Diani Taylor

Hello: I am submitting the attached comment letter on behalf of Taylor Shellfish Farms. Please let me know if you have any questions or if there is anything else I can provide.

Thank you,

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November 16, 2026

Online Portal Submission
Washington State Department of Ecology
Shorelands and Environmental Assistance Program

Re: Taylor Shellfish Farms Comments – Shoreline Management Act Rule Amendments

Dear Department of Ecology:

Thank you for the opportunity to comment on Ecology's proposed amendments to the Shoreline Management Act ("SMA") implementing rules, including the guidelines for local shoreline master programs ("SMPs"). I am submitting these comments on behalf of Taylor Shellfish Farms.

Taylor Shellfish is a fifth-generation, family-owned company headquartered in Shelton, Washington. Taylor has grown shellfish on Washington State shorelines for over 100 years, and the company currently farms shellfish in south Puget Sound, north Puget Sound, Hood Canal, and Willapa Bay. Taylor grows several species of shellfish on its farms, including oysters, clams, geoduck, and mussels. The company currently manages approximately 14,000 acres of intertidal and subtidal properties in the state and employs over 500 workers. Taylor has a strong commitment to all communities and environments in which it farms, and it expends substantial resources working to protect, maintain, and improve water quality to ensure the health and safety of the company's cultivated shellfish and other aquatic species.

Taylor Shellfish appreciates Ecology's work to maintain a regulatory framework that protects shoreline ecological functions while preserving water-dependent shellfish aquaculture and its environmental, economic, and community benefits.

Taylor Shellfish requests that Ecology retain certain proposed SMA rule language and revise other provisions as described below.

A. Recognition of Shellfish Farming as a Broader Statewide Interest

The SMA rules currently recognize that aquaculture is of statewide interest and is a preferred use of the water area that, when properly managed, can protect the resources and ecology of the shoreline. WAC 173-26-241(3)(b)(i)(A). Taylor supports the retention of this language in the rules.

Additionally, Ecology is proposing to add a new subsection to WAC 173-26-186 (Governing principles of the guidelines) identifying statewide interests and objectives that should be considered during the review and implementation of SMPs. Part (a)(vii) of this subsection, consistent with WAC 173-26-241(3)(b)(i)(A), lists aquaculture as an activity of statewide interest that, when properly managed, can result in long-term benefit and protect the resources and ecology of the shoreline. Taylor supports the addition of a new subsection (11) to WAC 173-26-186 and expects that it will help provide guidance and focus to local governments in updating SMPs. Taylor also supports the inclusion of aquaculture as an activity of statewide interest. This inclusion appropriately reflects that shellfish farming advances the broader public and statewide interests by helping to protect and sustain clean water, functioning nearshore habitat, and the long-term ecological health of Washington's marine shorelines.

To help make this policy direction operative in local shoreline planning and permitting, Taylor Shellfish recommends adding the following direction to the aquaculture policies and regulations (WAC 173-26-241(3)(b)):

> In developing master program aquaculture policies and regulations, local governments shall consider the statewide interest in maintaining the suitable lands, tidelands, submerged lands, water quality, and ecological conditions necessary to support existing and future shellfish farming. Local governments shall also consider and incorporate provisions to facilitate aquaculture use and development, including efficiencies in the application, review, and decision-making processes for aquaculture proposals.

This addition would help implement the policy directive that aquaculture is in the statewide interest and direct local master programs to account for the limited and site-specific conditions required for shellfish farming.

B. Strengthened Protection for Shellfish Beds

Taylor Shellfish supports the proposed amendments that identify shellfish beds as resources warranting express protection. Ecology's shoreline guidelines recognize that ecological systems consist of interdependent physical, chemical, and biological components operating at varying scales and that no net loss protection depends upon sustaining ecosystem-wide processes, including water movement, sediment movement, fish and wildlife movement, and water quality. WAC 173-26-201(2)(c). These principles directly support stronger protection for shellfish beds and the environmental processes on which those beds depend.

