreline use element for considering:

24 (i) The pattern of distribution and location requirements of land
25 uses on shorelines and adjacent areas, including, but not limited to,
26 housing, commerce, industry, transportation, public buildings and
27 utilities, agriculture, education, and natural resources;

28 (ii) The pattern of distribution and location requirements of water
29 uses including, but not limited to, aquaculture, recreation, and
30 transportation;

31 (f) Conservation element for the preservation of the natural
32 shoreline resources, considering such characteristics as scenic vistas,
33 parkways, estuarine areas for fish and wildlife protection, beaches,
34 and other valuable natural or aesthetic features;

35 (g) Historical/cultural element for protection and restoration of
36 buildings, sites, and areas having historic cultural, educational, or
37 scientific values;

1 (h) In addition to the above-described elements, local governments
2 are encouraged to include in their master programs, an element
3 concerned with the restoration of areas to a natural useful condition
4 which are blighted by abandoned and dilapidated structures. Local
5 governments are also encouraged to include in their master programs any
6 other elements, which, because of present uses or future needs, are
7 deemed appropriate and necessary to effectuate chapter 90.58 RCW.

8 (6) Environments. In order to plan and effectively manage
9 shoreline resources, a system of categorizing shoreline areas is
10 required for use by local governments in the preparation of master
11 programs. The system is designed to provide a uniform basis for
12 applying policies and use regulations within distinctively different
13 shoreline areas. To accomplish this, the environmental designation to
14 be given any specific area is to be based on the existing development
15 pattern, the biophysical capabilities and limitations of the shoreline
16 being considered for development, and the goals and aspirations of
17 local citizenry.

18 The recommended system classifies shorelines into four distinct
19 environments, natural, conservancy, rural, and urban, which provide the
20 framework for implementing shoreline policies and regulatory measures.

21 This system is designed to encourage uses in each environment which
22 enhance the character of that environment. At the same time, local
23 government may place reasonable standards and restrictions on
24 development so that such development does not disrupt or destroy the
25 character of the environment.

26 The basic intent of this system is to utilize performance standards
27 which regulate use activities in accordance with goals and objectives
28 defined locally rather than to exclude any use from any one
29 environment. Thus, the particular uses or type of developments placed
30 in each environment must be designed and located so that there are no
31 effects detrimental to achieving the objectives of the environment
32 designations and local development criteria.

33 This approach provides an "umbrella" environment class over local
34 planning and zoning on the shorelines. Since every area is endowed
35 with different resources, has different intensity of development, and
36 attaches different social values to these physical and economic
37 characteristics, the environment designations should not be regarded as
38 a substitute for local planning and land-use regulations.

1 (a) The basic concept for using the system is for local governments
2 to designate their shorelines into environment categories that reflect
3 the natural character of the shoreline areas and the goals for use of
4 characteristically different shorelines. The determination as to which
5 designation should be given any specific area should be made in the
6 following manner:

7 (i) The resources of the shoreline areas should be analyzed for
8 their opportunities and limitations for different uses. Completion of
9 the comprehensive inventory of resources is a requisite to identifying
10 resource attributes which determine these opportunities and
11 limitations.

12 (ii) Each of the plan elements should be analyzed for their effect
13 on the various resources throughout shoreline areas. Since shorelines
14 are only a part of the system of resources within local jurisdiction,
15 it is particularly important that planning for shorelines be considered
16 an integral part of area-wide planning. Further, plans, policies, and
17 regulations for lands adjacent to the shorelines of the state should be
18 reviewed in accordance with RCW 90.58.340.

19 (iii) Public desires should be considered through the citizen
20 involvement process to determine which environment designations reflect
21 local values and aspirations for the development of different shoreline
22 areas.

23 (b) The management objectives and features which characterize each
24 of the environments are given below to provide a basis for environment
25 designation within local jurisdictions.

26 (i) Natural environment. The natural environment is intended to
27 preserve and restore those natural resource systems existing relatively
28 free of human influence. Local policies to achieve this objective
29 should aim to regulate all potential developments degrading or changing
30 the natural characteristics which make these areas unique and valuable.

31 The main emphasis of regulation in these areas should be on natural
32 systems and resources which require severe restrictions of intensities
33 and types of uses to maintain them in a natural state. Therefore,
34 activities which may degrade the actual or potential value of this
35 environment should be strictly regulated. Any activity which would
36 bring about a change in the existing situation would be desirable only
37 if such a change would contribute to the preservation of the existing
38 character.

1 The primary determinant for designating an area as a natural
2 environment is the actual presence of some unique natural or cultural
3 features considered valuable in their natural or original condition
4 which are relatively intolerant of intensive human use. Such features
5 should be defined, identified, and quantified in the shoreline
6 inventory. The relative value of the resources is to be based on local
7 citizen opinion and the needs and desires of other people in the rest
8 of the state.

9 (ii) Conservancy environment. The objective in designating a
10 conservancy environment is to protect, conserve, and manage existing
11 natural resources and valuable historic and cultural areas in order to
12 ensure a continuous flow of recreational benefits to the public and to
13 achieve sustained resource utilization.

14 The conservancy environment is for those areas which are intended
15 to maintain their existing character. The preferred uses are those
16 which are nonconsumptive of the physical and biological resources of
17 the area. Nonconsumptive uses are those uses which can utilize
18 resources on a sustained yield basis while minimally reducing
19 opportunities for other future uses of the resources in the area.
20 Activities and uses of a nonpermanent nature which do not substantially
21 degrade the existing character of an area are appropriate uses for a
22 conservancy environment. Examples of uses that might be predominant in
23 a conservancy environment include diffuse outdoor recreation
24 activities, timber harvesting on a sustained yield basis, passive
25 agricultural uses such as pasture and range lands, and other related
26 uses and activities.

27 The designation of conservancy environments should seek to satisfy
28 the needs of the community as to the present and future location of
29 recreational areas proximate to concentrations of population, either
30 existing or projected. For example, a conservancy environment
31 designation can be used to complement city, county, or state plans to
32 legally acquire public access to the water.

33 The conservancy environment would also be the most suitable
34 designation for those areas which present too severe biophysical
35 limitations to be designated as rural or urban environments. Such
36 limitations would include areas of steep slopes presenting erosion and
37 slide hazards, areas prone to flooding, and areas which cannot provide
38 adequate water supply or sewage disposal.

1 (iii) Rural environment. The rural environment is intended to
2 protect agricultural land from urban expansion, restrict intensive
3 development along undeveloped shorelines, function as a buffer between
4 urban areas, and maintain open spaces and opportunities for
5 recreational uses compatible with agricultural activities.

6 The rural environment is intended for those areas characterized by
7 intensive agricultural and recreational uses and those areas having a
8 high capability to support active agricultural practices and intensive
9 recreational development. Hence, those areas that are already used for
10 agricultural purposes, or which have agricultural potential should be
11 maintained for present and future agricultural needs. Designation of
12 rural environments should also seek to alleviate pressures of urban
13 expansion on prime farming areas.

14 New developments in a rural environment are to reflect the
15 character of the surrounding area by limiting residential density,
16 providing permanent open space, and maintaining adequate building
17 setbacks from water to prevent shoreline resources from being destroyed
18 for other rural types of uses.

19 Public recreation facilities for public use which can be located
20 and designed to minimize conflicts with agricultural activities are
21 recommended for the rural environment. Linear water access which will
22 prevent overcrowding in any one area, trail systems for safe
23 nonmotorized traffic along scenic corridors, and provisions for
24 recreational viewing of water areas illustrate some of the ways to
25 ensure maximum enjoyment of recreational opportunities along shorelines
26 without conflicting with agricultural uses. In a similar fashion,
27 agricultural activities should be conducted in a manner which will
28 enhance the opportunities for shoreline recreation. Farm management
29 practices which prevent erosion and subsequent siltation of water
30 bodies and minimize the flow of waste material into water courses are
31 to be encouraged by the master program for rural environments.

32 (iv) Urban environment. The objective of the urban environment is
33 to ensure optimum utilization of shorelines within urbanized areas by
34 providing for intensive public use and by managing development so that
35 it enhances and maintains shorelines for a multiplicity of urban uses.

36 The urban environment is an area of high-intensity land use
37 including residential, commercial, and industrial development. The
38 environment does not necessarily include all shorelines within an

1 incorporated city, but is particularly suitable to those areas
2 presently subjected to extremely intensive use pressure, as well as
3 areas planned to accommodate urban expansion. Shorelines planned for
4 future urban expansion should present few biophysical limitations for
5 urban activities and not have a high priority for designation as an
6 alternative environment.

7 Because shorelines suitable for urban uses are a limited resource,
8 emphasis should be given to development within already developed areas
9 and particularly to water-dependent industrial and commercial uses
10 requiring frontage on navigable waters.

11 In the master program, priority is also to be given to planning for
12 public visual and physical access to water in the urban environment.
13 Identifying needs and planning for the acquisition of urban land for
14 permanent public access to the water in the urban environment should be
15 accomplished in the master program. To enhance waterfront and ensure
16 maximum public use, industrial and commercial facilities should be
17 designed to permit pedestrian waterfront activities. Where
18 practicable, various access points ought to be linked to nonmotorized
19 transportation routes, such as bicycle and hiking paths.

20 (7) Shorelines of statewide significance. Chapter 90.58 RCW
21 designated certain shorelines as shorelines of statewide significance.
22 Shorelines thus designated are important to the entire state. Because
23 these shorelines are major resources from which all people in the state
24 derive benefit, the guidelines and master programs must give preference
25 to uses which favor public and long-range goals.

26 Accordingly, chapter 90.58 RCW established that local master
27 programs shall give preference to uses which meet the principles
28 outlined below in order of preference. Guidelines for ensuring that
29 these principles are incorporated into the master programs and adhered
30 to in implementing chapter 90.58 RCW follow each principle.

31 (a) Recognize and protect the statewide interest over local
32 interest. Development guidelines:

33 (i) Solicit comments and opinions from groups and individuals
34 representing statewide interests by circulating proposed master
35 programs for review and comment by state agencies, adjacent
36 jurisdictions' citizen advisory committees, and statewide interest
37 groups;

1 (ii) Recognize and take into account state agencies' policies,
2 programs, and recommendations in developing use regulations;

3 (iii) Solicit comments, opinions, and advice from individuals with
4 expertise in ecology, oceanography, geology, limnology, aquaculture,
5 and other scientific fields pertinent to shoreline management. Names
6 of organizations and individuals which can provide expert advice can be
7 obtained from the department's resource specialist listing;

8 (b) Preserve the natural character of the shoreline. Development
9 guidelines:

10 (i) Designate environments and use regulations to minimize man-made
11 intrusions on shorelines;

12 (ii) Where intensive development already occurs, upgrade and
13 redevelop those areas to reduce their adverse impact on the environment
14 and to accommodate future growth rather than allowing high-intensity
15 uses to extend into low-intensity use or underdeveloped areas;

16 (iii) Ensure that where commercial timber cutting is allowed as
17 provided in RCW 90.58.150, reforestation will be possible and
18 accomplished as soon as practicable;

19 (c) Result in long-term over short-term benefit. Development
20 guidelines:

21 (i) Prepare master programs on the basis of preserving the
22 shorelines for future generations. For example, actions that would
23 convert resources into irreversible uses or detrimentally alter natural
24 conditions characteristic of shorelines of statewide significance,
25 should be severely limited;

26 (ii) Evaluate the short-term-economic gain or convenience of
27 developments in relationship to long-term and potentially costly
28 impairments to the natural environment;

29 (iii) Actively promote aesthetic considerations when contemplating
30 new development, redevelopment of existing facilities, or for the
31 general enhancement of shoreline areas;

32 (d) Protect the resources and ecology of shorelines. Development
33 guidelines:

34 (i) Leave undeveloped those areas which contain a unique or fragile
35 natural resource;

36 (ii) Prevent erosion and sedimentation that would alter the natural
37 function of the water system. In areas where erosion and sediment

1 control practices will not be effective, excavations or other
2 activities which increase erosion are to be severely limited;

3 (iii) Restrict or prohibit public access onto areas which cannot be
4 maintained in a natural condition under human uses;

5 (e) Increase public access to publicly owned areas of the
6 shorelines. Development guidelines:

7 (i) In master programs, give priority to developing paths and
8 trails to shoreline areas, linear access along the shorelines, and to
9 developing upland parking;

10 (ii) Locate development inland from the ordinary high-water mark so
11 that access is enhanced;

12 (f) Increase recreational opportunities for the public on the
13 shorelines. Development guidelines:

14 (i) Plan for and encourage development of facilities for
15 recreational use of the shorelines;

16 (ii) Reserve areas for lodging and related facilities on uplands
17 well away from the shorelines with provisions for nonmotorized access
18 to the shorelines.

19 NEW SECTION. **Sec. 5.** This section contains brief and general
20 descriptions of the natural geographic systems around which the
21 shoreline management program is designed. The intent of this section
22 is to define those natural systems to which chapter 90.58 RCW applies,
23 to highlight some of the features of those systems which are
24 susceptible to damage from human activity, and to provide a basis for
25 the guidelines pertaining to human-use activities contained in section
26 6 of this act.

27 It is intended that this section will provide criteria to local
28 governments in the development of their master programs, as required in
29 RCW 90.58.030(3)(a).

30 (1) Marine beaches. Beaches are relatively level land areas which
31 are contiguous with the sea and are directly affected by the sea even
32 to the point of origination. The most common types of beaches in
33 Washington marine waters are:

34 (a) Sandy beaches. Waves, wind, tide, and geological material are
35 the principal factors involved in the formation of beaches. The beach
36 material can usually be traced to one of four possible sources: The
37 cliffs behind the beach; from the land via rivers; offshore wind; and

1 finally from longshore drifting of material. Longshore-drifting
2 material must have been derived initially from the first three sources.
3 Most beach material in Puget Sound is eroded from the adjacent bluffs
4 composed of glacial till.

5 The effect of wave action on the movement and deposition of beach
6 material varies depending upon the size of the material. Hence, in
7 most cases, beaches composed of different sized material are usually
8 characterized by different slopes and profiles. The entire process of
9 beach formation is a dynamic process resulting from the effect of wave
10 action on material transport and deposition. Initially, wave action
11 will establish currents which transport and deposit material in various
12 patterns. However, once a particular beach form and profile is
13 established it begins to modify the effects of waves thus altering the
14 initial patterns of material transport and deposition. Hence, in
15 building beach structures such as groins, bulkheads, or jetties, it is
16 particularly important to recognize that subsequent changes in wave and
17 current patterns will result in a series of changes in beach formation
18 over time.

19 In the process of beach formation, sand particles are transported
20 up the beach by breaking waves that wash onto the beach in a diagonal
21 direction and retreat in a vertical direction. At the same time,
22 longshore currents are created in the submerged intertidal area by the
23 force of diagonally approaching waves. Beach material suspended by the
24 force of the breaking waves is transported in one direction or another
25 by the longshore current. Longshore drifting of material often results
26 in the net transportation of beach material in one direction causing
27 the loss of material in some areas and gains in others.

28 The profile of a beach at any time will be determined by the wave
29 conditions during the preceding period. Severe storms will erode or
30 scour much material away from the beaches due to the force of
31 retreating waves. During calm weather, however, the waves will
32 constructively move material back onto the beach. This destructive and
33 constructive action, called cut and fill, is evidenced by the presence
34 of beach ridges or berms. New ridges are built up in front of those
35 that survive storm conditions as sand is supplied to the beach in
36 succeeding phases of calmer weather. In time, the more stable landward
37 ridges are colonized by successional stages of vegetation. The

1 vegetation stabilizes the ridges, protects them from erosion, and
2 promotes the development of soil.

3 (b) Rocky beaches. Rocky beaches, composed of cobbles, boulders,
4 and/or exposed bedrock are usually steeper and more stable than sandy
5 shores. Coarse material is very permeable which allows attacking waves
6 to sink into the beach causing the backwash to be reduced
7 correspondingly. On sandy shores a strong backwash distributes sand
8 more evenly, thus creating a flatter slope.

9 On rocky shores a zonal pattern in the distribution of plants and
10 animals is more evident than on muddy or sandy shores. The upper beach
11 zone is frequently very dry, limiting inhabitants to species which can
12 tolerate a dry environment. The intertidal zone is a narrow area
13 between mean low tide and mean high tide that experiences uninterrupted
14 covering and uncovering by tidal action. One of the major
15 characteristics of this zone is the occurrence of tidal pools which
16 harbor separate communities which can be considered subzones within the
17 intertidal zone. The subtidal zone is characterized by less stressful
18 tidal influences but is subject to the forces of waves and currents
19 which affect the distribution and kinds of organisms in this zone.

