November 16, 2026

*Submitted Via Online Portal*
Washington State Department of Ecology
Shorelands and Environmental Assistance Program

Re: Proposed Shoreline Management Act Rule Amendments
Pacific Coast Shellfish Growers Association Comments

Dear Department of Ecology:

The Pacific Coast Shellfish Growers Association ("PCSGA") respectfully submits these comments on the Department of Ecology's proposed amendments to the rules implementing Washington's Shoreline Management Act ("SMA"). PCSGA supports rule amendments that improve shoreline resilience, protect ecological functions, and provide clear, science-based standards for local shoreline master programs ("SMPs").

Founded in 1930, PCSGA represents shellfish farmers in Alaska, Washington, Oregon, California, and Hawaii. Its members produce nutritious shellfish for domestic and international markets while working to protect the clean water and healthy marine ecosystems upon which shellfish farming depends. Cultivated shellfish filter water, sequester excess nutrients, and can provide structured habitat for other marine organisms. Shellfish farming has also been part of Washington's working waterfronts since before statehood, including on tidelands conveyed for oyster and clam cultivation under the Bush and Callow Acts.

PCSGA supports the proposed rulemaking's effort to consolidate and clarify standards governing shoreline ecological functions and no net loss determinations. Ecology should ensure, however, that the amended rules accurately recognize the documented beneficial effects of properly managed shellfish aquaculture, the statewide interest in that use, and the need to protect existing shellfish beds from degradation. Ecology should also remove the categorical conditional use permit requirement for new commercial geoduck aquaculture in light of the substantial scientific record and extensive permitting experience developed since that requirement was adopted.

**A. No Net Loss Determinations Should Account for Documented Beneficial Ecological Effects of Shellfish Aquaculture.**

The SMA guidelines require local SMPs to include regulations and mitigation standards ensuring that each permitted development will not cause a net loss of shoreline ecological functions. WAC 173-26-186. The word "net" is significant, as it underscores that the analysis should account for both reasonably foreseeable adverse effects and documented beneficial effects of a proposed use or development.

Properly managed shellfish farms can produce net-positive ecological outcomes through improvements to water quality, nutrient removal, sediment stabilization, and other ecosystem services. Confluence 2016. Federal permitting materials likewise recognize that properly sited, operated, and maintained commercial shellfish aquaculture generally results in minimal adverse effects and may provide environmental benefits through improved water quality, wildlife habitat, and nutrient cycling. *Ibid*. These benefits are especially relevant where shellfish aquaculture is evaluated under standards intended to protect and restore shoreline ecological functions.

Shellfish aquaculture is also a highly regulated activity subject to overlapping federal, state, and local review.[1] Federal permits, water-quality review, fish-and-wildlife protections, site-specific conditions, and best management practices collectively provide substantial safeguards against potential impacts. A properly structured no-net-loss determination should recognize both those protective measures and the benefits associated with cultivated shellfish.

PCSGA therefore requests that Ecology revise the proposed consolidated no-net-loss provision in proposed WAC 173-26-206, or the corresponding no-net-loss provision ultimately adopted in chapter 173-26 WAC, to include the following language:

> In determining whether a proposed use or development will result in no net loss of shoreline ecological functions, local governments shall evaluate the reasonably foreseeable adverse effects of the proposal and may consider documented beneficial effects to shoreline ecological functions resulting from the proposal, including improvements to water quality, nutrient cycling, habitat structure, and other ecosystem services. The analysis shall be based on the most current, accurate, and complete scientific and technical information available.

This revision would not reduce the obligation to avoid, minimize, and mitigate adverse effects. Rather, it would ensure that the required determination reflects the actual net effect of the use under review and is grounded in current science.

### B. PCSGA Supports the Rules' Recognition of Shellfish Aquaculture as a Use of Statewide Interest.

PCSGA strongly supports retaining and reinforcing language that recognizes aquaculture as an activity of statewide interest. The existing SMP Guidelines identify aquaculture as a water-dependent, preferred shoreline use that, when properly managed, can produce long-term benefits and protect shoreline resources and ecology. WAC 173-26-241(3)(b)(i)(A). The guidelines further recognize that locations suitable for aquaculture are inherently limited by water quality, temperature, salinity, water flow, oxygen conditions, wind protection, navigation, and adjacent uses. *Id*.

PCSGA supports Ecology's proposed amendment to WAC 173-26-186 to add a new subsection (11) addressing statewide and public interest and to recognize aquaculture as an activity of statewide interest that can result in long-term benefits and protect the resources and ecology of the shoreline. This statewide-interest designation reflects both the environmental and economic importance of shellfish farming. Shellfish aquaculture produces food, supports jobs and working waterfronts, and gives growers a direct and enduring interest in maintaining clean water and healthy marine habitat.

