

Attachment B: Public Comment Summary and Pierce County Response

Ecology Public Comment Period, September 30 - October 15, 2019

Prepared by Washington Dept. of Ecology, October 2019¹

Pierce County Response received October 30, 2019

Pierce County (County) adopted Ordinance #2019-59 on September 10, 2019 authorizing submittal of the amended Shoreline Master Program (SMP) to the Department of Ecology (Ecology) for review. The County formally submitted the SMP to Ecology on September 24, 2019.

Comment	Commenter	Comment Summary	Pierce County Response
1.	Case Inlet Shoreline Assoc.	Expresses concerns about aquaculture, and relates experiences during the CISA's work in opposition to a proposed geoduck farm in Dutcher Cove.	Pierce County agrees. The Case Inlet Shoreline Association's concerns are noted and may be warranted given the recent United States Western District Court Case Nos. C16-0950RSL and 17-1209RSL concluding the US Army Corps erred in evaluating shellfish aquaculture's adverse impacts on the aquatic environment and in reissuing its most recent Nationwide permit (NWP 48).
2.	L. Ollen-Smith	Requests the amendment be rejected because it would remove essential regulations on aquaculture projects. Negative environmental consequences of aquaculture are long term need continual study and monitoring.	In adopting Ordinances 2013-45s4 and 2018-57s, Pierce County attempted to establish environmentally protective standards for new aquaculture farms due to concerns about potential long-term environmental consequences. The County adopted compliance amendments though Ordinance No. 2019-59 to comply with the Growth Management Hearings Board FDO.
3.	Plauche' & Carr	Concern is expressed that the county will attempt to use the SMP to suppress aquaculture in the future so it needs to be clear and consistent with the SMA and Guidelines. Additional revisions are necessary to bring the SMP into compliance with state law with specific changes requested to 18E.40.040.E.1 and Appendix C of Chapter 18S.70, Section E.	Pierce County's compliance amendments are based on the specific direction provided by the Growth Board's FDO.
4.	Plauche' & Carr	Requests the revision to 18E.40.040.E.1 be limited to that required by the GMHB order, sufficiently clear, supported by scientific and technical information and give preference to this preferred use. Requested edits would remove the County's	Pierce County revisions to 18E.40.040 E.1 are limited and consistent with the GMHB FDO. The regulations authorize aquaculture operations within areas of confirmed spawning habitat based on the Board's Order. The applicant will

¹ These are brief summaries of the comments received. Full copies of all comment letters have been provided to the County to ensure a full understanding of the comment and context.

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		<p>proposed prohibition on activities at all times absent demonstration that spawning is occurring, and restore the temporal limitation requiring surveys during spawning periods.</p> <p>County proposed regulation: <i>Regulated activities waterward of the ordinary high water mark (OHWM), in areas of confirmed spawning habitat, shall be prohibited suspended during spawning periods unless the applicant demonstrates a survey by a qualified professional confirms that spawning is not occurring or approval is obtained from WDFW.</i></p> <p>Requested revision: <i>Regulated activities waterward of the ordinary high water mark (OHWM), in areas of confirmed spawning habitat, shall be prohibited suspended during spawning periods unless the applicant demonstrates a survey by a qualified professional confirms that spawning is not occurring or approval is obtained from WDFW.</i></p>	<p>simply need to demonstrate that spawning is not occurring when conducting activities. Consistent with the FDO, neither a survey nor a qualified professional is required to satisfy the regulation.</p> <p>There is no dispute that scientific evidence supports refraining from farming activities while forage fish spawning is occurring in areas of confirmed spawning habitat. The regulation authorizes farm activities during or outside of spawning periods when no spawn is present or WDFW approval is obtained.</p> <p>The regulation is compatible with U.S. Army Corps Seattle District’s Programmatic Biological Opinion Conservation Measures Nos. 9 and 10, which prohibit farming activities in areas where spawning has occurred, if herring spawn, sand lance or surf smelt eggs are present.</p>
5.	Plauche’ & Carr	<p>Requests further revision to Chapter 18S.70 - Appendix C, Section E Application Requirements, to resolve deficiencies. This can be done by including the additional changes recommended by Ecology in Attachment C of Ecology’s conditional approval of the SMP.</p> <p>County proposed language:</p> <p>E. Performance Standards and Monitoring Plan necessary to ensure compliance with a Shoreline Permit Application. 1. A monitoring plan shall be developed that includes Project specific performance standards shall be created that are specific to the aquaculture proposal and the results of the baseline review of the proposed farm site. 2. The M monitoring plan shall be prepared provided by a qualified independent third party professional to determine</p>	<p>In its FDO, the Board highlighted Ecology’s recommendations to the County to clarify that the monitoring plan is part of a shoreline permit, that the monitoring requirements are to ensure compliance with the shoreline permit and to remove the “no statistically significant changes to baseline conditions” performance standard. FDO at 47.</p> <p>The County eliminated the performance standard which would have required an applicant to demonstrate no statistically significant changes to baseline conditions resulting from harvest activities.</p> <p>In addition, the County’s compliance amendments made clarifications that are consistent with the Department of Ecology’s recommendation, the Board’s Order and WAC 173-26-221(2)(a)(ii).</p>