20 (c) Muddy shores. Muddy shores occur where the energy of coastal
21 currents and wave action is minimal, allowing fine particles of silt to
22 settle to the bottom. The result is an accumulation of mud on the
23 shores of protected bays and mouths of coastal streams and rivers.
24 Most muddy beaches occur in estuarine areas. However, some muddy shore
25 areas may be found in coastal inlets and embayments where salinity is
26 about the same as the adjacent sea.

27 Few plants have adapted to living on muddy shores. Their growth is
28 restricted by turbidity which reduces light penetration into the water
29 and thereby inhibits photosynthesis. In addition, the lack of solid
30 structures to which algae may attach itself and siltation which
31 smothers plants effectively prevents much plant colonization of muddy
32 shores. While the lack of oxygen in mud makes life for fauna in muddy
33 shores difficult, the abundance of food as organic detritus provides
34 nutrition for a large number of detritus feeders.

35 (2) Spits and bars. Spits and bars are natural formations composed
36 of sand and gravel and shaped by wind and water currents and littoral
37 drifting. Generally a spit is formed from a headland beach (tall cliff
38 with a curved beach at the foot) and extends out into the water (hooks

1 are simply hookshaped spits). While spits usually have one end free in
2 open water, bars generally are attached to land at both ends. These
3 natural forms enclose an area which is protected from wave action,
4 allowing life forms such as shellfish, to reproduce and live protected
5 from the violence of the open coast.

6 (3) Dunes. Dunes are mounds or hills of sand which have been
7 heaped up by wind action. Typically, dunes exhibit four distinct
8 features:

9 (a) Primary dunes. The first system of dunes shoreward of the
10 water, having little or no vegetation, which are intolerant of
11 unnatural disturbances;

12 (b) Secondary dunes. The second system of dunes shoreward from the
13 water, with some vegetative cover;

14 (c) Back dunes. The system of dunes behind the secondary dunes,
15 generally having vegetation and some top soil, and being more tolerant
16 of development than the primary and secondary systems;

17 (d) Troughs. The valleys between the dune systems.

18 Dunes are a natural levee and a final protection line against the
19 sea. The destructive leveling of, or interference with the primary
20 dune system (such as cutting through the dunes for access) can endanger
21 upland areas by subjecting them to flooding from heavy wave action
22 during severe storms and destroy a distinct and disappearing natural
23 feature. Removal of sand from the beach and shore in dune areas
24 starves dunes of their natural supply of sand and may cause their
25 destruction from lack of sand. Appropriate vegetation can and should
26 be encouraged throughout the entire system for stabilization.

27 (4) Islands. An island, broadly defined, is a land mass surrounded
28 by water. Islands are particularly important to the state of
29 Washington since two entire counties are made up of islands and parts
30 of several other counties are islands. A fairly small island, such as
31 those in our Puget Sound and north coast area, is an intriguing
32 ecosystem, in that no problem or area of study can be isolated. Every
33 living and nonliving thing is an integral part of the functioning
34 system. Each island, along with the mystique afforded it by man, is a
35 world of its own, with a biological chain, fragile and delicately
36 balanced. Obviously it does not take as much to upset this balance as
37 it would the mainland system. Because of this, projects should be

1 planned with a more critical eye toward preserving the very qualities
2 which make island environments viable systems as well as aesthetically
3 captivating to humans.

4 (5) Estuaries. An estuary is that portion of a coastal stream
5 influenced by the tide of the marine waters into which it flows and
6 within which the sea water is measurably diluted with fresh water
7 derived from land drainage.

8 Estuaries are zones of ecological transition between fresh and salt
9 water. The coastal brackish water areas are rich in aquatic life, some
10 species of which are important food organisms for anadromous fish
11 species which use these areas for feeding, rearing, and migration. An
12 estuarine area left untouched by man is rare since historically they
13 have been the sites for major cities and port developments. Because of
14 their importance in the food production chain and their natural beauty,
15 the limited estuarial areas require careful attention in the planning
16 function. Close scrutiny should be given to all plans for development
17 in estuaries which reduce the area of the estuary and interfere with
18 water flow. Special attention should be given to plans for upstream
19 projects which could deplete the fresh water supply of the estuary.

20 (6) Marshes, bogs, swamps. Marshes, bogs, and swamps are areas
21 which have a water table very close to the surface of the ground. They
22 are areas which were formerly shallow water areas that gradually filled
23 through nature's processes of sedimentation, often accelerated by man's
24 activities, and the decay of shallow water vegetation.

25 Although considered abysmal wastelands by many, these wet areas are
26 extremely important to the food chain. Many species of both animal and
27 plant life depend on this wet environment for existence. Birds and
28 waterfowl choose these locations for nesting places. Wet areas are
29 important as ground water recharge areas and have tremendous flood
30 control value.

31 The high-water table and poor foundation support provided by the
32 organic soils in these areas usually prevent development on them. The
33 extraction of peat from bogs is possible when it is accomplished in
34 such a manner that the surrounding vegetation and wildlife is left
35 undisturbed and the access roads and shorelines are returned to a
36 natural state upon completion of the operation.

37 The potential of marshes, bogs, and swamps to provide permanent
38 open space in urbanizing regions is high because of the costs involved

1 in making these areas suitable for use. Unlimited public access into
2 them, however, may cause damage to the fragile plant and animal life
3 residing there.

4 (7) Lakes. A lake can be defined broadly as a body of standing
5 water located inland. Lakes originate in several ways. Many lakes are
6 created each year by man, either by digging a lake basin or by damming
7 a natural valley. Natural lakes can be formed in several ways: By
8 glaciers gouging basins and melting and depositing materials in such a
9 way as to form natural dams; by landslides which close off open ends of
10 valleys; extinct craters which fill with water; changes in the earth's
11 crust, as can happen during earthquakes, forming basins which fill with
12 water; or by changes in a river or stream course which isolate parts of
13 the old course forming lakes, called oxbow lakes.

14 A lake, like its inhabitants, has a life span. This life span may
15 be thousands of years for a large lake or just a few years for a pond.
16 This process of a lake aging is known generally as eutrophication. It
17 is a natural process which is usually accelerated by man's activities.
18 Human sewage, industrial waste, and the drainage from agricultural
19 lands increases the nutrients in a lake which in turn increases the
20 growth of algae and other plants. As plants die, the chemical process
21 of decomposition depletes the water's supply of oxygen necessary for
22 fish and other animal life. These life forms then disappear from the
23 lake, and the lake becomes a marsh or swamp.

24 Shallow lakes are extremely susceptible to increases in the rate of
25 eutrophication resulting from discharges of waste and nutrient-laden
26 runoff waters. Temperature stratification does not normally occur in
27 shallow lakes. Efficient bottom-to-surface circulation of water in
28 these shallow lakes moves nutrients to the surface photosynthetic zone
29 encouraging increased biotic productivity. Large quantities of organic
30 matter are produced under these conditions. Upon decomposition, heavy
31 demands are made on the dissolved oxygen content of shallow lakes.
32 Eventually, the oxygen level drops and some fish and other life forms
33 die.

34 The entire ecosystem of a lake can be altered by man. By removing
35 the surrounding forest for lumber or to provide a building site or farm
36 land, erosion into the lake is accelerated. Fertilizers, whether
37 agricultural or those used by homeowners, can enter the lake either
38 from runoff or leaching along with other chemicals that interfere with

1 the intricate balance of living organisms. The construction of
2 bulkheads to control erosion and filling behind them to enlarge
3 individual properties can rob small fish and amphibians of their
4 habitats. The indiscriminate construction of piers, docks and
5 boathouses, can deprive all of the waterfront owners and the general
6 public of a serene natural view and reduce the lake's surface.

7 (8) Rivers, streams, and creeks. Generally, rivers, streams, and
8 creeks can be defined as surface-water runoff flowing in a natural or
9 modified channel. Runoff results either from excessive precipitation
10 which cannot infiltrate the soil, or from ground water where the water
11 table intersects the surface of the ground. Drawn by gravity to
12 progressively lower levels and eventually to the sea, the surface
13 runoff organizes into a system of channels which drain a particular
14 geographic area.

15 The drainage system serves as a transportation network for nature's
16 leveling process, selectively eroding materials from the higher
17 altitudes and transporting the materials to lower elevations where they
18 are deposited. A portion of these materials eventually reaches the sea
19 where they may form beaches, dunes, or spits.

20 Typically, a river exhibits several distinct stages as it flows
21 from the headwaters to the mouth. In the upper reaches where the
22 gradient is steepest, the hydraulic action of the flowing water results
23 in a net erosion of the stream bed and a V-shaped cross section, with
24 the stream occupying all or most of the valley floor.

25 Proceeding downstream, the gradient decreases and the valley walls
26 become gentler in slope. A point is eventually reached where erosion
27 and deposition equalize and the action of the stream changes from
28 vertical cutting to lateral meandering. As the lateral movement
29 continues, a flood plain is formed, over which the river meanders and
30 upon which materials are deposited during floods. Finally, when the
31 river enters a body of standing water, the remaining sediment load is
32 deposited.

33 Extensive human use is made of rivers, including transportation,
34 recreation, waste and sewage dumping, and for drinking water. Rivers
35 are dammed for the production of electric power, diked for flood
36 control, and withdrawn for the irrigation of crops. Many of these
37 activities directly affect the natural hydraulic functioning of the
38 streams and rivers as well as the biology of the water courses.

1 (9) Flood plains. A flood plain is a shoreland area which has been
2 or is subject to flooding. It is a natural corridor for water which
3 has accumulated from snow melt or from heavy rainfall in a short
4 period. Flood plains are usually flat areas with rich soil because
5 they have been formed by deposits from flood waters. As such they are
6 attractive places for man to build and farm until the next flood passes
7 across the plain. In certain areas, these plains can be flood proofed
8 by diking or building levees along the adjacent river or stream, but
9 always with provisions for tremendous amounts of water that will sooner
10 or later be generated by weather conditions. Streamway modifications
11 can be placed in such a way to cause channelization. Channelization
12 tends to destroy the vital and fragile flood-plain-shoreline habitats
13 and increase the velocity of waters in times of extreme flow.

14 This may cause considerable damage downstream even in areas already
15 given some flood protection. In unprotected flood plains, land-use
16 regulations must be applied to provide an adequate open corridor within
17 which the effects of bank erosion, channel shifts, and increased runoff
18 may be contained. Obviously, structures which must be built on a flood
19 plain should be of a design to allow the passage of water and, wherever
20 possible, permanent vegetation should be preserved to prevent erosion,
21 retard runoff, and contribute to the natural beauty of the flood plain.

22 (10) Puget Sound. Puget Sound is a complex of interconnected
23 inlets, bays, and channels with tidal sea water entering from the west
24 and fresh-water streams entering at many points throughout the system.
25 Most of what is known as Puget Sound was formed by glacial action that
26 terminated near Tenino in Thurston county. The entire system, of which
27 Puget Sound is actually a small portion, also includes the Strait of
28 Georgia and the Strait of Juan de Fuca. The large complex may be
29 divided into nine oceanographic areas which are interrelated: Strait
30 of Juan de Fuca, Admiralty Inlet, Puget Sound Basin, Southern Puget
31 Sound, Hood Canal, Possession Sound, Bellingham Bay, San Juan
32 Archipelago, and Georgia Strait.

33 The economic development of the central Puget Sound Basin has been
34 stimulated by the fact that the sound is one of the few areas in the
35 world which provides several deepwater inland harbors. The use of
36 Puget Sound waters by deep-draft vessels is on the increase due to its
37 proximity to the developing Asian countries. This increased trade will
38 attract more industry and more people which will put more use pressure

1 on the Sound in the forms of recreation (sport fishing, boating, and
2 other water-related sports) and the requirements for increased food
3 supply.

4 Puget Sound waters are rich in nutrients and support a wide variety
5 of marine fish and shellfish species. An estimated two thousand eight
6 hundred twenty miles of stream are utilized by anadromous fish for
7 spawning and rearing throughout the area. Some of these fish are
8 chinook, coho, sockeye, pink, and chum salmon, steelhead, searun
9 cutthroat, and Dolly Vardon trout. All these fish spend a portion of
10 their lives in the salt waters of Puget Sound and the Pacific Ocean
11 before returning to streams of origin to spawn. The juveniles of these
12 fish spend varying amounts of time in the shore waters of the area
13 before moving to sea to grow to maturity. Aquaculture or sea farming
14 is now in the process of becoming reality in the Puget Sound complex.
15 The mass production of seaweed, clams, geoducks, scallops, shrimp,
16 oysters, small salmon, lobsters, and other possibilities looms as an
17 important new industry. Shoreline management is particularly crucial
18 to the success of sea farming. Aquaculture on any scale can be
19 compatible and coexist with maritime shipping and shoreland industrial
20 activities only by careful planning and regulation.

21 The shoreline resources of Puget Sound include few beach areas
22 which are not covered at high tide. Bluffs ranging from ten to five
23 hundred feet in height rim nearly the entire extent of the Sound making
24 access to beach and intertidal areas difficult. Because of the
25 glacial-till composition of these bluffs, they are susceptible to
26 fluvial and marine erosion and present constant slide hazards.
27 Although Puget Sound is protected from the direct influence of Pacific
28 Ocean weather, storm conditions can create very turbulent and sometimes
29 destructive wave action. Without recognizing the tremendous energy
30 contained in storm waves, development of shoreline resources can be
31 hazardous and deleterious to the resource characteristics which make
32 Puget Sound beaches attractive.

33 (11) Pacific Ocean. From Cape Flattery on the north to Cape
34 Disappointment on the south, there are approximately one hundred sixty
35 miles of beaches, rocky headlands, inlets, and estuaries on
36 Washington's Pacific Coast. The shoreline south of Cape Flattery to
37 the Quinault river is generally characterized as being rugged and

1 rocky, with high bluffs. The remaining shoreline south of the Quinault
2 river is predominantly flat sandy beaches with low banks and dunes.

3 During the winter, Pacific currents set toward the north, while
4 during summer months they set to the south. Associated with the summer
5 currents is a general offshore movement of surface water, resulting in
6 upwelling of water from lower depths. This upwelled water is cold,
7 high in salinity, low in oxygen content, and rich in nutrients. It is
8 this latter characteristic which causes upwelled water to be extremely
9 significant in biological terms, since it often triggers blooms of
10 marine plant life.

11 Directions of wave action and littoral drift of sediments shift
12 seasonally with Pacific Ocean storms. Although very little data are
13 available on the net direction of littoral transport, the University of
14 Washington has offshore data which indicate a northerly offshore flow.

15 NEW SECTION. **Sec. 6.** This section contains guidelines for the
16 local regulation of use activities proposed for shorelines. Each
17 topic, representing a specific use or group of uses, is broadly defined
18 and followed by several guidelines. These guidelines represent the
19 criteria upon which judgments for proposed shoreline developments will
20 be based until master programs are completed. In addition, these
21 guidelines are intended to provide the basis for the development of
22 that portion of the master program concerned with the regulation of
23 such uses.

24 In addition to application of the guidelines in this section, the
25 local government should identify the type or types of natural systems,
26 as described in section 5 of this act, within which a use is proposed
27 and should impose regulations on those developments and uses which
28 would tend to affect adversely the natural characteristics needed to
29 preserve the integrity of the system. Examples would include but would
30 not be limited to proposed uses that would threaten the character of
31 fragile dune areas, reduce water tables in marshes, impede water flow
32 in estuaries, or threaten the stability of spits and bars.

33 These guidelines have been prepared in recognition of the
34 flexibility needed to carry out effective local planning of shorelines.
35 Therefore, the interpretation and application of the guidelines may
36 vary relative to different local conditions. Exceptions to specific
37 provisions of these guidelines may occur where local circumstances

1 justify such departure. Any departure from these guidelines must,
2 however, be compatible with the intent of chapter 90.58 RCW as
3 enunciated in RCW 90.58.020.

4 It should be noted that there are several guidelines for certain
5 activities which are not explicitly defined in chapter 90.58 RCW as
6 developments for which substantial development permits are not
7 required, for example, the suggestion that a buffer of permanent
8 vegetation be maintained along water bodies in agriculture areas.
9 While such activities generally cannot be regulated through the permit
10 system, it is intended that they be dealt with in the comprehensive
11 master program in a manner consistent with policy and intent of chapter
12 90.58 RCW. To effectively provide for the management of the shorelines
13 of the state, master programs should plan for and foster all reasonable
14 and appropriate uses as provided in RCW 90.58.020.