For purposes of shoreline inventory, characterization, planning, and regulation, protection should be provided for both existing shellfish beds as well as areas that are capable of supporting expanded or new shellfish beds. This protection is crucial to foster and give preference to this economically productive, water-dependent use consistent with the SMA and Ecology's rules. RCW 90.58.020; WAC 173-26-176(3)(a) (state policy to use shorelines for economically productive water-dependent uses); WAC 173-26-241(3)(b)(i)(A). It is also critical to advance national and state policies and initiatives that encourage protection of existing shellfish resources and the creation of new beds, including the National Aquaculture Act (16 U.S.C. § 2801), NOAA's Marine Aquaculture Policy, NOAA's National Shellfish Initiative, the National Aquaculture Development Plan, the Bush and Callow Acts of 1895 and their 2002 recodification (Laws of 2002, ch. 123, § 1; RCW 79.135.010), the Aquaculture Marketing Act (chapter 15.85 RCW), the Washington Shellfish Initiative, and the Puget Sound Partnership's Shellfish Beds Implementation Strategy.

To ensure shellfish areas are effectively protected, and that this protection is consistently implemented, Taylor Shellfish recommends strengthening WAC 173-26-201(3)(d)(vii) to state:

> **Water quality and quantity.** Identify water quality and quantity issues relevant to master program provisions, including those that affect human health and safety. Identify, protect, and restore, as appropriate, existing shellfish beds and areas with suitable conditions for the establishment of new or expanded shellfish beds, along with the ecological processes necessary to sustain them. Protection measures shall address, as applicable, water quality, sediment processes, hydrologic conditions, shoreline vegetation, habitat connectivity, and other ecological functions that support shellfish resources. Identify measures to protect water quality for human health as described in WAC 173-26-221(7). Consult with federal, state, tribal, and local agencies as appropriate.

Ecology's governing principles also recognize that shoreline planning policies may be achieved through means other than development regulation, including acquisition of land and easements and acceptance of grants and contributions. WAC 173-26-186(4). Taylor appreciates this recognition and recommends that Ecology revise the rule to actively encourage local governments to use planning, restoration, conservation, and partnership tools to protect shellfish beds and their supporting ecological functions.

C. Landscape-Scale Plans and No Net Loss Determinations

The SMA rules contain more detailed provisions addressing no net loss ("NNL") of ecological functions. Taylor Shellfish supports preserving and maintaining net ecological functions and, as noted above, works with partners throughout the areas in which it farms to protect and improve the health of the marine ecosystem.

Taylor Shellfish recommends that Ecology strengthen SMA rules addressing NNL by acknowledging that this standard can be achieved for a project by participating in or fitting within broader landscape-scale plans and actions, and should actively encourage this approach. Specifically, Taylor recommends that the rules be revised to explicitly state that if an individual project proposal fits within, advances, or is executed under a scientifically validated landscape-scale plan, such as a state or federally approved habitat conservation plan ("HCP"), that broader context must be given substantial weight in determining whether the proposal achieves NNL. Furthermore, the rules should clarify that satisfying the alternative prescriptions, landscape-scale management approaches, robust monitoring protocols, and adaptive management triggers of an approved HCP can serve as a primary pathway for demonstrating NNL compliance.

1. Established Precedent in Washington Natural Resource Law

The integration of approved conservation agreements and HCPs as a mechanism to meet resource-protection objectives is a well-established and highly successful practice across Washington's natural-resource regulatory frameworks. Other state agencies explicitly recognize that landscape-scale agreements provide superior, cohesive environmental protections that are not always achievable with rigid, site-by-site evaluations. For example, the following existing statutory and regulatory frameworks serve as direct analogies for this approach:

- RCW 76.09.340 (Forest Practices Act): This statute exempts forest practices that are consistent with an approved habitat conservation plan from certain standard requirements of Chapter 76.09, recognizing that the comprehensive, landscape-scale protections within an HCP meet or exceed baseline statutory objectives.

- WAC 222-12-041 (Forest Practices Board): This rule exempts certain forest practices from general forest practices regulations if they are conducted in accordance with an approved state or federal conservation agreement (such as an HCP) that covers aquatic resources. The rule explicitly recognizes that these broader agreements provide alternative prescriptions, management approaches, and adaptive management frameworks that inherently fulfill resource-protection goals.

By adopting a similar recognition within the SMA rules, Ecology would align shoreline management with Washington's broader, harmonized approach to landscape-level natural resource regulation.