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		<p>compliance with the established performance standards or conditions of the shoreline permit any land use approval.</p> <p>a. The County will establish a monitoring schedule as a condition of each permit approval. Performance standards, monitoring protocols and contingencies shall be included in the monitoring plan. Compliance with pPerformance standards will generally be met by demonstrating no statistically significant changes to baseline conditions as a result of individual harvest activities or by demonstrating that no consistent adverse changes occur over the course of multiple harvest activities. The results of the operational monitoring may trigger a range of actions, including, but not limited to, changes to:</p> <ol style="list-style-type: none"> (1) The allowable size of the operation; (2) The planting or harvest schedule; and (3) The width of required buffers or setbacks. <p>b. The duration and frequency of monitoring will shall be unique to each proposal; however, in general, monitoring shall occur in conjunction with bed preparation, staging seeding, and harvest activities and for a period of time sufficient to verify compliance with performance standards. Duration and frequency shall be reduced when the applicant demonstrates that, relative to their proposal, these activities, whether singly or in combination, do not serve as a potential stressor to the following functional attributes of the intertidal zone: reduction in forage fish habitat, alteration to benthic community structure, reduction in forage availability and migration habitat, or reduction in water quality.</p> <p>c. Monitoring frequency should be increased commensurate with the complexity and intensity of the aquaculture method(s) utilized and the sensitivity of the shoreline.</p> <p>d. The results of the monitoring program may affect the scale or frequency of harvest activities. Monitoring may result in a reduction to harvest activities or it may allow an expansion within the limits of the approved permit, depending upon the Performance Standards established.</p> <p>Requested revisions:</p> <p>E. Performance Standards and Monitoring Plan.</p>	

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		<p>1. A monitoring plan shall be developed that includes Project specific performance standards shall be created that are specific to the aquaculture proposal and the results of the baseline review of the proposed farm site.</p> <p>2. The M monitoring Plan shall be provided prepared by a qualified independent third party professional to determine compliance with the established performance standards or conditions of <u>the shoreline permit</u> any land use approval.</p> <p>a. Compliance with Proposed performance standards, <u>monitoring protocols and contingencies shall be included in the monitoring plan.</u> <u>The county will establish a monitoring schedule as a condition of each permit approval.</u> will generally be met by demonstrating no statistically significant changes to baseline conditions as a result of individual harvest activities or by demonstrating that no consistent adverse changes occur over the course of multiple harvest activities. The results of the operational monitoring may trigger a range of actions, including, but not limited to, changes to:</p> <ul style="list-style-type: none"> (1) The allowable size of the operation; (2) The planting or harvest schedule; and (3) The width of required buffers or setbacks. <p>b. The duration and frequency of monitoring shall <u>will</u> be unique to each proposal; however, in general, monitoring shall occur in conjunction with bed preparation, staging, seeding, and prior to cycles of planting and harvest activities and for a period of time sufficient to verify compliance, with performance standards. Duration and frequency shall be reduced when the applicant demonstrates that, relative to their proposal, these activities, whether singly or in combination, do not serve as a potential stressor to the following functional attributes of the intertidal zone: reduction in forage fish habitat, alteration to benthic community structure, reduction in forage availability and migration habitat, or reduction in water quality.</p> <p>c. Monitoring frequency should be increased commensurate with the complexity and intensity of the aquaculture method(s) utilized and the sensitivity of the shoreline.</p> <p>d. The results of the monitoring program may affect the scale or frequency of harvest activities. Monitoring may result in a reduction to harvest activities or it may allow an expansion within the limits of the approved permit, depending upon the Performance Standards established.</p>	