Ecology's proposed requirement (proposed to be codified in WAC 173-26-090) that local governments periodically document how their SMPs continue to optimize SMA policies for shorelines of statewide significance provides an appropriate opportunity to ensure that local planning protects economic resources of statewide importance, including commercial shellfish beds. PCSGA supports this direction and requests that Ecology expressly include shellfish

[1] Ecology's Shellfish Interagency Permitting team website includes extensive information regarding these overlapping authorities and provides numerous recommendations and products designed to advance much-needed improvements for shellfish permitting. https://ecology.wa.gov/water-shorelines/shoreline-coastal-management/aquaculture/shellfish-interagency-permitting-team

aquaculture among the uses and resources that local governments must consider when evaluating statewide and public interests in shoreline planning.

### C. PCSGA Supports Retaining and Strengthening Protections for Shellfish Beds.

PCSGA supports SMA rule provisions that protect shellfish beds and the water quality necessary to sustain them. *E.g.*, WAC 173-26-241(3)(b)(i)(D); WAC 173-26-201(3)(d)(vii); WAC 173-26-251(3)(d)(i). Commercial shellfish beds are expressly recognized as critical saltwater habitat under the SMA guidelines (WAC 173-26-221), and local governments should ensure that upland uses are properly managed to avoid degradation of water quality in existing shellfish areas. The guidelines' critical-area standards also direct local governments to use scientific and technical information and to protect existing ecological functions and ecosystem-wide processes. *Id*.

Protecting shellfish beds advances the SMA's ecological-protection purposes, the state's interest in sustaining working waterfronts, and the broader public interest in clean water and locally produced food. Shellfish farms depend on clean water for public health certification and continued harvest. Accordingly, shellfish growers are incentivized, and actively work, to coordinate with local partners in identifying, preventing, and addressing sources of pollution affecting growing areas.

Ecology should retain the rule language directing local governments to protect shellfish areas from water-quality degradation caused by other land uses and development. Such protections should apply equally to commercial, tribal, recreational, and subsistence shellfish resources, using site-specific scientific and technical information.

### D. Ecology Should Eliminate the Categorical CUP Requirement for New Commercial Geoduck Aquaculture.

PCSGA respectfully requests that Ecology remove the categorical requirement that all new commercial geoduck aquaculture obtain a conditional use permit ("CUP"). WAC 173-26-241(3)(b)(iv). The CUP requirement was adopted before completion of the Washington Sea Grant Geoduck Aquaculture Research Program, when the Legislature and Ecology adopted a conservative approach for geoduck farm permitting while that research program was underway.

That research program is now complete. In 2007, the Legislature directed Washington Sea Grant to conduct a six-year research program addressing the environmental effects of geoduck aquaculture, with final results reported to the Legislature in 2013. The completed research found that geoduck harvest practices have minimal effects on benthic infaunal communities, with no observed spillover effects into adjacent habitat; that differences associated with tubes and nets do not persist after the equipment is removed; that nutrient releases are low and localized; and that geoduck aquaculture does not render sites unsuitable for later eelgrass colonization. Washington Sea Grant 2013.

In short, the research demonstrates that properly managed geoduck aquaculture has limited effects that are within the range of natural disturbance and variation experienced by Puget Sound benthic communities. Federal and state analyses similarly conclude that shellfish-aquaculture effects are generally limited in space, typically to the farm plot and minor spillover area, and limited in duration, occurring over a one- to two-year culture cycle or longer.

Many of the findings reached by the Washington Sea Grant geoduck research program have been published in peer-reviewed journals, including VanBlaricom et al. 2015, McDonald et al. 2014, and McPeek et al. 2014. Further, in April 2015, the Journal of Shellfish Research published a

special issue addressing geoduck aquaculture in response to the growing interest that prompted establishment of the Geoduck Aquaculture Research Program. These studies support the conclusion that, when properly managed, geoduck aquaculture has limited and localized environmental effects comparable to those associated with other forms of shellfish aquaculture.

The permitting record confirms those scientific conclusions. Over the last 15 years, several geoduck-farm permits have been appealed to the Shorelines Hearings Board. Opponents have raised every argument imaginable in contending permits should be denied or reversed for new geoduck farms, including impacts of geoduck relating to forage fish spawning areas; forage fish larvae consumption; juvenile salmon; waves, currents, and sediment transport; microplastics; marine debris; benthic communities; eelgrass; cumulative impacts; recreation and navigation; marine mammals; birds; preparatory activities; use of protective netting; harvest activities; density, genetics, disease, and parasites; and property values. With one limited exception pertaining to the appropriate buffers for eelgrass beds, the SHB has consistently rejected these arguments, holding that impacts from geoduck farms would be insignificant and minimized through reasonable permit conditions.[2] SHB No. 11-019; SHB No. 13-006c; SHB No. 13-016c; SHB No. 14-024.

CUPs are appropriately reserved for uses that are unclassified, unusual, or otherwise require heightened review because they may present special circumstances or significant adverse effects. The SMA rules recognize that CUPs are designed to provide flexibility for activities depending on special circumstances and require findings concerning significant adverse effects and the public interest. WAC 173-27-160. As discussed above, while there was previously a justification for requiring CUPs for new geoduck farms (the ongoing Geoduck Aquaculture Research Program by Washington Sea Grant, and the uncertainty concerning what that research program would find), this justification no longer exists.