15 Finally, most of the guidelines are intentionally written in
16 general terms to allow some latitude for local government to expand and
17 elaborate on them as local conditions warrant. The guidelines are
18 adopted state regulations, however, and must be complied with both in
19 permit application review and in master program development.

20 (1) Agricultural practices.

21 (a) Agricultural activities shall be defined as in RCW 90.58.065.

22 (b) Guidelines for regulation of agricultural activities as allowed
23 under RCW 90.58.065 are as follows:

24 (i) Local governments should encourage the maintenance of a buffer
25 of permanent vegetation between tilled areas and associated water
26 bodies which will retard surface runoff and reduce siltation.

27 (ii) Master programs should establish criteria for the location of
28 confined animal feeding operations, retention and storage ponds for
29 feed lot wastes, and stock piles of manure solids in shorelines of the
30 state so that water areas will not be polluted. Control guidelines
31 prepared by the United States environmental protection agency should be
32 followed.

33 (iii) Local governments should encourage the use of erosion control
34 measures, such as crop rotation, mulching, strip cropping, and contour
35 cultivation in conformance with guidelines and standards established by
36 the soil conservation service, United States department of agriculture.

37 (2) Aquaculture. Aquaculture is the culture or farming of food
38 fish, shellfish, or other aquatic plants and animals. This activity is

1 of statewide and national interest. Properly managed, it can result in
2 long-term over short-term benefit and can protect the resources and
3 ecology of the shoreline. Aquaculture is dependent on the use of the
4 water area and, when consistent with control of pollution and
5 prevention of damage to the environment, is a preferred use of the
6 water area.

7 Potential locations for aquaculture are relatively restricted due
8 to specific requirements for water quality, temperature, flows, oxygen
9 content, adjacent land uses, wind protection, commercial navigation,
10 and, in marine waters, salinity. The technology associated with
11 present-day aquaculture is still in its formative stages and
12 experimental. Local shoreline master plans should therefore recognize
13 the necessity for some latitude in the development of this emerging
14 economic water use as well as its potential impact on existing uses and
15 natural systems.

16 (a) Guidelines:

17 (i) Aquacultural activities and structures should be located in
18 areas where the navigational access of upland owners, recreational
19 boaters, and commercial traffic is not significantly restricted.

20 (ii) Recognition should be given to the possible detrimental impact
21 aquacultural development might have on the visual access of upland
22 owners and on the general aesthetic quality of the shoreline area.

23 (iii) As aquaculture technology expands with increasing knowledge
24 and experience, emphasis should be placed on structures which do not
25 significantly interfere with navigation or impair the aesthetic quality
26 of Washington shorelines.

27 (iv) Certain aquacultural activities are of statewide interest and
28 should be managed in a consistent manner statewide. Local master
29 program development and administration should therefore seek to support
30 state aquaculture management programs as expressed in state laws,
31 regulations, and established management plans. State management
32 programs should seek to determine and accommodate local environmental
33 concerns. To facilitate state-local coordination, the department will
34 encourage state agencies to develop specific resource management plans
35 and to include participation of local shoreline agencies.

36 (v) Shellfish resources and conditions suitable for aquaculture
37 only occur in limited areas. The utility and productivity of these
38 sites is threatened by activities and developments which reduce water

1 quality such as waste discharges, nonpoint runoff, and disruption of
2 bottom sediments. Proposed developments and activities should be
3 evaluated for impact on productive aquaculture areas. Identified
4 impacts should be mitigated through permit conditions and performance
5 standards.

6 (vi) Aquaculture is a preferred, water-dependent use. Water
7 surface, column, and bedland areas suitable for aquaculture are limited
8 to certain sites. These sites are subject to pressures from competing
9 uses and degradation of water quality. The shoreline program is
10 intended to provide a comprehensive land and water use plan which will
11 reduce these conflicts and provide for appropriate uses. Therefore, a
12 special effort should be made through the shoreline management program
13 to identify and resolve resource use conflicts and resource management
14 issues in regard to use of identified sites.

15 (b) Implementation of (a)(vi) of this subsection:

16 (i) Within one month of the effective date of this act, the
17 department shall notify each local jurisdiction in which major subtidal
18 clam or geoduck beds have been identified by the department of fish and
19 wildlife that a program update will be required. The department shall
20 provide maps showing the general location of each jurisdiction's major
21 subtidal clam and geoduck beds. The department shall also provide
22 information on subtidal clam and geoduck harvesting techniques,
23 environmental impacts, mitigation measures, and guidance on format and
24 issue coverage for submittal of proposed amendments.

25 (ii) Each local jurisdiction with identified major beds shall
26 evaluate the application of its shoreline master program to commercial
27 use of the identified beds. Where necessary, amendments to the master
28 program shall be prepared to better address management and use of the
29 beds. For example, such amendments may be necessary to address newly
30 identified concerns, to coordinate with statewide interests, or to
31 bring policies into conformance with current scientific knowledge.

32 (iii) Within four months of notification under (b)(i) of this
33 subsection, each affected jurisdiction shall submit a progress report
34 to the department. This report shall outline the procedure which will
35 be used to comply with (b)(ii) of this subsection and an assessment of
36 the need for coastal zone management financial assistance.

37 (iv) Within thirteen months of notification by the department under
38 (b)(i) of this subsection, each affected local government shall submit

1 to the department for approval all portions of the shoreline management
2 master program affecting use of the identified sites for shellfish
3 management. Submittals shall include relevant existing master program
4 elements proposed to be retained as well as program additions.
5 Explanation shall be submitted to the department for any use
6 designations or management standards which would prohibit or prevent
7 use of identified sites.

8 (v) The department, in considering local program submittals, will
9 consider the advice of the state departments of fish and wildlife and
10 natural resources, other interested local, state, and federal agencies,
11 and interest groups pertaining to the scientific basis, sufficiency,
12 and practicality of proposed standards and use regulations.

13 (vi) The department may postpone notification under (b)(i) of this
14 subsection for those subtidal clam and geoduck beds which the
15 department of health believes are not certifiable. Should a bed become
16 certifiable at some future date, the department shall make the
17 notification required in (b)(i) of this subsection.

18 (vii) If a local shoreline jurisdiction does not or is unable to
19 comply with the requirements of this subsection, the department may
20 undertake the required master program evaluation and preparation and
21 adoption of necessary amendments.

22 (3) Forest management practices. Forest management practices are
23 those methods used for the protection, production, and harvesting of
24 timber. Trees along a body of water provide shade which insulate the
25 waters from detrimental temperature change and dissolved oxygen
26 release. A stable water temperature and dissolved oxygen level provide
27 a healthy environment for fish and other more delicate forms of aquatic
28 life. Poor logging practices on shorelines alter this balance as well
29 as result in slash and debris accumulation and may increase the
30 suspended sediment load and the turbidity of the water. Guidelines:

31 (a) Seeding, mulching, matting, and replanting should be
32 accomplished where necessary to provide stability on areas of steep
33 slope which have been logged. Replanted vegetation should be of a
34 similar type and concentration as existing in the general vicinity of
35 the logged area.

36 (b) Special attention should be directed in logging and thinning
37 operations to prevent the accumulation of slash and other debris in
38 contiguous waterways.

1 (c) Shoreline areas having scenic qualities, such as those
2 providing a diversity of views, unique landscape contrasts, or
3 landscape panoramas should be maintained as scenic views in timber
4 harvesting areas. Timber harvesting practices, including road
5 construction and debris removal, should be closely regulated so that
6 the quality of the view and viewpoints in shoreline areas of the state
7 are not degraded.

8 (d) Proper road and bridge design, location and construction and
9 maintenance practices should be used to prevent development of roads
10 and structures which would adversely affect shoreline resources.

11 (e) Timber harvesting practices in shorelines of the state should
12 be conducted to maintain the state board of health standards for public
13 water supplies.

14 (f) Logging should be avoided on shorelines with slopes of such
15 grade that large sediment runoff will be precipitated, unless adequate
16 restoration and erosion control can be expeditiously accomplished.

17 (g) Local governments should ensure that timber harvesting on
18 shorelines of statewide significance does not exceed the limitations
19 established in RCW 90.58.150 except as provided in cases where
20 selective logging is rendered ecologically detrimental or is inadequate
21 for preparation of land for other uses.

22 (h) Logging within shoreline areas should be conducted to ensure
23 the maintenance of buffer strips of ground vegetation, brush, alder,
24 and conifers to prevent temperature increases adverse to fish
25 populations and erosion of stream banks.

26 (4) Commercial development. Commercial developments are those uses
27 which are involved in wholesale and retail trade or business
28 activities. Commercial developments range from small businesses within
29 residences, to high-rise office buildings. Commercial developments are
30 intensive users of space because of extensive floor areas and because
31 of facilities, such as parking, necessary to service them. Guidelines:

32 (a) Although many commercial developments benefit by a shoreline
33 location, priority should be given to those commercial developments
34 which are particularly dependent on their location and/or use of the
35 shorelines of the state and other development that will provide an
36 opportunity for substantial numbers of the people to enjoy the
37 shorelines of the state.

1 (b) New commercial developments on shorelines should be encouraged
2 to locate in those areas where current commercial uses exist.

3 (c) An assessment should be made of the effect a commercial
4 structure will have on a scenic view significant to a given area or
5 enjoyed by a significant number of people.

6 (d) Parking facilities should be placed inland away from the
7 immediate water's edge and recreational beaches.

8 (5) Marinas. Marinas are facilities which provide boat launching,
9 storage, supplies, and services for small pleasure craft. There are
10 two basic types of marinas: The open-type construction with floating
11 breakwater and/or open-pile work and solid-type construction with
12 bulkhead and/or landfill. Depending upon the type of construction,
13 marinas affect fish and shellfish habitats. Guidelines:

14 (a) In locating marinas, special plans should be made to protect
15 the fish and shellfish resources that may be harmed by construction and
16 operation of the facility.

17 (b) Marinas should be designed in a manner that will reduce damage
18 to fish and shellfish resources and be aesthetically compatible with
19 adjacent areas.

20 (c) Master programs should identify locations that are near
21 high-use or potentially high-use areas for proposed marina sites.
22 Local as well as regional "need" data should be considered as input in
23 location selection.

24 (d) Special attention should be given to the design and development
25 of operational procedures for fuel handling and storage in order to
26 minimize accidental spillage and provide satisfactory means for
27 handling those spills that do occur.

28 (e) Shallow-water embayments with poor flushing action should not
29 be considered for overnight and long-term moorage facilities.

30 (f) The department of fish and wildlife has prepared guidelines
31 concerning the construction of marinas. These guidelines should be
32 consulted in planning for marinas.

33 (g) State and local health agencies have standards and guidelines
34 for the development of marinas which shall be consulted by local
35 agencies.

36 (6) Mining. Mining is the removal of naturally occurring materials
37 from the earth for economic use. The removal of sand and gravel from
38 shoreline areas of Washington usually results in erosion of land and

1 silting of water. These operations can create silt and kill
2 bottom-living animals. The removal of sand from marine beaches can
3 deplete a limited resource which may not be restored through natural
4 processes. Guidelines:

5 (a) When rock, sand, gravel, and minerals are removed from
6 shoreline areas, adequate protection against sediment and silt
7 production should be provided.

8 (b) Excavations for the production of sand, gravel, and minerals
9 should be done in conformance with the Washington state surface mining
10 act.

11 (c) Local governments should strictly control or prohibit the
12 removal of sand and gravel from marine beaches.

13 (d) When removal of sand and gravel from marine beaches is
14 permitted by existing law, it should be taken from the least sensitive
15 biophysical areas of the beach.

16 (7) Outdoor advertising, signs, and billboards. Signs are publicly
17 displayed boards whose purpose is to provide information, direction, or
18 advertising. Signs may be pleasing or distracting, depending upon
19 their design and location. A sign, in order to be effective, must
20 attract attention; however, a message can be clear and distinct without
21 being offensive. There are areas where signs are not desirable, but
22 generally it is the design that is undesirable, not the sign itself.

23 (a) Off-premise outdoor advertising signs should be limited to
24 areas of high-intensity land use, such as commercial and industrial
25 areas.

26 (b) Master programs should establish size, height, density, and
27 lighting limitations for signs.

28 (c) Vistas and viewpoints should not be degraded and visual access
29 to the water from such vistas should not be impaired by the placement
30 of signs.

31 (d) Outdoor advertising signs, where permitted under local
32 regulations, should be located on the upland side of public
33 transportation routes which parallel and are adjacent to rivers and
34 water bodies unless it can be demonstrated that views will not be
35 substantially obstructed.

36 (e) When feasible, signs should be constructed against existing
37 buildings to minimize visual obstructions of the shoreline and water
38 bodies.

1 (8) Residential development. The following guidelines should be
2 recognized in the development of any subdivision on the shorelines of
3 the state. To the extent possible, planned unit developments should be
4 encouraged within the shoreline area. Within planned unit
5 developments, substantial portions of land are reserved as open space
6 or recreational areas for the joint use of the occupants of the
7 development. This land may be provided by allowing houses to be placed
8 on lots smaller than the legal minimum size for normal subdivisions, as
9 long as the total number of dwellings in the planned unit development
10 does not exceed the total allowable in a regular subdivision.
11 Guidelines:

12 (a) Subdivisions should be designed at a level of density of site
13 coverage and of occupancy compatible with the physical capabilities of
14 the shoreline and water.

15 (b) Subdivisions should be designed so as to adequately protect the
16 water and shoreline aesthetic characteristics.

17 (c) Subdividers should be encouraged to provide public pedestrian
18 access to the shorelines within the subdivision.

19 (d) Residential development over water should not be permitted.

20 (e) Floating homes are to be located at moorage slips approved in
21 accordance with the guidelines dealing with marinas, piers, and docks.
22 In planning for floating homes, local governments should ensure that
23 waste disposal practices meet local and state health regulations, that
24 the homes are not located over highly productive fish food areas, and
25 that the homes are located to be compatible with the intent of the
26 designated environments.

27 (f) Residential developers should be required to indicate how they
28 plan to preserve shore vegetation and control erosion during
29 construction.

30 (g) Sewage disposal facilities, as well as water supply facilities,
31 must be provided in accordance with appropriate state and local health
32 regulations. Storm drainage facilities should be separate, not
33 combined with sewage disposal systems.

34 (h) Adequate water supplies should be available so that the ground
35 water quality will not be endangered by overpumping.

36 (9) Utilities. Utilities are services which produce and carry
37 electric power, gas, sewage, communications, and oil. At this time the
38 most feasible methods of transmission are the lineal ones of pipes and

1 wires. The installation of this apparatus necessarily disturbs the
2 landscape but can usually be planned to have a minimal visual and
3 physical effect on the environment. Guidelines:

4 (a) Upon completion of installation/maintenance projects on
5 shorelines, banks should be restored to preproject configuration,
6 replanted with native species, and provided maintenance care until the
7 newly planted vegetation is established.

8 (b) Whenever these facilities must be placed in a shoreline area,
9 the location should be chosen so as not to obstruct or destroy scenic
10 views. Whenever feasible, these facilities should be placed
11 underground, or designed to do minimal damage to the aesthetic
12 qualities of the shoreline area.

13 (c) To the extent feasible, local government should attempt to
14 incorporate major transmission line right of ways on shorelines into
15 their program for public access to and along water bodies.

16 (d) Utilities should be located to meet the needs of future
17 populations in areas planned to accommodate this growth.

18 The Washington state thermal power plant siting law regulates the
19 location of electrical generating and distribution facilities. Under
20 this law, the state preempts the certification and regulation of
21 thermal power plant sites and thermal power plants.

22 (10) Ports and water-related industries. Ports are centers for
23 water-borne traffic and as such have become gravitational points for
24 industrial/manufacturing firms. Heavy industry may not specifically
25 require a waterfront location, but is attracted to port areas because
26 of the variety of transportation available. Guidelines:

27 (a) Water-dependent industries which require frontage on navigable
28 water should be given priority over other industrial uses.

29 (b) Port facilities should be designed to permit viewing of harbor
30 areas from view points, waterfront restaurants, and similar public
31 facilities which would not interfere with port operations or endanger
32 public health and safety.

33 (c) Sewage treatment, water reclamation, desalinization, and power
34 plants should be located where they do not interfere with and are
35 compatible with recreational, residential, or other public uses of the
36 water and shorelands. Waste treatment ponds for water-related industry
37 should occupy as little shoreline as possible.

1 (d) The cooperative use of docking, parking, cargo handling, and
2 storage facilities should be strongly encouraged in waterfront
3 industrial areas.

