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Please find the file with comments provided by Pierce County Planning and Public Works Long Range Planning Division in the document below.

## Pierce County Long Range Planning | Comments on Draft SMA Rulemaking 2025

### WAC 173-26-020 Definitions

#### Hydraulic dredging

Hydraulic dredging should be explicitly regulated due to its potential for significant environmental impacts. This practice uses liquefaction to loosen sediments, creating plumes of suspended material when used by divers. This newly adopted harvest method can disrupt habitats, increase turbidity, and degrade water quality.

We recommend:

- Adding a clear definition of “hydraulic dredging”, identifying it as a method of shellfish harvest that uses pressurized water to fluidize sediments.
- Recognizing that this previously less common harvest method is now a standard practice in many locations where it is applied by submerged divers at high tides.
- Restricting hydraulic dredging in sensitive areas, such as near submerged aquatic vegetation (SAV), oyster sanctuaries, and other ecologically critical zones.
- Requiring post-dredging restoration measures to mitigate habitat disturbance and turbidity impacts.

#### Definition of Adaptive Capacity

The definition of “adaptive capacity” should be broadened to reflect terminology commonly used in environmental impact assessments. In addition to the ability to “adjust to damage,” it should explicitly include the capacity to adapt to stress and disturbance, as these are standard terms in climate resilience and ecological science. The phrase “respond to consequences” should specify consequences of what — for example, sea level rise, increased flooding, habitat loss, or other climate-related hazards. Current wording appears to frame “damage” primarily in terms of infrastructure, which risks overlooking ecological assets. Most non-tribal sea level rise assessments underrepresent ecosystems as valued assets. This definition should reflect a more holistic approach to impacts from sea level rise hazards.

#### Definition of Adaptive Pathways

The draft should clearly define what constitutes the “triggers” in adaptive pathways — i.e., the specific, measurable conditions that, once reached, require an adaptive management response. Without well-defined and transparent criteria, adaptive pathways risk being reactive rather than proactive. Similarly, the term “thresholds” should be clarified to explain how they are established, who determines them, and what scientific data or modeling supports them. These definitions should recognize that observed changes are already occurring — including measurable sea level rise — and should account for both present impacts and projected future conditions.

(XX) "**Environmental justice**" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income ~~with respect to in the~~ development, implementation, and enforcement of environmental laws, regulations, and policies. ~~Environmental justice It includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by~~

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prioritizing vulnerable populations and overburdened communities **in the assessment and improvement of a group's access to environmental benefits, decision-making processes, and protections.** ~~and the equitable distribution of resources and benefits, and eliminating harm.~~

- Suggested edits reduce redundancy and/or show where redundancies occur in the initial definition.
- Is there interest in adding language to address cumulative environmental/health impacts? This definition seems to focus on the development of policies etc. that will address environ/health impacts for future work, but wondering if there should be a modification to also highlight the notion of environmental justice as an opportunity to also conduct corrective action for communities historically impacted by disproportionately inequitable environmental policies.

(XX) "**Overburdened community**" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

- Definition would be more impactful if it didn't reference an RCW (seems like a cyclical definition.)
- Would ideally be a more built out definition --> "a geographic area where residents experience a combination of environmental harms and social and economic stressors that collectively contribute to disproportionately worse outcomes."

**WAC 173-26-090(2)(e)** would require studying SMP implementation. Is one of the purposes to better track no net loss of shoreline ecological functions? How is NNL actually measured using this recorded information? WAC 173-26-171(3)(d) and WAC 173-26-191(2)(a)(iii)(D) indicate that local permit systems must evaluate implementation, and that this evaluation should occur every 10 years and again within 2 years after a periodic review. We suggest that NNL tracking should also include a 5-year check-in, similar to the Comprehensive Plan Update process. Under the Growth Management Act, certain jurisdictions must prepare a 5-year Implementation Progress Report. For jurisdictions with a significant amount of shoreline, consider requiring a routine No Net Loss Implementation Progress Report. If this report shows that NNL is not being met, it could trigger a Limited Amendment to the jurisdiction's SMP to address the gap.