Further, the CUP requirement significantly impacts geoduck farmers and their ability to establish new farms. PCSGA members report that navigating the CUP process is often highly demanding on farmers' time and resources to such an extent that farmers have foregone opportunities to establish new geoduck farms due to resource limitations. This is especially true for smaller growers who are more resource-limited.

Retaining an unnecessary CUP requirement that restricts and even prevents shellfish farmers from establishing new farms is inconsistent with the classification of this activity as a preferred, water-dependent use that is in the statewide interest and has important economic and ecological benefits. Therefore, Ecology should amend WAC 173-26-241(3)(b)(iv)(A) by removing the requirement to obtain CUPs for new geoduck farms. Ecology should also amend this provision to remove its grant of discretion to local governments for requiring CUPs to convert from non-geoduck to geoduck aquaculture. Just as there is no longer a basis for requiring CUPs for new geoduck farms, there is similarly no basis for requiring CUPs for geoduck conversions. Finally,

[2] In SHB No. 13-016c, the Board reversed a permit that allowed a new geoduck farm near an eelgrass bed with buffers as low as 10 feet, finding that the record in that case did not support a buffer of that size. In 2016, a programmatic Endangered Species Act and Essential Fish Habitat consultation was completed for shellfish farming activities in Washington State, finding that 16 feet is a is a sufficient safe harbor for new shellfish farms of all types. The conservation measures associated with this consultation are provided on the U.S. Army Corps of Engineers Seattle District's website, and the 16-foot buffer standard is at measure #6. https://publibrary.sec.usace.army.mil/api/download?id=41b9551b-b579-4733-81cb-55922eb2c4fd&filename= 20181206-Conservation%20Measures%20Enclosure.pdf&token=&preview=true

Ecology should also delete or revise the remaining CUP-specific provisions in WAC 173-26-241(3)(b)(iv) as necessary to conform with the removal of the categorical CUP mandate.

These amendments would reserve the CUP process for activities warranting heightened review and help ensure that geoduck aquaculture is treated as a preferred use of statewide interest. Further, these changes would not result in any lowering of substantive standards for geoduck aquaculture. Existing provisions governing geoduck siting, best management practices, baseline information, mitigation, sensitive-habitat protections, and operational conditions can be retained and applied through the ordinary shoreline permitting process.

**Conclusion**

PCSGA appreciates Ecology's SMA rulemaking effort and supports Ecology's proposals to retain and strengthen protections for shellfish areas and to recognize aquaculture as a preferred use of statewide interest. PCSGA respectfully requests that Ecology:

**A.** Retain and strengthen protections for shellfish areas;

**B.** Retain and strengthen recognition of aquaculture as a preferred use of statewide interest;

**C.** Allow documented beneficial ecological effects of shellfish aquaculture to be considered in no net loss determinations; and

**D.** Eliminate the CUP requirement for commercial geoduck aquaculture.

Thank you for your consideration of these comments.

Sincerely,



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Pacific Coast Shellfish Growers Association

## References


Confluence 2016.[3] Confluence Environmental Company. Pierce County Shoreline Master Program SHELLFISH AQUACULTURE IN PIERCE COUNTY: TECHNICAL AND SCIENTIFIC INFORMATION. April 2016

McDonald, P.S., A.W.E. Galloway, K.C. McPeek, and G.R. VanBlaricom. 2015. Effects of geoduck (*Panopea generosa* Gould, 1850) aquaculture gear on resident and transient macrofauna communities of Puget Sound, Washington USA. Journal of Shellfish Research.

McPeek, K.C., P.S. McDonald, and G.R. VanBlaricom. 2014. Aquaculture disturbance impacts the diet but not ecological linkages of a ubiquitous predatory fish. Estuaries and Coasts doi10.1007/s12237-014-9909-z

SHB No. 11-019. *Coalition to Protect Puget Sound Habitat v. Pierce County*, SHB No. 11-019 (July 13, 2012)

SHB No. 13-006c. *Coalition to Protect Puget Sound Habitat v. Thurston County*, SHB No. 13-006c (October 11, 2013)

SHB No. 13-016c. *Coalition to Protect Puget Sound Habitat v. Pierce County*, SHB No. 13-016c (January 22, 2014)

SHB No. 14-024. *Coalition to Protect Puget Sound Habitat v. Pierce County*, SHB No. 14-024 (May 15, 2015)

VanBlaricom, G.R., J.L. Price, J.D. Olden, and P.S. McDonald. 2015. Ecological effects of th harvest phase of geoduck clam (*Panopea generosa* Gould, 1850) aquaculture on infaunalcommunities in southern Puget Sound, Washington USA. Journal of Shellfish Research.

Washington Sea Grant (2013) Final Report: Geoduck aquaculture research program. Report to the Washington State Legislature. Washington Sea Grant Technical Report WSG-TR 13-03, 122 pp.


[3] Confluence 2016 has previously been provided to Ecology as part of the Pierce County SMP comprehensive update, and it is separately being provided along with this comment letter for Ecology's convenience.