4 (e) Land transportation and utility corridors serving ports and
5 water-related industry should follow the guidelines provided under the
6 sections dealing with utilities and road and railroad design and
7 construction. Where feasible, transportation and utility corridors
8 should be located upland to reduce pressures for the use of waterfront
9 sites.

10 (f) Master program planning should be based on a recognition of the
11 regional nature of port services. Prior to allocating shorelands for
12 port uses, local governments should consider statewide needs and
13 coordinate planning with other jurisdictions to avoid wasteful
14 duplication of port services within port-service regions.

15 (g) Since industrial docks and piers are often longer and greater
16 in bulk than recreational or residential piers, careful planning must
17 be undertaken to reduce the adverse impact of such facilities on other
18 water-dependent uses and shoreline resources. Because heavy industrial
19 activities are associated with industrial piers and docks, the location
20 of these facilities must be considered a major factor determining the
21 environmental compatibility of such facilities.

22 (11) Bulkheads. Bulkheads or seawalls are structures erected
23 parallel to and near the high-water mark for the purpose of protecting
24 adjacent uplands from the action of waves or currents. Bulkheads are
25 constructed of steel, timber, or concrete piling, and may be either of
26 solid or open-piling construction. For ocean-exposed locations,
27 bulkheads do not provide a long-lived permanent solution, because
28 eventually a more substantial wall is required as the beach continues
29 to recede and layer waves reach the structure.

30 While bulkheads and seawalls may protect the uplands, they do not
31 protect the adjacent beaches, and in many cases are actually
32 detrimental to the beaches by speeding up the erosion of the sand in
33 front of the structures.

34 The following guidelines apply to the construction of bulkheads and
35 seawalls designed to protect the immediate upland area. Proposals for
36 landfill must comply with the guidelines for that specific activity.
37 Guidelines:

1 (a) Bulkheads and seawalls should be located and constructed in
2 such a manner which will not result in adverse effects on nearby
3 beaches and will minimize alterations of the natural shoreline.

4 (b) Bulkheads and seawalls should be constructed in such a way as
5 to minimize damage to fish and shellfish habitats. Open-piling
6 construction is preferable in lieu of the solid type.

7 (c) Consider the effect of a proposed bulkhead on public access to
8 publicly owned shorelines.

9 (d) Bulkheads and seawalls should be designed to blend in with the
10 surroundings and not to detract from the aesthetic qualities of the
11 shoreline.

12 (e) The construction of bulkheads should be permitted only where
13 they provide protection to upland areas or facilities, not for the
14 indirect purpose of creating land by filling behind the bulkhead.
15 Landfill operations should satisfy the guidelines under subsection (14)
16 of this section.

17 (12) Breakwaters. Breakwaters are another protective structure
18 usually built offshore to protect beaches, bluffs, dunes, or harbor
19 areas from wave action. However, because offshore breakwaters are
20 costly to build, they are seldom constructed to protect the natural
21 features alone, but are generally constructed for navigational purposes
22 also. Breakwaters can be either rigid in construction or floating.
23 The rigid breakwaters, which are usually constructed of riprap or rock,
24 have both beneficial and detrimental effects on the shore. All
25 breakwaters eliminate wave action and thus protect the shore
26 immediately behind them. They also obstruct the free flow of sand
27 along the coast and starve the downstream beaches. Floating
28 breakwaters do not have the negative effect on sand movement, but
29 cannot withstand extensive wave action and thus are impractical with
30 present construction methods in many areas. Guidelines:

31 (a) Floating breakwaters are preferred to solid landfill types in
32 order to maintain sand movement and fish habitat.

33 (b) Solid breakwaters should be constructed only where design
34 modifications can eliminate potentially detrimental effects on the
35 movement of sand and circulation of water.

36 (c) The restriction of the public use of the water surface as a
37 result of breakwater construction must be recognized in the master

1 program and must be considered in granting shoreline permits for their
2 construction.

3 (13) Jetties and groins. Jetties and groins are structures
4 designed to modify or control sand movement. A jetty is generally
5 employed at inlets for the purpose of navigation improvements. When
6 sand being transported along the coast by waves and currents arrives at
7 an inlet, it flows inward on the flood tide to form an inner bar, and
8 outward on ebb tide to form an outer bar. Both formations are harmful
9 to navigation through the inlet.

10 A jetty is usually constructed of steel, concrete, or rock. The
11 type depends on foundation conditions and wave, climate, and economic
12 considerations. To be of maximum aid in maintaining the navigation
13 channel, the jetty must be high enough to completely obstruct the sand
14 stream. The adverse effect of a jetty is that sand is impounded at the
15 updrift jetty and the supply of sand to the shore downdrift from the
16 inlet is reduced, thus causing erosion.

17 Groins are barrier-type structures extending from the backshore
18 seaward across the beach. The basic purpose of a groin is to interrupt
19 the sand movement along a shore.

20 Groins can be constructed in many ways using timber, steel,
21 concrete, or rock, but can be classified into basic physical categories
22 as high or low, long or short, and permeable or impermeable.

23 Trapping of sand by a groin is done at the expense of the adjacent
24 downdrift shore, unless the groin system is filled with sand to its
25 entrapment capacity. Guidelines:

26 (a) Master programs must consider sand movement and the effect of
27 proposed jetties or groins on that sand movement. Provisions can be
28 made to compensate for the adverse effects of the structures either by
29 artificially transporting sand to the downdrift side of an inlet with
30 jetties, or by artificially feeding the beaches in case of groins.

31 (b) Special attention should be given to the effect these
32 structures will have on wildlife propagation and movement, and to the
33 design of these structures which will not detract from the aesthetic
34 quality of the shoreline.

35 (14) Landfill is the creation of dry upland area by the filling or
36 depositing of sand, soil, or gravel into a wetland area. Landfills
37 also occur to replace shoreland areas removed by wave action or the

1 normal erosive processes of nature. However, most landfills destroy
2 the natural character of land, create unnatural heavy erosion and
3 silting problems and diminish the existing water surface. Guidelines:

4 (a) Shoreline fills or cuts should be designed and located so that
5 significant damage to existing ecological values or natural resources,
6 or alteration of local currents will not occur, creating a hazard to
7 adjacent life, property, and natural resources systems.

8 (b) All perimeters of fills should be provided with vegetation,
9 retaining walls, or other mechanisms for erosion prevention.

10 (c) Fill materials should be of such quality that it will not cause
11 problems of water quality. Shoreline areas are not to be considered
12 for sanitary landfills or the disposal of solid waste.

13 (d) Priority should be given to landfills for water-dependent uses
14 and for public uses. In evaluating fill projects and in designating
15 areas appropriate for fill, such factors as total water surface
16 reduction, navigation restriction, impediment to water flow and
17 circulation, reduction of water quality, and destruction of habitat
18 should be considered.

19 (15) Solid waste disposal. Generally, all solid waste is a
20 possible source of much nuisance. Rapid, safe, and nuisance-free
21 storage, collection, transportation, and disposal are of vital concern
22 to all persons and communities. If the disposal of solid waste
23 material is not carefully planned and regulated, it can become not only
24 a nuisance but a severe threat to the health and safety of human
25 beings, livestock, wildlife, and other biota. Guidelines:

26 (a) Local master programs and use regulations must be consistent
27 with approved county or multicounty comprehensive solid waste
28 management plans and regulations of jurisdictional health agencies.

29 (b) Local governments must regulate sanitary landfills and solid
30 waste handling in accordance with regulations for solid waste handling
31 when adopted by the department. New regulations restricting sanitary
32 landfills within any water course and within flood plains of any water
33 course have been proposed for adoption by the department.

34 (16) Dredging. Dredging is the removal of earth from the bottom of
35 a stream, river, lake, bay, or other water body for the purposes of
36 deepening a navigational channel or to obtain use of the bottom
37 materials for landfill. A significant portion of all dredged materials

1 are deposited either in the water or immediately adjacent to it, often
2 resulting in problems of water quality. Guidelines:

3 (a) Local governments should control dredging to minimize damage to
4 existing ecological values and natural resources of both the area to be
5 dredged and the area for deposit of dredged materials.

6 (b) Local master programs must include long-range plans for the
7 deposit and use of spoils on land. Spoil deposit sites in water areas
8 should also be identified by local government in cooperation with the
9 state departments of natural resources and fish and wildlife.
10 Depositing of dredge material in water areas should be allowed only for
11 habitat improvement, to correct problems of material distribution
12 affecting adversely fish and shellfish resources, or where the
13 alternatives of depositing material on land is more detrimental to
14 shoreline resources than depositing it in water areas.

15 (c) Dredging of bottom materials for the single purpose of
16 obtaining fill material should be discouraged.

17 (17) Shoreline protection. Flood protection and streamway
18 modifications are those activities occurring within the streamway and
19 wetland areas which are designed to reduce overbank flow of high waters
20 and stabilize eroding streambanks. Reduction of flood damage, bank
21 stabilization to reduce sedimentation, and protection of property from
22 erosion are normally achieved through watershed and flood plain
23 management and by structural works. Such measures are often
24 complementary to one another and several measures together may be
25 necessary to achieve the desired end. Guidelines:

26 (a) Riprapping and other bank stabilization measures should be
27 located, designed, and constructed so as to avoid the need for
28 channelization and to protect the natural character of the streamway.

29 (b) Where flood protection measures such as dikes are planned, they
30 should be placed landward of the streamway, including associated swamps
31 and marshes and other wetlands directly interrelated and interdependent
32 with the stream proper.

33 (c) Flood protection measures which result in channelization should
34 be avoided.

35 (18) Road and railroad design and construction. A road is a linear
36 passageway, usually for motor vehicles, and a railroad is a surface
37 linear passageway with tracks for train traffic. Their construction

1 can limit access to shorelines, impair the visual qualities of
2 water-oriented vistas, expose soils to erosion, and retard the runoff
3 of flood waters. Guidelines:

4 (a) Whenever feasible, major highways, freeways, and railways
5 should be located away from shorelands, except in port and heavy
6 industrial areas, so that shoreland roads may be reserved for
7 slow-moving recreational traffic.

8 (b) Roads located in wetland areas should be designed and
9 maintained to prevent erosion and to permit a natural movement of
10 ground water.

11 (c) All debris, overburden, and other waste materials from
12 construction should be disposed of in such a way as to prevent their
13 entry by erosion from drainage, high water, or other means into any
14 water body.

15 (d) Road locations should be planned to fit the topography so that
16 minimum alterations of natural conditions will be necessary.

17 (e) Scenic corridors with public roadways should have provision for
18 safe pedestrian and other nonmotorized travel. Also, provision should
19 be made for sufficient view points, rest areas, and picnic areas in
20 public shorelines.

21 (f) Extensive loops or spurs of old highways with high aesthetic
22 quality should be kept in service as pleasure bypass routes, especially
23 where main highways, paralleling the old highway, must carry large
24 traffic volumes at high speeds.

25 (g) Since land-use and transportation facilities are so highly
26 interrelated, the plans for each should be coordinated. The
27 designation of potential high-use areas in master programs should be
28 done after the environmental impact of the transportation facilities
29 needed to serve those areas have been assessed.

30 (19) Piers. A pier or dock is a structure built over or floating
31 upon the water, used as a landing place for marine transport or for
32 recreational purposes. While floating docks generally create less of
33 a visual impact than those on piling, they constitute an impediment to
34 boat traffic and shoreline trolling. Floating docks can also alter
35 beach sand patterns in areas where tides and littoral drift are
36 significant. On lakes, a proliferation of piers along the shore can
37 have the effect of substantially reducing the usable water surface.

38 Guidelines:

1 (a) The use of floating docks should be encouraged in those areas
2 where scenic values are high and where conflicts with recreational
3 boaters and fishermen will not be created.

4 (b) Open-pile piers should be encouraged where shore trolling is
5 important, where there is significant littoral drift, and where scenic
6 values will not be impaired.

7 (c) Priority should be given to the use of community piers and
8 docks in all new major waterfront subdivisions. In general,
9 encouragement should be given to the cooperative use of piers and
10 docks.

11 (d) Master programs should address the problem of the proliferation
12 of single-purpose private piers and should establish criteria for their
13 location, spacing, and length. The master programs should also delimit
14 geographical areas where pile piers will have priority over floating
15 docks.

16 (e) In providing for boat docking facilities in the master program,
17 local governments should consider the capacity of the shoreline sites
18 to absorb the impact of waste discharges from boats including gas and
19 oil spillage.

20 (20) Archaeological areas and historic sites. Archaeological
21 areas, ancient villages, military forts, old settlers homes, ghost
22 towns, and trails were often located on shorelines because of the
23 proximity of food resources and because water provided an important
24 means of transportation. These sites are nonrenewable resources and
25 many are in danger of being lost through present day changes in land
26 use and urbanization. Because of their rarity and the educational link
27 they provide to our past, these locations should be preserved.
28 Guidelines:

29 (a) In preparing shoreline master programs, local governments
30 should consult with professional archaeologists to identify areas
31 containing potentially valuable archaeological data, and to establish
32 procedures for salvaging the data.

33 (b) Where possible, sites should be permanently preserved for
34 scientific study and public observation. In areas known to contain
35 archaeological data, local governments should attach a special
36 condition to a shoreline permit providing for a site inspection and
37 evaluation by an archaeologist to ensure that possible archaeological

1 data are properly salvaged. Such a condition might also require
2 approval by local government before work can resume on the project
3 following such an examination.

4 (c) Shoreline permits, in general, should contain special
5 provisions which require developers to notify local governments if any
6 possible archaeological data are uncovered during excavations.

7 (d) The national historic preservation act of 1966 and state law
8 provide for the protection, rehabilitation, restoration, and
9 reconstruction of districts, sites, buildings, structures, and objects
10 significant in American and Washington history, architecture,
11 archaeology, or culture. The state legislation names the director of
12 the Washington state parks and recreation commission as the person
13 responsible for this program.

14 (21) Recreation. Recreation is the refreshment of body and mind
15 through forms of play, amusement, or relaxation. Water-related
16 recreation accounts for a very high proportion of all recreational
17 activity in the Pacific Northwest. The recreational experience may be
18 either an active one involving boating, swimming, fishing, or hunting
19 or the experience may be passive such as enjoying the natural beauty of
20 a vista of a lake, river, or salt-water area. Guidelines:

21 (a) Priority will be given to developments, other than
22 single-family residences which are exempt from the permit requirements
23 of chapter 90.58 RCW, which provide recreational uses and other
24 improvements facilitating public access to shorelines.

25 (b) Access to recreational locations such as fishing streams and
26 hunting areas should be a combination of areas and linear access
27 (parking areas and easements, for example) to prevent concentrations of
28 use pressure at a few points.

29 (c) Master programs should encourage the linkage of shoreline parks
30 and public access points through the use of linear access. Many types
31 of connections can be used such as hiking paths, bicycle trails, and/or
32 scenic drives.

33 (d) Attention should be directed toward the effect the development
34 of a recreational site will have on the environmental quality and
35 natural resources of an area.

36 (e) Master programs should develop standards for the preservation
37 and enhancement of scenic views and vistas.

1 (f) To avoid wasteful use of the limited supply of recreational
2 shoreland, parking areas should be located inland away from the
3 immediate edge of the water and recreational beaches. Access should be
4 provided by walkways or other methods. Automobile traffic on beaches,
5 dunes, and fragile shoreland resources should be discouraged.

6 (g) Recreational developments should be of such variety as to
7 satisfy the diversity of demands from groups in nearby population
8 centers.

9 (h) The supply of recreation facilities should be directly
10 proportional to the proximity of population and compatible with the
11 environment designations.

12 (i) Facilities for intensive recreational activities should be
13 provided where sewage disposal and vector control can be accomplished
14 to meet public health standards without adversely altering the natural
15 features attractive for recreational uses.

16 (j) In locating proposed recreational facilities such as playing
17 fields and golf courses and other open areas which use large quantities
18 of fertilizers and pesticides in their turf maintenance programs,
19 provisions must be made to prevent these chemicals from entering water.
20 If this type of facility is approved on a shoreline location, provision
21 should be made for protection of water areas from drainage and surface
22 runoff.

23 (k) State and local health agencies have broad regulations which
24 apply to recreation facilities, recreation watercraft, and ocean
25 beaches which should be consulted by local governments in preparing use
26 regulations and issuing permits.

27 NEW SECTION. **Sec. 7.** (1) Purpose and intent. This section
28 implements the ocean resources management act, RCW 43.143.005 through
29 43.143.030. The law requires the department to develop guidelines and
30 policies for the management of ocean uses and to serve as the basis for
31 evaluation and modification of local shoreline management master
32 programs of coastal local governments in Jefferson, Clallam, Grays
33 Harbor, and Pacific counties. The guidelines are intended to clarify
34 state shoreline management policy regarding use of coastal resources,
35 address evolving interest in ocean development, and prepare state and
36 local agencies for new ocean developments and activities.