### **WAC 173-26-226(b)(vii) – "Unavoidable impacts"**

The phrase "unavoidable impacts" should be clearly defined. As written, it risks implying that impacts are acceptable without demonstrating that all feasible avoidance and minimization measures have been exhausted. The provision also appears to assume successful mitigation without requiring verification or post-project monitoring to confirm outcomes. Clear criteria and follow-up requirements should be included to ensure accountability.

### **WAC 173-26-241 Shoreline Uses 3. (b) Aquaculture (L)**

- *(VIII) Use of the best available methods to minimize turbid runoff from the water jets used to harvest geoducks.*

Strict regulation of submerged hydraulic dredging as a harvest method needs to address the impact sedimentation has on adjacent *Critical Saltwater Habitat* (such as SAV's and forage fish spawning habitat). More significant buffers for CSW should be considered.

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### Reference material:

*Aquaculture affects on Eelgrass in Humboldt, CA* - [OSU study](#)

*The Ecology of Eelgrass Meadows in the PNW* - [SPU, DOI & ACE study](#)

*The importance of sediment stability in seagrass communities* - [USC study 1977](#)

*Eelgrass mortality from sedimentation (hydraulic dredging)* - [Maine Research Inst. Study, 2003](#)

*"Mortality and productivity of eelgrass *Zostera marina* under conditions of experimental burial with two sediment types"*

*The impact of excess sediment on bivalve aquaculture* – [NC State](#)

### WAC 173-27-040 Developments exempt from substantial development permit process requirements

- (b) ***Shoreline stabilization: new normal structures protective of single-family residences; repair and maintenance of existing shoreline stabilization; and emergency shoreline stabilization actions.***
  - This section has removed reference to existing *single-family structures* and *appurtenant structures*. Without clearly defining the primary structure for land use or necessary appurtenances the new language appears inclusive of accessory structures. Accessory structures for shoreline properties are not a requirement for use of a property and should not be afforded shoreline stabilization for protection from erosion. Considering the inevitable coastal squeeze and the number of currently permitted accessory structures that will require future stabilization, this result would be a significant expansion of shoreline armoring. Please amend this regulation to apply to a single-family residence and necessary appurtenances.
  - ii. (B) ***Shoreline stabilization repair.*** Without defining ‘minor actions’ the current language will encourage inconsistent application of the exemption.
  - ii. (D) ***All shoreline maintenance and repair activities allowed under this exemption shall require consideration of less ecologically impactful alternatives....***What is the intention of this section? It is unclear what a less ecologically impactful alternative for repair would be in practice.
  - Please provide clear language that offers criteria for differentiating between ***replace*** and ***repair***. It should consider the number of permits filed over a short amount of time which would incrementally replace a structure and any thresholds that could be used to differentiate between ***replace*** and ***repair*** (e.g area, linear footage, function, cost)

### Marine Shoreline Restoration

There is need for incentivizing the removal of shoreline armoring on marine waterbodies. Please clarify, do marine shoreline restoration projects that are the result of the removal of shoreline armoring require a Substantial Development Permit? If so, the need for exempting such projects should be addressed in this section.

As shoreline restoration in WRIA’s with an approved Watershed Restoration Plan are exempt from an SDP, perhaps that same could be extended to jurisdictions with a corresponding Marine Shoreline Restoration Plan.

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### **WAC 173-27-260 Policy**

- (2) ECY should write policy to support the ability to leverage the state requirement that contractors post a Surety Bond with Labor & Industries for licensing their business.

Some contractors are repetitive offenders of unpermitted shoreline development that results in a net loss to shoreline ecological function. Bad actors in this industry financially benefit from their willingness to perform work for property owners that are willing to risk financial penalties. There are currently no levers for holding Contractors that perform this work accountable.

Surety Bonds should be revoked by the state for contractors that have repeatedly performed unpermitted development activities that result/will result in net loss of ecological function (bulkheads/tree removal/buffer clearing). If ECY were to keep record of these significant infractions, jurisdictions could use their enforcement division to report clear cases/evidence. Any contractor that was recognized as repeating such an offense past a certain threshold (two strikes) would risk ECY requesting L&I revoke their Surety Bond. Before ECY were to extend such a request to L&I, the offender could appeal their case to the Shoreline Management Hearings Board on appeal.

### **WAC 173-27-280 Civil Penalty**

- Consider making financial penalties proportional to the ecological impacts of infractions.