2. Benefits of Landscape-Scale Approaches

NNL can be, and frequently is, achieved by focusing solely on a particular site or project. However, this is not always the exclusive or most effective approach. Evaluating NNL strictly within localized property boundaries often forces fragmented ecological outcomes of relatively lower value compared to landscape-scale approaches. Conversely, HCPs and other similar approaches are inherently designed at a landscape scale to protect species and the overarching aquatic or terrestrial ecosystems they depend on. The broader scientific and regulatory community in Washington strongly validates this landscape approach, including:

- *Watershed Approach to Mitigation:* Ecology's own joint guidance with the U.S. Army Corps of Engineers and the EPA explicitly endorses a "watershed approach" to compensatory mitigation, acknowledging that landscape-scale needs yield a higher likelihood of long-term ecological success than isolated, on-site fixes (*Wetland Mitigation in Washington State, Part 1*, Ecology Publication No. 21-06-003).

- *Cumulative Impacts:* The Washington State Academy of Sciences (WSAS) has highlighted that individual project metrics must be anchored within larger regional or landscape frameworks to accurately track ecosystem health and prevent incremental, piecemeal loss (*Evaluation of Net Ecological Gain*, WSAS Report, 2022).

Landscape-scale planning and management are particularly valuable in shellfish-growing areas. Water quality, sediment transport, freshwater inputs, shoreline vegetation, habitat connectivity, and restoration activities occurring beyond an individual project site or jurisdiction may materially affect shellfish habitat and production. A rule that recognizes measurable, durable, and accountable landscape-scale conservation benefits will encourage effective restoration investments and promote ecological outcomes that cannot always be achieved through isolated, project-by-project regulation.

3. Advancing the SMA's Existing Framework

This recommended approach is structurally consistent with Ecology's foundational guidelines. Under WAC 173-26-201(2)(c), local governments are already required to evaluate cumulative impacts and recognize that the "distribution, diversity, and complexity of landscape-scale features and resources" form the framework of shoreline ecological functions. Allowing project-level evaluations to formally leverage the comprehensive management and monitoring of an approved HCP bridges the gap between high-level watershed planning and individual project implementation.

To foster and encourage the use of landscape-scale plans and agreements when planning individual projects, Taylor Shellfish recommends adding the following subsection to proposed WAC 173-26-206 addressing NNL, cumulative impacts, or shoreline master-program evaluation:

> In evaluating whether a proposal or action achieves no net loss of ecological functions, the department and local government shall consider whether the proposal fits within, advances, or is executed under a scientifically validated landscape-scale plan or action, such as a state or federally approved habitat conservation plan. If so, it shall be presumed that the no net loss requirement is achieved with respect to any species or habitat that is addressed or evaluated under such landscape-scale plan, and the proposal's coverage under the landscape-scale plan or action shall be given substantial weight in determining whether the proposal as a whole achieves no net loss.

Taylor Shellfish further recommends that the rule define the conditions under which such measures may be considered. The following language would provide appropriate safeguards:

Landscape-scale measures may be considered when they are implemented or subject to enforceable commitments; identify the ecological functions, species, habitats, or shoreline resources addressed; provide measurable protection, restoration, management, or monitoring benefits; include performance standards or monitoring; and provide for adaptive management where appropriate.

Conclusion

Taylor Shellfish respectfully requests that Ecology:

1. Retain proposed language recognizing shellfish farming as an activity and resource of broader statewide interest, and strengthen it by adding implementing direction to the aquaculture policies and regulations in WAC 173-26-241(3)(b).

2. Adopt express rule language requiring protection of existing shellfish beds, areas suitable for new or expanded shellfish beds, and the ecological processes necessary to sustain them.

3. Add language directing Ecology and local governments to consider qualifying landscape-scale conservation, restoration, and management plans and agreements when evaluating no-net-loss performance, subject to enforceability, monitoring, and adaptive-management safeguards.

Thank you for the opportunity to comment. Taylor Shellfish respectfully requests that Ecology incorporate these revisions into the final SMA rule amendments.

Sincerely,

Diani Taylor, Director of Public Affairs

Taylor Shellfish Farms