1 (2) Geographical application. The guidelines apply to Washington's
2 coastal waters from Cape Disappointment at the mouth of the Columbia
3 river north one hundred sixty miles to Cape Flattery at the entrance to
4 the Strait of Juan de Fuca including the offshore ocean area, the near
5 shore area under state ownership, shorelines of the state, and their
6 adjacent uplands. Their broadest application would include an area
7 seaward two hundred miles and landward to include those uplands
8 immediately adjacent to land under permit jurisdiction for which
9 consistent planning is required under RCW 90.58.340. The guidelines
10 address uses occurring in Washington's coastal waters, but not impacts
11 generated from activities offshore of Oregon, Alaska, California, or
12 British Columbia or impacts from Washington's offshore on the Strait of
13 Juan de Fuca or other inland marine waters.

14 (3) Ocean uses defined. Ocean uses are activities or developments
15 involving renewable and/or nonrenewable resources that occur on
16 Washington's coastal waters and include their associated off shore,
17 near shore, inland marine, shoreland, and upland facilities and the
18 supply, service, and distribution activities, such as crew ships,
19 circulating to and between the activities and developments. Ocean uses
20 involving nonrenewable resources include such activities as extraction
21 of oil, gas, and minerals, energy production, disposal of waste
22 products, and salvage. Ocean uses which generally involve sustainable
23 use of renewable resources include commercial, recreational, and tribal
24 fishing, aquaculture, recreation, shellfish harvesting, and pleasure
25 craft activity.

26 (4) Relationship to existing management programs. These guidelines
27 augment existing requirements of chapter 90.58 RCW and those chapters
28 in Title 173 of the Washington Administrative Code that implement
29 chapter 90.58 RCW. They are not intended to modify current resource
30 allocation procedures or regulations administered by other agencies,
31 such as the department of fish and wildlife's management of commercial,
32 recreational, and tribal fisheries. They are not intended to regulate
33 recreational uses or currently existing commercial uses involving
34 fishing or other renewable marine or ocean resources. Every effort
35 will be made to take into account tribal interests and programs in the
36 guidelines and master program amendment processes. After inclusion in
37 the state coastal zone management program, these guidelines and
38 resultant master programs will be used for federal consistency purposes

1 in evaluating federal permits and activities in Washington's coastal
2 waters. Participation in the development of these guidelines and
3 subsequent amendments to master programs will not preclude state and
4 local government from opposing the introduction of new uses, such as
5 oil and gas development.

6 These and other statutes, documents, and regulations referred to or
7 cited in this chapter may be reviewed at the department.

8 (5) Regional approach. The guidelines are intended to foster a
9 regional perspective and consistent approach for the management of
10 ocean uses. While local governments may have need to vary their
11 programs to accommodate local circumstances, local government should
12 attempt and the department will review local programs for compliance
13 with this chapter for development of master programs. It is recognized
14 that further amendments to the master programs may be required to
15 address new information on critical and sensitive habitats and
16 environmental impacts of ocean uses or to address future activities,
17 such as oil development. In addition to the criteria in RCW
18 43.143.030, these guidelines apply to ocean uses until local master
19 program amendments are adopted. The amended master program shall be
20 the basis for review of an action that is either located exclusively
21 in, or its environmental impacts confined to, one county. Where a
22 proposal clearly involves more than one local jurisdiction, the
23 guidelines shall be applied and remain in effect in addition to the
24 provisions of the local master programs.

25 (6) Permit criteria. Local government and the department may
26 permit ocean or coastal uses and activities as a substantial
27 development, variance, or conditional use only if the criteria of RCW
28 43.143.030(2) listed below are met or exceeded:

29 (a) There is a demonstrated significant local, state, or national
30 need for the proposed use or activity;

31 (b) There is no reasonable alternative to meet the public need for
32 the proposed use or activity;

33 (c) There will be no likely long-term significant adverse impacts
34 to coastal or marine resources or uses;

35 (d) All reasonable steps are taken to avoid and minimize adverse
36 environmental impacts, with special protection provided for the marine
37 life and resources of the Columbia river, Willapa Bay, and Grays Harbor
38 estuaries, and Olympic National Park;

1 (e) All reasonable steps are taken to avoid and minimize adverse
2 social and economic impacts, including impacts on aquaculture,
3 recreation, tourism, navigation, air quality, and recreational,
4 commercial, and tribal fishing;

5 (f) Compensation is provided to mitigate adverse impacts to coastal
6 resources or uses;

7 (g) Plans and sufficient performance bonding are provided to ensure
8 that the site will be rehabilitated after the use or activity is
9 completed; and

10 (h) The use or activity complies with all applicable local, state,
11 and federal laws and regulations.

12 (7) General ocean uses guidelines. The following guidelines apply
13 to all ocean uses, their service, distribution, and supply activities
14 and their associated facilities that require shoreline permits.

15 (a) Ocean uses and activities that will not adversely impact
16 renewable resources shall be given priority over those that will.
17 Correspondingly, ocean uses that will have less adverse impacts on
18 renewable resources shall be given priority over uses that will have
19 greater adverse impacts.

20 (b) Ocean uses that will have less adverse social and economic
21 impacts on coastal uses and communities should be given priority over
22 uses and activities that will have more such impacts.

23 (c) When the adverse impacts are generally equal, the ocean use
24 that has less probable occurrence of a disaster should be given
25 priority.

26 (d) The alternatives considered to meet a public need for a
27 proposed use should be commensurate with the need for the proposed use.
28 For example, if there is a demonstrated national need for a proposed
29 use, then national alternatives should be considered.

30 (e) Chapter 197-11 WAC provides guidance in the application of the
31 permit criteria and guidelines of this section. The range of impacts
32 to be considered should be consistent with WAC 197-11-060 (4)(e) and
33 197-11-792 (2)(c). The determination of significant adverse impacts
34 should be consistent with WAC 197-11-330(3) and 197-11-794. The
35 sequence of actions described in WAC 197-11-768 should be used as an
36 order of preference in evaluating steps to avoid and minimize adverse
37 impacts.

1 (f) Impacts on commercial resources, such as the crab fishery, on
2 noncommercial resources, such as environmentally critical and sensitive
3 habitats, and on coastal uses, such as loss of equipment or loss of a
4 fishing season, should be considered in determining compensation to
5 mitigate adverse environmental, social, and economic impacts to coastal
6 resources and uses.

7 (g) Allocation of compensation to mitigate adverse impacts to
8 coastal resources or uses should be based on the magnitude and/or
9 degree of impact on the resource, jurisdiction, and use.

10 (h) Rehabilitation plans and bonds prepared for ocean uses should
11 address the effects of planned and unanticipated closures, completion
12 of the activity, reasonably anticipated disasters, inflation, new
13 technology, and new information about the environmental impacts to
14 ensure that state of the art technology and methods are used.

15 (i) Local governments should evaluate their master programs and
16 select the environment(s) for coastal waters that best meets the intent
17 of this chapter and chapter 90.58 RCW.

18 (j) Ocean uses and their associated coastal or upland facilities
19 should be located, designed, and operated to prevent, avoid, and
20 minimize adverse impacts on migration routes and habitat areas of
21 species listed as endangered or threatened, environmentally critical
22 and sensitive habitats such as breeding, spawning, nursery, foraging
23 areas, and wetlands, and areas of high productivity for marine biota
24 such as upwelling and estuaries.

25 (k) Ocean uses should be located to avoid adverse impacts on
26 proposed or existing environmental and scientific preserves and
27 sanctuaries, parks, and designated recreation areas.

28 (l) Ocean uses and their associated facilities should be located
29 and designed to avoid and minimize adverse impacts on historic or
30 culturally significant sites in compliance with chapter 27.34 RCW.
31 Permits in general should contain special provisions that require
32 permittees to comply with chapter 27.53 RCW if any archaeological sites
33 or archaeological objects such as artifacts and shipwrecks are
34 discovered.

35 (m) Ocean uses and their distribution, service, and supply vessels
36 and aircraft should be located, designed, and operated in a manner that
37 minimizes adverse impacts on fishing grounds, aquatic lands, or other

1 renewable resource ocean use areas during the established, traditional,
2 and recognized times they are used or when the resource could be
3 adversely impacted.

4 (n) Ocean use service, supply, and distribution vessels and
5 aircraft should be routed to avoid environmentally critical and
6 sensitive habitats such as sea stacks and wetlands, preserves,
7 sanctuaries, bird colonies, and migration routes, during critical times
8 those areas or species could be affected.

9 (o) In locating and designing associated onshore facilities,
10 special attention should be given to the environment, the
11 characteristics of the use, and the impact of a probable disaster, in
12 order to assure adjacent uses, habitats, and communities adequate
13 protection from explosions, spills, and other disasters.

14 (p) Ocean uses and their associated facilities should be located
15 and designed to minimize impacts on existing water dependent businesses
16 and existing land transportation routes to the maximum extent feasible.

17 (q) Onshore facilities associated with ocean uses should be located
18 in communities where there is adequate sewer, water, power, and
19 streets. Within those communities, if space is available at existing
20 marine terminals, the onshore facilities should be located there.

21 (r) Attention should be given to the scheduling and method of
22 constructing ocean use facilities and the location of temporary
23 construction facilities to minimize impacts on tourism, recreation,
24 commercial fishing, local communities, and the environment.

25 (s) Special attention should be given to the effect that ocean use
26 facilities will have on recreational activities and experiences such as
27 public access, aesthetics, and views.

28 (t) Detrimental effects on air and water quality, tourism,
29 recreation, fishing, aquaculture, navigation, transportation, public
30 infrastructure, public services, and community culture should be
31 considered in avoiding and minimizing adverse social and economic
32 impacts.

33 (u) Special attention should be given to designs and methods that
34 prevent, avoid, and minimize adverse impacts such as noise, light,
35 temperature changes, turbidity, water pollution, and contaminated
36 sediments on the marine, estuarine, or upland environment. Such
37 attention should be given particularly during critical migration

1 periods and life stages of marine species and critical oceanographic
2 processes.

3 (v) Preproject environmental baseline inventories and assessments
4 and monitoring of ocean uses should be required when little is known
5 about the effects on marine and estuarine ecosystems, renewable
6 resource uses, and coastal communities or the technology involved is
7 likely to change.

8 (w) Oil and gas, mining, disposal, and energy producing ocean uses
9 should be designed, constructed, and operated in a manner that
10 minimizes environmental impacts on the coastal waters environment,
11 particularly the seabed communities, and minimizes impacts on
12 recreation and existing renewable resource uses such as fishing.

13 (x) To the extent feasible, the location of oil and gas, and mining
14 facilities should be chosen to avoid and minimize impacts on shipping
15 lanes or routes traditionally used by commercial and recreational
16 fishermen to reach fishing areas.

17 (y) Discontinuance or shutdown of oil and gas, mining, or energy
18 producing ocean uses should be done in a manner that minimizes impacts
19 to renewable resource ocean uses such as fishing, and restores the
20 seabed to a condition similar to its original state to the maximum
21 extent feasible.

22 (8) Oil and gas uses and activities. Oil and gas uses and
23 activities involve the extraction of oil and gas resources from beneath
24 the ocean.

25 (a) Whenever feasible oil and gas facilities should be located and
26 designed to permit joint use in order to minimize adverse impacts to
27 coastal resources and uses and the environment.

28 (b) Special attention should be given to the availability and
29 adequacy of general disaster response capabilities in reviewing ocean
30 locations for oil and gas facilities.

31 (c) Because environmental damage is a very probable impact of oil
32 and gas uses, the adequacy of plans, equipment, staffing, procedures,
33 and demonstrated financial and performance capabilities for preventing,
34 responding to, and mitigating the effects of accidents and disasters
35 such as oil spills should be major considerations in the review of
36 permits for their location and operation. If a permit is issued, it
37 should ensure that adequate prevention, response, and mitigation can be

1 provided before the use is initiated and throughout the life of the
2 use.

3 (d) Special attention should be given to the response times for
4 public safety services such as police, fire, emergency medical, and
5 hazardous materials spill response services in providing and reviewing
6 onshore locations for oil and gas facilities.

7 (e) Oil and gas facilities including pipelines should be located,
8 designed, constructed, and maintained in conformance with applicable
9 requirements but should at a minimum ensure adequate protection from
10 geological hazards such as liquefaction, hazardous slopes, earthquakes,
11 physical oceanographic processes, and natural disasters.

12 (f) Upland disposal of oil and gas construction and operation
13 materials and waste products such as cuttings and drilling muds should
14 be allowed only in sites that meet applicable requirements.

15 (9) Ocean mining. Ocean mining includes such uses as the mining of
16 metal, mineral, sand, and gravel resources from the sea floor.

17 (a) Seafloor mining should be located and operated to avoid
18 detrimental effects on ground fishing or other renewable resource uses.

19 (b) Seafloor mining should be located and operated to avoid
20 detrimental effects on beach erosion or accretion processes.

21 (c) Special attention should be given to habitat recovery rates in
22 the review of permits for seafloor mining.

23 (10) Energy production. Energy production uses involve the
24 production of energy in a usable form directly in or on the ocean
25 rather than extracting a raw material that is transported elsewhere to
26 produce energy in a readily usable form. Examples of these ocean uses
27 are facilities that use wave action or differences in water temperature
28 to generate electricity.

29 (a) Energy-producing uses should be located, constructed, and
30 operated in a manner that has no detrimental effects on beach accretion
31 or erosion and wave processes.

32 (b) An assessment should be made of the effect of energy-producing
33 uses on upwelling, and other oceanographic and ecosystem processes.

34 (c) Associated energy distribution facilities and lines should be
35 located in existing utility rights of way and corridors whenever
36 feasible, rather than creating new corridors that would be detrimental
37 to the aesthetic qualities of the shoreline area.

1 (11) Ocean disposal. Ocean disposal uses involve the deliberate
2 deposition or release of material at sea, such as solid wastes,
3 industrial waste, radioactive waste, incineration, incinerator residue,
4 dredged materials, vessels, aircraft, ordnance, platforms, or other
5 man-made structures.

6 (a) Storage, loading, transporting, and disposal of materials shall
7 be done in conformance with local, state, and federal requirements for
8 protection of the environment.

9 (b) Ocean disposal shall be allowed only in sites that have been
10 approved by the department of ecology, the department of natural
11 resources, the United States environmental protection agency, and the
12 United States army corps of engineers as appropriate.

13 (c) Ocean disposal sites should be located and designed to prevent,
14 avoid, and minimize adverse impacts on environmentally critical and
15 sensitive habitats, coastal resources and uses, or loss of
16 opportunities for mineral resource development. Ocean disposal sites
17 for which the primary purpose is habitat enhancement may be located in
18 a wider variety of habitats, but the general intent of the guidelines
19 should still be met.

20 (12) Transportation. Ocean transportation includes such uses as:
21 Shipping, transferring between vessels, and offshore storage of oil and
22 gas; transport of other goods and commodities; and offshore ports and
23 airports. The following guidelines address transportation activities
24 that originate or conclude in Washington's coastal waters or are
25 transporting a nonrenewable resource extracted from the outer
26 continental shelf off Washington.

27 (a) An assessment should be made of the impact transportation uses
28 will have on renewable resource activities such as fishing and on
29 environmentally critical and sensitive habitat areas, environmental and
30 scientific preserves, and sanctuaries.

31 (b) When feasible, hazardous materials such as oil, gas,
32 explosives, and chemicals, should not be transported through highly
33 productive commercial, tribal, or recreational fishing areas. If no
34 such feasible route exists, the routes used should pose the least
35 environmental risk.

36 (c) Transportation uses should be located or routed to avoid
37 habitat areas of endangered or threatened species, environmentally

1 critical and sensitive habitats, migration routes of marine species and
2 birds, marine sanctuaries, and environmental or scientific preserves to
3 the maximum extent feasible.

4 (13) Ocean research. Ocean research activities involve scientific
5 investigation for the purpose of furthering knowledge and
6 understanding. Investigation activities involving necessary and
7 functionally related precursor activities to an ocean use or
8 development may be considered exploration or part of the use or
9 development. Since ocean research often involves activities and
10 equipment, such as drilling and vessels, that also occur in exploration
11 and ocean uses or developments, a case-by-case determination of the
12 applicable regulations may be necessary.

13 (a) Ocean research should be encouraged to coordinate with other
14 ocean uses occurring in the same area to minimize potential conflicts.

15 (b) Ocean research meeting the definition of "exploration activity"
16 of WAC 173-15-020 shall comply with the requirements of chapter 173-15
17 WAC: Permits for oil or natural gas exploration activities conducted
18 from state marine waters.

19 (c) Ocean research should be located and operated in a manner that
20 minimizes intrusion into or disturbance of the coastal waters
21 environment consistent with the purposes of the research and the intent
22 of the general ocean use guidelines.

23 (d) Ocean research should be completed or discontinued in a manner
24 that restores the environment to its original condition to the maximum
25 extent feasible, consistent with the purposes of the research.

26 (e) Public dissemination of ocean research findings should be
27 encouraged.

28 (14) Ocean salvage. Ocean salvage uses share characteristics of
29 other ocean uses and involve relatively small sites occurring
30 intermittently. Historic shipwreck salvage which combines aspects of
31 recreation, exploration, research, and mining is an example of such a
32 use.

33 (a) Nonemergency marine salvage and historic shipwreck salvage
34 activities should be conducted in a manner that minimizes adverse
35 impacts to the coastal waters environment and renewable resource uses
36 such as fishing.

37 (b) Nonemergency marine salvage and historic shipwreck salvage

1 activities should not be conducted in areas of cultural or historic
2 significance unless part of a scientific effort sanctioned by
3 appropriate governmental agencies.

4 NEW SECTION. **Sec. 8.** Chapter 90.58 RCW states that each local
5 master program shall contain provisions covering conditional uses and
6 variances. Any permit for a variance or a conditional use granted by
7 local government under an approved master program must be submitted to
8 the department for approval, approval with conditions, or disapproval.
9 The criteria contained in WAC 173-14-140 for shoreline conditional use
10 and variance permits shall constitute the minimum criteria for review
11 of these permits by local government and the department. More
12 restrictive criteria may be applied where it exists in approved and
13 adopted local master programs.

14 These provisions should be utilized in a manner which, while
15 protecting the environment, will assure that a person will be able to
16 utilize his or her property in a fair and equitable manner.

17 **Sec. 9.** RCW 90.58.020 and 1995 c 347 s 301 are each amended to
18 read as follows:

19 The legislature finds that the shorelines of the state are among
20 the most valuable and fragile of its natural resources and that there
21 is great concern throughout the state relating to their utilization,
22 protection, restoration, and preservation. In addition it finds that
23 ever increasing pressures of additional uses are being placed on the
24 shorelines necessitating increased coordination in the management and
25 development of the shorelines of the state. The legislature further
26 finds that much of the shorelines of the state and the uplands adjacent
27 thereto are in private ownership; that unrestricted construction on the
28 privately owned or publicly owned shorelines of the state is not in the
29 best public interest; and therefore, coordinated planning is necessary
30 in order to protect the public interest associated with the shorelines
31 of the state while, at the same time, recognizing and protecting
32 private property rights consistent with the public interest. There is,
33 therefor, a clear and urgent demand for a planned, rational, and
34 concerted effort, jointly performed by federal, state, and local
35 governments, to prevent the inherent harm in an uncoordinated and
36 piecemeal development of the state's shorelines.

1 It is the policy of the state to provide for the management of the
2 shorelines of the state by planning for and fostering all reasonable
3 and appropriate uses. This policy is designed to insure the
4 development of these shorelines in a manner which, while allowing for
5 limited reduction of rights of the public in the navigable waters, will
6 promote and enhance the public interest. This policy contemplates
7 protecting against adverse effects to the public health, the land and
8 its vegetation and wildlife, and the waters of the state and their
9 aquatic life, while protecting generally public rights of navigation
10 and corollary rights incidental thereto.

11 The legislature declares that the interest of all of the people
12 shall be paramount in the management of shorelines of statewide
13 significance. (~~The department, in adopting guidelines for shorelines~~
14 ~~of statewide significance, and~~) Local government, in developing master
15 programs for shorelines of statewide significance, shall give
16 preference to uses in the following order of preference which:

- 17 (1) Recognize and protect the statewide interest over local
18 interest;
- 19 (2) Preserve the natural character of the shoreline;
- 20 (3) Result in long term over short term benefit;
- 21 (4) Protect the resources and ecology of the shoreline;
- 22 (5) Increase public access to publicly owned areas of the
23 shorelines;
- 24 (6) Increase recreational opportunities for the public in the
25 shoreline;
- 26 (7) Provide for any other element as defined in RCW 90.58.100
27 deemed appropriate or necessary.

28 In the implementation of this policy the public's opportunity to
29 enjoy the physical and aesthetic qualities of natural shorelines of the
30 state shall be preserved to the greatest extent feasible consistent
31 with the overall best interest of the state and the people generally.
32 To this end uses shall be preferred which are consistent with control
33 of pollution and prevention of damage to the natural environment, or
34 are unique to or dependent upon use of the state's shoreline.
35 Alterations of the natural condition of the shorelines of the state, in
36 those limited instances when authorized, shall be given priority for
37 single family residences and their appurtenant structures, ports,
38 shoreline recreational uses including but not limited to parks,

1 marinas, piers, and other improvements facilitating public access to
2 shorelines of the state, industrial and commercial developments which
3 are particularly dependent on their location on or use of the
4 shorelines of the state and other development that will provide an
5 opportunity for substantial numbers of the people to enjoy the
6 shorelines of the state. Alterations of the natural condition of the
7 shorelines and shorelands of the state shall be recognized by the
8 department. Shorelines and shorelands of the state shall be
9 appropriately classified and these classifications shall be revised
10 when circumstances warrant regardless of whether the change in
11 circumstances occurs through man-made causes or natural causes. Any
12 areas resulting from alterations of the natural condition of the
13 shorelines and shorelands of the state no longer meeting the definition
14 of "shorelines of the state" shall not be subject to the provisions of
15 chapter 90.58 RCW.

16 Permitted uses in the shorelines of the state shall be designed and
17 conducted in a manner to minimize, insofar as practical, any resultant
18 damage to the ecology and environment of the shoreline area and any
19 interference with the public's use of the water.

20 **Sec. 10.** RCW 90.58.030 and 2002 c 230 s 2 are each amended to read
21 as follows:

22 As used in this chapter, unless the context otherwise requires, the
23 following definitions and concepts apply:

24 (1) Administration:

25 (a) "Department" means the department of ecology;

26 (b) "Director" means the director of the department of ecology;

27 (c) "Local government" means any county, incorporated city, or town
28 which contains within its boundaries any lands or waters subject to
29 this chapter;

30 (d) "Person" means an individual, partnership, corporation,
31 association, organization, cooperative, public or municipal
32 corporation, or agency of the state or local governmental unit however
33 designated;

34 (e) "Hearing board" means the shoreline hearings board established
35 by this chapter.

36 (2) Geographical:

1 (a) "Extreme low tide" means the lowest line on the land reached by
2 a receding tide;

3 (b) "Ordinary high water mark" on all lakes, streams, and tidal
4 water is that mark that will be found by examining the bed and banks
5 and ascertaining where the presence and action of waters are so common
6 and usual, and so long continued in all ordinary years, as to mark upon
7 the soil a character distinct from that of the abutting upland, in
8 respect to vegetation as that condition exists on June 1, 1971, as it
9 may naturally change thereafter, or as it may change thereafter in
10 accordance with permits issued by a local government or the department:
11 PROVIDED, That in any area where the ordinary high water mark cannot be
12 found, the ordinary high water mark adjoining salt water shall be the
13 line of mean higher high tide and the ordinary high water mark
14 adjoining fresh water shall be the line of mean high water;

15 (c) "Shorelines of the state" are the total of all "shorelines" and
16 "shorelines of statewide significance" within the state;

17 (d) "Shorelines" means all of the water areas of the state,
18 including reservoirs, and their associated shorelands, together with
19 the lands underlying them; except (i) shorelines of statewide
20 significance; (ii) shorelines on segments of streams upstream of a
21 point where the mean annual flow is twenty cubic feet per second or
22 less and the wetlands associated with such upstream segments; and (iii)
23 shorelines on lakes less than twenty acres in size and wetlands
24 associated with such small lakes;

25 (e) "Shorelines of statewide significance" means the following
26 shorelines of the state:

27 (i) The area between the ordinary high water mark and the western
28 boundary of the state from Cape Disappointment on the south to Cape
29 Flattery on the north, including harbors, bays, estuaries, and inlets;

30 (ii) Those areas of Puget Sound and adjacent salt waters and the
31 Strait of Juan de Fuca between the ordinary high water mark and the
32 line of extreme low tide as follows:

33 (A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,

34 (B) Birch Bay--from Point Whitehorn to Birch Point,

35 (C) Hood Canal--from Tala Point to Foulweather Bluff,

36 (D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point,

37 and

38 (E) Padilla Bay--from March Point to William Point;

1 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and
2 adjacent salt waters north to the Canadian line and lying seaward from
3 the line of extreme low tide;

4 (iv) Those lakes, whether natural, artificial, or a combination
5 thereof, with a surface acreage of one thousand acres or more measured
6 at the ordinary high water mark;

7 (v) Those natural rivers or segments thereof as follows:

8 (A) Any west of the crest of the Cascade range downstream of a
9 point where the mean annual flow is measured at one thousand cubic feet
10 per second or more,

11 (B) Any east of the crest of the Cascade range downstream of a
12 point where the annual flow is measured at two hundred cubic feet per
13 second or more, or those portions of rivers east of the crest of the
14 Cascade range downstream from the first three hundred square miles of
15 drainage area, whichever is longer;

16 (vi) Those shorelands associated with (i), (ii), (iv), and (v) of
17 this subsection (2)(e);

18 (f) "Shorelands" or "shoreland areas" means those lands extending
19 landward for two hundred feet in all directions as measured on a
20 horizontal plane from the ordinary high water mark; floodways and
21 contiguous floodplain areas landward two hundred feet from such
22 floodways; and all wetlands and river deltas associated with the
23 streams, lakes, and tidal waters which are subject to the provisions of
24 this chapter; the same to be designated as to location by the
25 department of ecology. Any county or city may determine that portion
26 of a one-hundred-year-flood plain to be included in its master program
27 as long as such portion includes, as a minimum, the floodway and the
28 adjacent land extending landward two hundred feet therefrom;

29 (g) "Floodway" means those portions of the area of a river valley
30 lying streamward from the outer limits of a watercourse upon which
31 flood waters are carried during periods of flooding that occur with
32 reasonable regularity, although not necessarily annually, said floodway
33 being identified, under normal condition, by changes in surface soil
34 conditions or changes in types or quality of vegetative ground cover
35 condition. The floodway shall not include those lands that can
36 reasonably be expected to be protected from flood waters by flood
37 control devices maintained by or maintained under license from the
38 federal government, the state, or a political subdivision of the state;

1 (h) "Wetlands" means areas that are inundated or saturated by
2 surface water or ground water at a frequency and duration sufficient to
3 support, and that under normal circumstances do support, a prevalence
4 of vegetation typically adapted for life in saturated soil conditions.
5 Wetlands generally include swamps, marshes, bogs, and similar areas.
6 Wetlands do not include those artificial wetlands intentionally created
7 from nonwetland sites, including, but not limited to, irrigation and
8 drainage ditches, grass-lined swales, canals, detention facilities,
9 wastewater treatment facilities, farm ponds, and landscape amenities,
10 or those wetlands created after July 1, 1990, that were unintentionally
11 created as a result of the construction of a road, street, or highway.
12 Wetlands may include those artificial wetlands intentionally created
13 from nonwetland areas to mitigate the conversion of wetlands.

14 (3) Procedural terms:

15 (a) (~~"Guidelines" means those standards adopted to implement the~~
16 ~~policy of this chapter for regulation of use of the shorelines of the~~
17 ~~state prior to adoption of master programs. Such standards shall also~~
18 ~~provide criteria to local governments and the department in developing~~
19 ~~master programs;~~

20 ~~(b))~~ "Master program" shall mean the comprehensive use plan for a
21 described area, and the use regulations together with maps, diagrams,
22 charts, or other descriptive material and text, a statement of desired
23 goals, and standards developed in accordance with the policies
24 enunciated in RCW 90.58.020;

25 ~~((e))~~ (b) "State master program" is the cumulative total of all
26 master programs approved or adopted by the department of ecology;

27 ~~((d))~~ (c) "Development" means a use consisting of the
28 construction or exterior alteration of structures; dredging; drilling;
29 dumping; filling; removal of any sand, gravel, or minerals;
30 bulkheading; driving of piling; placing of obstructions; or any project
31 of a permanent or temporary nature which interferes with the normal
32 public use of the surface of the waters overlying lands subject to this
33 chapter at any state of water level;

34 ~~((e))~~ (d) "Substantial development" shall mean any development of
35 which the total cost or fair market value exceeds five thousand
36 dollars, or any development which materially interferes with the normal
37 public use of the water or shorelines of the state. The dollar
38 threshold established in this subsection (3)~~((e))~~ (d) must be

1 adjusted for inflation by the office of financial management every five
2 years, beginning July 1, 2007, based upon changes in the consumer price
3 index during that time period. "Consumer price index" means, for any
4 calendar year, that year's annual average consumer price index,
5 Seattle, Washington area, for urban wage earners and clerical workers,
6 all items, compiled by the bureau of labor and statistics, United
7 States department of labor. The office of financial management must
8 calculate the new dollar threshold and transmit it to the office of the
9 code reviser for publication in the Washington State Register at least
10 one month before the new dollar threshold is to take effect. The
11 following shall not be considered substantial developments for the
12 purpose of this chapter:

13 (i) Normal maintenance or repair of existing structures or
14 developments, including damage by accident, fire, or elements;

15 (ii) Construction of the normal protective bulkhead common to
16 single family residences;

17 (iii) Emergency construction necessary to protect property from
18 damage by the elements;

19 (iv) Construction and practices normal or necessary for farming,
20 irrigation, and ranching activities, including agricultural service
21 roads and utilities on shorelands, and the construction and maintenance
22 of irrigation structures including but not limited to head gates,
23 pumping facilities, and irrigation channels. A feedlot of any size,
24 all processing plants, other activities of a commercial nature,
25 alteration of the contour of the shorelands by leveling or filling
26 other than that which results from normal cultivation, shall not be
27 considered normal or necessary farming or ranching activities. A
28 feedlot shall be an enclosure or facility used or capable of being used
29 for feeding livestock hay, grain, silage, or other livestock feed, but
30 shall not include land for growing crops or vegetation for livestock
31 feeding and/or grazing, nor shall it include normal livestock wintering
32 operations;

33 (v) Construction or modification of navigational aids such as
34 channel markers and anchor buoys;

35 (vi) Construction on shorelands by an owner, lessee, or contract
36 purchaser of a single family residence for his own use or for the use
37 of his or her family, which residence does not exceed a height of
38 thirty-five feet above average grade level and which meets all

1 requirements of the state agency or local government having
2 jurisdiction thereof, other than requirements imposed pursuant to this
3 chapter;

4 (vii) Construction of a dock, including a community dock, designed
5 for pleasure craft only, for the private noncommercial use of the
6 owner, lessee, or contract purchaser of single and multiple family
7 residences. This exception applies if either: (A) In salt waters, the
8 fair market value of the dock does not exceed two thousand five hundred
9 dollars; or (B) in fresh waters, the fair market value of the dock does
10 not exceed ten thousand dollars, but if subsequent construction having
11 a fair market value exceeding two thousand five hundred dollars occurs
12 within five years of completion of the prior construction, the
13 subsequent construction shall be considered a substantial development
14 for the purpose of this chapter;

15 (viii) Operation, maintenance, or construction of canals,
16 waterways, drains, reservoirs, or other facilities that now exist or
17 are hereafter created or developed as a part of an irrigation system
18 for the primary purpose of making use of system waters, including
19 return flow and artificially stored ground water for the irrigation of
20 lands;

21 (ix) The marking of property lines or corners on state owned lands,
22 when such marking does not significantly interfere with normal public
23 use of the surface of the water;

24 (x) Operation and maintenance of any system of dikes, ditches,
25 drains, or other facilities existing on September 8, 1975, which were
26 created, developed, or utilized primarily as a part of an agricultural
27 drainage or diking system;

28 (xi) Site exploration and investigation activities that are
29 prerequisite to preparation of an application for development
30 authorization under this chapter, if:

31 (A) The activity does not interfere with the normal public use of
32 the surface waters;

33 (B) The activity will have no significant adverse impact on the
34 environment including, but not limited to, fish, wildlife, fish or
35 wildlife habitat, water quality, and aesthetic values;

36 (C) The activity does not involve the installation of a structure,
37 and upon completion of the activity the vegetation and land

1 configuration of the site are restored to conditions existing before
2 the activity;

3 (D) A private entity seeking development authorization under this
4 section first posts a performance bond or provides other evidence of
5 financial responsibility to the local jurisdiction to ensure that the
6 site is restored to preexisting conditions; and

7 (E) The activity is not subject to the permit requirements of RCW
8 90.58.550;

9 (xii) The process of removing or controlling an aquatic noxious
10 weed, as defined in RCW 17.26.020, through the use of an herbicide or
11 other treatment methods applicable to weed control that are recommended
12 by a final environmental impact statement published by the department
13 of agriculture or the department jointly with other state agencies
14 under chapter 43.21C RCW.

15 **Sec. 11.** RCW 90.58.065 and 2002 c 298 s 1 are each amended to read
16 as follows:

17 (1) The (~~guidelines adopted by the department and~~) master
18 programs developed or amended by local governments (~~according to RCW~~
19 ~~90.58.080~~) shall not require modification of or limit agricultural
20 activities occurring on agricultural lands. In jurisdictions where
21 agricultural activities occur, master programs developed or amended
22 after June 13, 2002, shall include provisions addressing new
23 agricultural activities on land not meeting the definition of
24 agricultural land, conversion of agricultural lands to other uses, and
25 development not meeting the definition of agricultural activities.
26 Nothing in this section limits or changes the terms of the current
27 exception to the definition of substantial development in RCW
28 90.58.030(3)(e)(iv). This section applies only to this chapter, and
29 shall not affect any other authority of local governments.

30 (2) For the purposes of this section:

31 (a) "Agricultural activities" means agricultural uses and practices
32 including, but not limited to: Producing, breeding, or increasing
33 agricultural products; rotating and changing agricultural crops;
34 allowing land used for agricultural activities to lie fallow in which
35 it is plowed and tilled but left unseeded; allowing land used for
36 agricultural activities to lie dormant as a result of adverse
37 agricultural market conditions; allowing land used for agricultural

1 activities to lie dormant because the land is enrolled in a local,
2 state, or federal conservation program, or the land is subject to a
3 conservation easement; conducting agricultural operations; maintaining,
4 repairing, and replacing agricultural equipment; maintaining,
5 repairing, and replacing agricultural facilities, provided that the
6 replacement facility is no closer to the shoreline than the original
7 facility; and maintaining agricultural lands under production or
8 cultivation;

9 (b) "Agricultural products" includes but is not limited to
10 horticultural, viticultural, floricultural, vegetable, fruit, berry,
11 grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or
12 forage for livestock; Christmas trees; hybrid cottonwood and similar
13 hardwood trees grown as crops and harvested within twenty years of
14 planting; and livestock including both the animals themselves and
15 animal products including but not limited to meat, upland finfish,
16 poultry and poultry products, and dairy products;

17 (c) "Agricultural equipment" and "agricultural facilities"
18 includes, but is not limited to: (i) The following used in
19 agricultural operations: Equipment; machinery; constructed shelters,
20 buildings, and ponds; fences; upland finfish rearing facilities; water
21 diversion, withdrawal, conveyance, and use equipment and facilities
22 including but not limited to pumps, pipes, tapes, canals, ditches, and
23 drains; (ii) corridors and facilities for transporting personnel,
24 livestock, and equipment to, from, and within agricultural lands; (iii)
25 farm residences and associated equipment, lands, and facilities; and
26 (iv) roadside stands and on-farm markets for marketing fruit or
27 vegetables; and

28 (d) "Agricultural land" means those specific land areas on which
29 agriculture activities are conducted.

30 (3) (~~The department and~~) Local governments shall assure that
31 local shoreline master programs use definitions consistent with the
32 definitions in this section.

33 **Sec. 12.** RCW 90.58.090 and 1997 c 429 s 50 are each amended to
34 read as follows:

35 (1) A master program, segment of a master program, or an amendment
36 to a master program shall become effective when approved by the
37 department. (~~Within the time period provided in RCW 90.58.080,~~) Each

1 local government shall have submitted a master program, either totally
2 or by segments, for all shorelines of the state within its jurisdiction
3 to the department for review and approval.

4 (2) Upon receipt of a proposed master program or amendment, the
5 department shall:

6 (a) Provide notice to and opportunity for written comment by all
7 interested parties of record as a part of the local government review
8 process for the proposal and to all persons, groups, and agencies that
9 have requested in writing notice of proposed master programs or
10 amendments generally or for a specific area, subject matter, or issue.
11 The comment period shall be at least thirty days, unless the department
12 determines that the level of complexity or controversy involved
13 supports a shorter period;

14 (b) In the department's discretion, conduct a public hearing during
15 the thirty-day comment period in the jurisdiction proposing the master
16 program or amendment;

17 (c) Within fifteen days after the close of public comment, request
18 the local government to review the issues identified by the public,
19 interested parties, groups, and agencies and provide a written response
20 as to how the proposal addresses the identified issues;

21 (d) Within thirty days after receipt of the local government
22 response pursuant to (c) of this subsection, make written findings and
23 conclusions regarding the consistency of the proposal with the policy
24 of RCW 90.58.020 and (~~the applicable guidelines~~) chapter 90.-- RCW
25 (sections 1 through 8 of this act), provide a response to the issues
26 identified in (c) of this subsection, and either approve the proposal
27 as submitted, recommend specific changes necessary to make the proposal
28 approvable, or deny approval of the proposal in those instances where
29 no alteration of the proposal appears likely to be consistent with the
30 policy of RCW 90.58.020 and (~~the applicable guidelines~~) chapter 90.--
31 RCW (sections 1 through 8 of this act). The written findings and
32 conclusions shall be provided to the local government, all interested
33 persons, parties, groups, and agencies of record on the proposal;

34 (e) If the department recommends changes to the proposed master
35 program or amendment, within thirty days after the department mails the
36 written findings and conclusions to the local government, the local
37 government may:

1 (i) Agree to the proposed changes. The receipt by the department
2 of the written notice of agreement constitutes final action by the
3 department approving the amendment; or

4 (ii) Submit an alternative proposal. If, in the opinion of the
5 department, the alternative is consistent with the purpose and intent
6 of the changes originally submitted by the department and with this
7 chapter it shall approve the changes and provide written notice to all
8 recipients of the written findings and conclusions. If the department
9 determines the proposal is not consistent with the purpose and intent
10 of the changes proposed by the department, the department may resubmit
11 the proposal for public and agency review pursuant to this section or
12 reject the proposal.

13 (3) The department shall approve the segment of a master program
14 relating to shorelines unless it determines that the submitted segments
15 are not consistent with the policy of RCW 90.58.020 and (~~the~~
16 ~~applicable guidelines~~) chapter 90.-- RCW (sections 1 through 8 of this
17 act).

18 (4) The department shall approve those segments of the master
19 program relating to shorelines of statewide significance only after
20 determining the program provides the optimum implementation of the
21 policy of this chapter to satisfy the statewide interest. If the
22 department does not approve a segment of a local government master
23 program relating to a shoreline of statewide significance, the
24 department may develop and (~~by rule~~) adopt an alternative to the
25 local government's proposal.

26 (5) In the event a local government has not complied with the
27 requirements of RCW 90.58.070 it may thereafter upon written notice to
28 the department elect to adopt a master program for the shorelines
29 within its jurisdiction, in which event it shall comply with the
30 provisions established by this chapter for the adoption of a master
31 program for such shorelines.

32 Upon approval of such master program by the department it shall
33 supersede such master program as may have been adopted by the
34 department for such shorelines.

35 (6) A master program or amendment to a master program takes effect
36 when and in such form as approved or adopted by the department.
37 Shoreline master programs that were adopted by the department prior to
38 July 22, 1995, in accordance with the provisions of this section then

1 in effect, shall be deemed approved by the department in accordance
2 with the provisions of this section that became effective on that date.
3 The department shall maintain a record of each master program, the
4 action taken on any proposal for adoption or amendment of the master
5 program, and any appeal of the department's action. The department's
6 approved document of record constitutes the official master program.

7 **Sec. 13.** RCW 90.58.100 and 1997 c 369 s 7 are each amended to read
8 as follows:

9 (1) The master programs provided for in this chapter, when adopted
10 or approved by the department shall constitute use regulations for the
11 various shorelines of the state. In preparing the master programs, and
12 any amendments thereto, the department and local governments shall to
13 the extent feasible:

14 (a) Utilize a systematic interdisciplinary approach which will
15 insure the integrated use of the natural and social sciences and the
16 environmental design arts;

17 (b) Consult with and obtain the comments of any federal, state,
18 regional, or local agency having any special expertise with respect to
19 any environmental impact;

20 (c) Consider all plans, studies, surveys, inventories, and systems
21 of classification made or being made by federal, state, regional, or
22 local agencies, by private individuals, or by organizations dealing
23 with pertinent shorelines of the state;

24 (d) Conduct or support such further research, studies, surveys, and
25 interviews as are deemed necessary;

26 (e) Utilize all available information regarding hydrology,
27 geography, topography, ecology, economics, and other pertinent data;

28 (f) Employ, when feasible, all appropriate, modern scientific data
29 processing and computer techniques to store, index, analyze, and manage
30 the information gathered.

31 (2) The master programs shall include, when appropriate, the
32 following:

33 (a) An economic development element for the location and design of
34 industries, industrial projects of statewide significance,
35 transportation facilities, port facilities, tourist facilities,
36 commerce and other developments that are particularly dependent on
37 their location on or use of the shorelines of the state;

1 (b) A public access element making provision for public access to
2 publicly owned areas;

3 (c) A recreational element for the preservation and enlargement of
4 recreational opportunities, including but not limited to parks,
5 tidelands, beaches, and recreational areas;

6 (d) A circulation element consisting of the general location and
7 extent of existing and proposed major thoroughfares, transportation
8 routes, terminals, and other public utilities and facilities, all
9 correlated with the shoreline use element;

10 (e) A use element which considers the proposed general distribution
11 and general location and extent of the use on shorelines and adjacent
12 land areas for housing, business, industry, transportation,
13 agriculture, natural resources, recreation, education, public buildings
14 and grounds, and other categories of public and private uses of the
15 land;

16 (f) A conservation element for the preservation of natural
17 resources, including but not limited to scenic vistas, aesthetics, and
18 vital estuarine areas for fisheries and wildlife protection;

19 (g) An historic, cultural, scientific, and educational element for
20 the protection and restoration of buildings, sites, and areas having
21 historic, cultural, scientific, or educational values;

22 (h) An element that gives consideration to the statewide interest
23 in the prevention and minimization of flood damages; and

24 (i) Any other element deemed appropriate or necessary to effectuate
25 the policy of this chapter.

26 (3) The master programs shall include such map or maps, descriptive
27 text, diagrams and charts, or other descriptive material as are
28 necessary to provide for ease of understanding.

29 (4) Master programs will reflect that state-owned shorelines of the
30 state are particularly adapted to providing wilderness beaches,
31 ecological study areas, and other recreational activities for the
32 public and will give appropriate special consideration to same.

33 (5) Each master program shall contain provisions to allow for the
34 varying of the application of use regulations of the program, including
35 provisions for permits for conditional uses and variances, to insure
36 that strict implementation of a program will not create unnecessary
37 hardships or thwart the policy enumerated in RCW 90.58.020. Any such
38 varying shall be allowed only if extraordinary circumstances are shown

1 and the public interest suffers no substantial detrimental effect.
2 (~~The concept of this subsection shall be incorporated in the rules~~
3 ~~adopted by the department relating to the establishment of a permit~~
4 ~~system as provided in RCW 90.58.140(3).)~~)

5 (6) Each master program shall contain standards governing the
6 protection of single family residences and appurtenant structures
7 against damage or loss due to shoreline erosion. The standards shall
8 govern the issuance of substantial development permits for shoreline
9 protection, including structural methods such as construction of
10 bulkheads, and nonstructural methods of protection. The standards
11 shall provide for methods which achieve effective and timely protection
12 against loss or damage to single family residences and appurtenant
13 structures due to shoreline erosion. The standards shall provide a
14 preference for permit issuance for measures to protect single family
15 residences occupied prior to January 1, 1992, where the proposed
16 measure is designed to minimize harm to the shoreline natural
17 environment.

18 **Sec. 14.** RCW 90.58.120 and 1995 c 347 s 308 are each amended to
19 read as follows:

20 (~~All rules, regulations, designations, and guidelines, issued by~~
21 ~~the department, and~~) Master programs and amendments adopted by the
22 department pursuant to RCW 90.58.070(2) or 90.58.090(4) shall be
23 adopted or approved in accordance with the provisions of RCW 34.05.310
24 through 34.05.395 insofar as such provisions are not inconsistent with
25 the provisions of this chapter. In addition:

26 (1) Prior to the adoption by the department of a master program, or
27 portion thereof pursuant to RCW 90.58.070(2) or 90.58.090(4), at least
28 one public hearing shall be held in each county affected by a program
29 or portion thereof for the purpose of obtaining the views and comments
30 of the public. Notice of each such hearing shall be published at least
31 once in each of the three weeks immediately preceding the hearing in
32 one or more newspapers of general circulation in the county in which
33 the hearing is to be held.

34 (2) All (~~guidelines, regulations, designations, or~~) master
35 programs adopted or approved under this chapter shall be available for
36 public inspection at the office of the department or the appropriate

1 county and city. (~~The terms "adopt" and "approve" for purposes of~~
2 ~~this section, shall include modifications and rescission of~~
3 ~~guidelines.~~)

4 **Sec. 15.** RCW 90.58.130 and 1971 ex.s. c 286 s 13 are each amended
5 to read as follows:

6 To insure that all persons and entities having an interest in (~~the~~
7 ~~guidelines and~~) master programs developed under this chapter are
8 provided with a full opportunity for involvement in both their
9 development and implementation, the department and local governments
10 shall:

11 (1) Make reasonable efforts to inform the people of the state about
12 the shoreline management program of this chapter and in the performance
13 of the responsibilities provided in this chapter, shall not only invite
14 but actively encourage participation by all persons and private groups
15 and entities showing an interest in shoreline management programs of
16 this chapter; and

17 (2) Invite and encourage participation by all agencies of federal,
18 state, and local government, including municipal and public
19 corporations, having interests or responsibilities relating to the
20 shorelines of the state. State and local agencies are directed to
21 participate fully to insure that their interests are fully considered
22 by the department and local governments.

23 **Sec. 16.** RCW 90.58.140 and 1995 c 347 s 309 are each amended to
24 read as follows:

25 (1) A development shall not be undertaken on the shorelines of the
26 state unless it is consistent with the policy of this chapter and,
27 after adoption or approval, as appropriate, the applicable
28 (~~guidelines, rules,~~) provisions of chapter 90.-- RCW (sections 1
29 through 8 of this act) or the master program.

30 (2) A substantial development shall not be undertaken on shorelines
31 of the state without first obtaining a permit from the government
32 entity having administrative jurisdiction under this chapter.

33 A permit shall be granted:

34 (a) From June 1, 1971, until such time as an applicable master
35 program has become effective, only when the development proposed is
36 consistent with: (i) The policy of RCW 90.58.020; and (ii) (~~after~~

1 ~~their adoption, the guidelines and rules of the department; and (iii))~~
2 so far as can be ascertained, the master program being developed for
3 the area;

4 (b) After adoption or approval, as appropriate, by the department
5 of an applicable master program, only when the development proposed is
6 consistent with the applicable master program and this chapter.

7 (3) The local government shall establish a program, consistent with
8 ~~((rules adopted by the department))~~ chapter 90.-- RCW (sections 1
9 through 8 of this act), for the administration and enforcement of the
10 permit system provided in this section. The administration of the
11 system so established shall be performed exclusively by the local
12 government.

13 (4) Except as otherwise specifically provided in subsection (11) of
14 this section, the local government shall require notification of the
15 public of all applications for permits governed by any permit system
16 established pursuant to subsection (3) of this section by ensuring that
17 notice of the application is given by at least one of the following
18 methods:

19 (a) Mailing of the notice to the latest recorded real property
20 owners as shown by the records of the county assessor within at least
21 three hundred feet of the boundary of the property upon which the
22 substantial development is proposed;

23 (b) Posting of the notice in a conspicuous manner on the property
24 upon which the project is to be constructed; or

25 (c) Any other manner deemed appropriate by local authorities to
26 accomplish the objectives of reasonable notice to adjacent landowners
27 and the public.

28 The notices shall include a statement that any person desiring to
29 submit written comments concerning an application, or desiring to
30 receive notification of the final decision concerning an application as
31 expeditiously as possible after the issuance of the decision, may
32 submit the comments or requests for decisions to the local government
33 within thirty days of the last date the notice is to be published
34 pursuant to this subsection. The local government shall forward, in a
35 timely manner following the issuance of a decision, a copy of the
36 decision to each person who submits a request for the decision.

37 If a hearing is to be held on an application, notices of such a

1 hearing shall include a statement that any person may submit oral or
2 written comments on an application at the hearing.

3 (5) The system shall include provisions to assure that construction
4 pursuant to a permit will not begin or be authorized until twenty-one
5 days from the date the permit decision was filed as provided in
6 subsection (6) of this section; or until all review proceedings are
7 terminated if the proceedings were initiated within twenty-one days
8 from the date of filing as defined in subsection (6) of this section
9 except as follows:

10 (a) In the case of any permit issued to the state of Washington,
11 department of transportation, for the construction and modification of
12 SR 90 (I-90) on or adjacent to Lake Washington, the construction may
13 begin after thirty days from the date of filing, and the permits are
14 valid until December 31, 1995;

15 (b) Construction may be commenced no sooner than thirty days after
16 the date of the appeal of the board's decision is filed if a permit is
17 granted by the local government and (i) the granting of the permit is
18 appealed to the shorelines hearings board within twenty-one days of the
19 date of filing, (ii) the hearings board approves the granting of the
20 permit by the local government or approves a portion of the substantial
21 development for which the local government issued the permit, and (iii)
22 an appeal for judicial review of the hearings board decision is filed
23 pursuant to chapter 34.05 RCW. The appellant may request, within ten
24 days of the filing of the appeal with the court, a hearing before the
25 court to determine whether construction pursuant to the permit approved
26 by the hearings board or to a revised permit issued pursuant to the
27 order of the hearings board should not commence. If, at the conclusion
28 of the hearing, the court finds that construction pursuant to such a
29 permit would involve a significant, irreversible damaging of the
30 environment, the court shall prohibit the permittee from commencing the
31 construction pursuant to the approved or revised permit until all
32 review proceedings are final. Construction pursuant to a permit
33 revised at the direction of the hearings board may begin only on that
34 portion of the substantial development for which the local government
35 had originally issued the permit, and construction pursuant to such a
36 revised permit on other portions of the substantial development may not
37 begin until after all review proceedings are terminated. In such a
38 hearing before the court, the burden of proving whether the

1 construction may involve significant irreversible damage to the
2 environment and demonstrating whether such construction would or would
3 not be appropriate is on the appellant;

4 (c) If the permit is for a substantial development meeting the
5 requirements of subsection (11) of this section, construction pursuant
6 to that permit may not begin or be authorized until twenty-one days
7 from the date the permit decision was filed as provided in subsection
8 (6) of this section.

9 If a permittee begins construction pursuant to subsections (a),
10 (b), or (c) of this subsection, the construction is begun at the
11 permittee's own risk. If, as a result of judicial review, the courts
12 order the removal of any portion of the construction or the restoration
13 of any portion of the environment involved or require the alteration of
14 any portion of a substantial development constructed pursuant to a
15 permit, the permittee is barred from recovering damages or costs
16 involved in adhering to such requirements from the local government
17 that granted the permit, the hearings board, or any appellant or
18 intervener.

19 (6) Any decision on an application for a permit under the authority
20 of this section, whether it is an approval or a denial, shall,
21 concurrently with the transmittal of the ruling to the applicant, be
22 filed with the department and the attorney general. With regard to a
23 permit other than a permit governed by subsection (10) of this section,
24 "date of filing" as used herein means the date of actual receipt by the
25 department. With regard to a permit for a variance or a conditional
26 use, "date of filing" means the date a decision of the department
27 rendered on the permit pursuant to subsection (10) of this section is
28 transmitted by the department to the local government. The department
29 shall notify in writing the local government and the applicant of the
30 date of filing.

31 (7) Applicants for permits under this section have the burden of
32 proving that a proposed substantial development is consistent with the
33 criteria that must be met before a permit is granted. In any review of
34 the granting or denial of an application for a permit as provided in
35 RCW 90.58.180 (1) and (2), the person requesting the review has the
36 burden of proof.

37 (8) Any permit may, after a hearing with adequate notice to the
38 permittee and the public, be rescinded by the issuing authority upon

1 the finding that a permittee has not complied with conditions of a
2 permit. If the department is of the opinion that noncompliance exists,
3 the department shall provide written notice to the local government and
4 the permittee. If the department is of the opinion that the
5 noncompliance continues to exist thirty days after the date of the
6 notice, and the local government has taken no action to rescind the
7 permit, the department may petition the hearings board for a rescission
8 of the permit upon written notice of the petition to the local
9 government and the permittee if the request by the department is made
10 to the hearings board within fifteen days of the termination of the
11 thirty-day notice to the local government.

12 (9) The holder of a certification from the governor pursuant to
13 chapter 80.50 RCW shall not be required to obtain a permit under this
14 section.

15 (10) Any permit for a variance or a conditional use by local
16 government under approved master programs must be submitted to the
17 department for its approval or disapproval.

18 (11)(a) An application for a substantial development permit for a
19 limited utility extension or for the construction of a bulkhead or
20 other measures to protect a single family residence and its appurtenant
21 structures from shoreline erosion shall be subject to the following
22 procedures:

23 (i) The public comment period under subsection (4) of this section
24 shall be twenty days. The notice provided under subsection (4) of this
25 section shall state the manner in which the public may obtain a copy of
26 the local government decision on the application no later than two days
27 following its issuance;

28 (ii) The local government shall issue its decision to grant or deny
29 the permit within twenty-one days of the last day of the comment period
30 specified in (i) of this subsection; and

31 (iii) If there is an appeal of the decision to grant or deny the
32 permit to the local government legislative authority, the appeal shall
33 be finally determined by the legislative authority within thirty days.

34 (b) For purposes of this section, a limited utility extension means
35 the extension of a utility service that:

36 (i) Is categorically exempt under chapter 43.21C RCW for one or
37 more of the following: Natural gas, electricity, telephone, water, or
38 sewer;

1 (ii) Will serve an existing use in compliance with this chapter;
2 and
3 (iii) Will not extend more than twenty-five hundred linear feet
4 within the shorelines of the state.

5 **Sec. 17.** RCW 90.58.180 and 1997 c 199 s 1 are each amended to read
6 as follows:

7 (1) Any person aggrieved by the granting, denying, or rescinding of
8 a permit on shorelines of the state pursuant to RCW 90.58.140 may seek
9 review from the shorelines hearings board by filing a petition for
10 review within twenty-one days of the date of filing as defined in RCW
11 90.58.140(6).

12 Within seven days of the filing of any petition for review with the
13 board as provided in this section pertaining to a final decision of a
14 local government, the petitioner shall serve copies of the petition on
15 the department, the office of the attorney general, and the local
16 government. The department and the attorney general may intervene to
17 protect the public interest and insure that the provisions of this
18 chapter are complied with at any time within fifteen days from the date
19 of the receipt by the department or the attorney general of a copy of
20 the petition for review filed pursuant to this section. The shorelines
21 hearings board shall schedule review proceedings on the petition for
22 review without regard as to whether the period for the department or
23 the attorney general to intervene has or has not expired.

24 (2) The department or the attorney general may obtain review of any
25 final decision granting a permit, or granting or denying an application
26 for a permit issued by a local government by filing a written petition
27 with the shorelines hearings board and the appropriate local government
28 within twenty-one days from the date the final decision was filed as
29 provided in RCW 90.58.140(6).

30 (3) The review proceedings authorized in subsections (1) and (2) of
31 this section are subject to the provisions of chapter 34.05 RCW
32 pertaining to procedures in adjudicative proceedings. Judicial review
33 of such proceedings of the shorelines hearings board is governed by
34 chapter 34.05 RCW. The board shall issue its decision on the appeal
35 authorized under subsections (1) and (2) of this section within one
36 hundred eighty days after the date the petition is filed with the board
37 or a petition to intervene is filed by the department or the attorney

1 general, whichever is later. The time period may be extended by the
2 board for a period of thirty days upon a showing of good cause or may
3 be waived by the parties.

4 ~~((4) Any person may appeal any rules, regulations, or guidelines
5 adopted or approved by the department within thirty days of the date of
6 the adoption or approval. The board shall make a final decision within
7 sixty days following the hearing held thereon.~~

8 ~~(5) The board shall find the rule, regulation, or guideline to be
9 valid and enter a final decision to that effect unless it determines
10 that the rule, regulation, or guideline:~~

11 ~~(a) Is clearly erroneous in light of the policy of this chapter; or~~

12 ~~(b) Constitutes an implementation of this chapter in violation of
13 constitutional or statutory provisions; or~~

14 ~~(c) Is arbitrary and capricious; or~~

15 ~~(d) Was developed without fully considering and evaluating all
16 material submitted to the department during public review and comment;
17 or~~

18 ~~(e) Was not adopted in accordance with required procedures.~~

19 ~~(6) If the board makes a determination under subsection (5)(a)
20 through (e) of this section, it shall enter a final decision declaring
21 the rule, regulation, or guideline invalid, remanding the rule,
22 regulation, or guideline to the department with a statement of the
23 reasons in support of the determination, and directing the department
24 to adopt, after a thorough consultation with the affected local
25 government and any other interested party, a new rule, regulation, or
26 guideline consistent with the board's decision.~~

27 ~~(7) A decision of the board on the validity of a rule, regulation,
28 or guideline shall be subject to review in superior court, if
29 authorized pursuant to chapter 34.05 RCW. A petition for review of the
30 decision of the shorelines hearings board on a rule, regulation, or
31 guideline shall be filed within thirty days after the date of final
32 decision by the shorelines hearings board.))~~

33 **Sec. 18.** RCW 90.58.190 and 1995 c 347 s 311 are each amended to
34 read as follows:

35 (1) The appeal of the department's decision to adopt a master
36 program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(4) is
37 governed by RCW 34.05.510 through 34.05.598.

1 (2)(a) The department's decision to approve, reject, or modify a
2 proposed master program or amendment adopted by a local government
3 planning under RCW 36.70A.040 shall be appealed to the growth
4 management hearings board with jurisdiction over the local government.
5 The appeal shall be initiated by filing a petition as provided in RCW
6 36.70A.250 through 36.70A.320.

7 (b) If the appeal to the growth management hearings board concerns
8 shorelines, the growth management hearings board shall review the
9 proposed master program or amendment for compliance with the
10 requirements of this chapter and chapter 36.70A RCW, the policy of RCW
11 90.58.020 and (~~the applicable guidelines~~) chapter 90.-- RCW (sections
12 1 through 8 of this act), and chapter 43.21C RCW as it relates to the
13 adoption of master programs and amendments under chapter 90.58 RCW.

14 (c) If the appeal to the growth management hearings board concerns
15 a shoreline of statewide significance, the board shall uphold the
16 decision by the department unless the board, by clear and convincing
17 evidence, determines that the decision of the department is
18 inconsistent with the policy of RCW 90.58.020 and (~~the applicable~~
19 ~~guidelines~~) chapter 90.-- RCW (sections 1 through 8 of this act).

20 (d) The appellant has the burden of proof in all appeals to the
21 growth management hearings board under this subsection.

22 (e) Any party aggrieved by a final decision of a growth management
23 hearings board under this subsection may appeal the decision to
24 superior court as provided in RCW 36.70A.300.

25 (3)(a) The department's decision to approve, reject, or modify a
26 proposed master program or master program amendment by a local
27 government not planning under RCW 36.70A.040 shall be appealed to the
28 shorelines hearings board by filing a petition within thirty days of
29 the date of the department's written notice to the local government of
30 the department's decision to approve, reject, or modify a proposed
31 master program or master program amendment as provided in RCW
32 90.58.090(2).

33 (b) In an appeal relating to shorelines, the shorelines hearings
34 board shall review the proposed master program or master program
35 amendment and, after full consideration of the presentations of the
36 local government and the department, shall determine the validity of
37 the local government's master program or amendment in light of the

1 policy of RCW 90.58.020 and (~~the applicable guidelines~~) chapter 90.--
2 RCW (sections 1 through 8 of this act).

3 (c) In an appeal relating to shorelines of statewide significance,
4 the shorelines hearings board shall uphold the decision by the
5 department unless the board determines, by clear and convincing
6 evidence that the decision of the department is inconsistent with the
7 policy of RCW 90.58.020 and (~~the applicable guidelines~~) chapter 90.--
8 RCW (sections 1 through 8 of this act).

9 (d) Review by the shorelines hearings board shall be considered an
10 adjudicative proceeding under chapter 34.05 RCW, the Administrative
11 Procedure Act. The aggrieved local government shall have the burden of
12 proof in all such reviews.

13 (e) Whenever possible, the review by the shorelines hearings board
14 shall be heard within the county where the land subject to the proposed
15 master program or master program amendment is primarily located. The
16 department and any local government aggrieved by a final decision of
17 the hearings board may appeal the decision to superior court as
18 provided in chapter 34.05 RCW.

19 (4) A master program amendment shall become effective after the
20 approval of the department or after the decision of the shorelines
21 hearings board to uphold the master program or master program
22 amendment, provided that the board may remand the master program or
23 master program adjustment to the local government or the department for
24 modification prior to the final adoption of the master program or
25 master program amendment.

26 **Sec. 19.** RCW 90.58.195 and 1989 1st ex.s. c 2 s 13 are each
27 amended to read as follows:

28 (~~(1) The department of ecology, in cooperation with other state~~
29 ~~agencies and coastal local governments, shall prepare and adopt ocean~~
30 ~~use guidelines and policies to be used in reviewing, and where~~
31 ~~appropriate, amending, shoreline master programs of local governments~~
32 ~~with coastal waters or coastal shorelines within their boundaries.~~
33 ~~These guidelines shall be finalized by April 1, 1990.~~

34 (~~2) After the department of ecology has adopted the guidelines~~
35 ~~required in subsection (1) of this section,)~~ Counties, cities, and
36 towns with coastal waters or coastal shorelines shall review their
37 shoreline master programs to ensure that the programs conform with RCW

1 43.143.010 and 43.143.030 (~~and with the department of ecology's ocean~~
2 ~~use guidelines~~). Amended master programs shall be submitted to the
3 department of ecology for its approval under RCW 90.58.090 by June 30,
4 1991.

5 **Sec. 20.** RCW 90.58.200 and 1971 ex.s. c 286 s 20 are each amended
6 to read as follows:

7 (~~The department and~~) Local governments are authorized to adopt
8 such rules as are necessary and appropriate to carry out the provisions
9 of this chapter.

10 **Sec. 21.** RCW 90.58.250 and 1971 ex.s. c 286 s 25 are each amended
11 to read as follows:

12 The department is directed to cooperate fully with local
13 governments in discharging their responsibilities under this chapter.
14 Funds shall be available for distribution to local governments on the
15 basis of applications for preparation of master programs. Such
16 applications shall be submitted (~~in accordance with regulations~~
17 ~~developed by~~) to the department. The department is authorized to make
18 and administer grants within appropriations authorized by the
19 legislature to any local government within the state for the purpose of
20 developing a master shorelines program.

21 No grant shall be made in an amount in excess of the recipient's
22 contribution to the estimated cost of such program.

23 **Sec. 22.** RCW 90.58.340 and 1971 ex.s. c 286 s 34 are each amended
24 to read as follows:

25 All state agencies, counties, and public and municipal corporations
26 shall review administrative and management policies, regulations,
27 plans, and ordinances relative to lands under their respective
28 jurisdictions adjacent to the shorelines of the state so as (~~the~~
29 ~~to~~) to achieve a use policy on said land consistent with the policy
30 of this chapter(~~, the guidelines,~~) and chapter 90.-- RCW (sections 1
31 through 8 of this act) and the master programs for the shorelines of
32 the state. The department may develop recommendations for land use
33 control for such lands. Local governments shall, in developing use
34 regulations for such areas, take into consideration any recommendations

1 developed by the department as well as any other state agencies or
2 units of local government.

3 NEW SECTION. **Sec. 23.** The following acts or parts of acts are
4 each repealed:

5 (1) RCW 90.58.060 (Review and adoption of guidelines--Public
6 hearings, notice of--Amendments) and 1995 c 347 s 304 & 1971 ex.s. c
7 286 s 6; and

8 (2) RCW 90.58.080 (Timetable for local governments to develop or
9 amend master programs) and 1995 c 347 s 305, 1974 ex.s. c 61 s 1, &
10 1971 ex.s. c 286 s 8.

11 NEW SECTION. **Sec. 24.** Sections 1 through 8 of this act constitute
12 a new chapter in Title 90 RCW.

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