

ATTACHMENT D – COMMENT RESPONSE TO PUBLIC COMMENTS – PIERCE COUNTY SMP

Pierce County (County) adopted Ordinance #2013-45s4 on March 10, 2015 authorizing submittal of the updated Shoreline Master Program (SMP) to the Department of Ecology (Ecology) for review. The County formally submitted the updated SMP to Ecology on July 2, 2015. Upon review of the submittal, Ecology notified the County of a complete submittal in a letter dated December 18, 2015, initiating state review of the updated SMP. Ecology accepted public comments on the updated SMP between March 15th and April 29th, 2016 and at a public hearing hosted by Ecology on March 30th, 2016. Notice of the comment period and public hearing was published in The News Tribune on March 9th, 2016 and was also provided to over 650 individuals listed as state, regional or local “interested parties”. Ecology received testimony from 26 individuals at the Public Hearing (PH) on March 30th and written comments from an additional 97 individuals or organizations as summarized in Table 1. Eight (8) others submitted comments outside the comment period as shown in Table 2.

Table 1 lists all the individuals or organizations that provided comment and the reference to each particular topic/issue¹ as summarized in Table 3 beginning on page 8.

TABLE 1: LIST OF COMMENTERS AND WHERE THEIR COMMENTS MAY BE FOUND IN THE COMMENT SUMMARY TABLE		
COMMENT NO.	ORGANIZATION - COMMENTER NAME (DATE RECEIVED)	SUMMARY/RESPONSE (TABLE 3 – BELOW)
1.	<i>WA Dept. of Natural Resources (WADNR) - David Palazzi</i> 3/16/2016 ²	A4, L35
2.	<i>Friends of Burley Lagoon - Heather McFarlane, Claudia Casebolt</i> 3/18/2016, 3/22/2016	A1, B4, B6, L18, L27, L28, L58, Y3
3.	Norman Wittenfeld 3/21/2016, 4/25/2016	AA5, AA8
4.	Richard Anderson 3/27/2016	A1, B4, G1, L58
5.	Jacob Anderson 3/27/2016	A1, B4
6.	Bertil Johnson 3/29/2016, 4/13/2016	A1, B4, A1, B4, G1, L14, L33
7.	Lorayne (Lorrie) Peterson 3/29/2016, 3/30/2016, 4/28/2016	A1, B4, B6, B8, L28, L57, L58, L60, L62
8.	Larry Vandeberg 3/30/2016	A1, B4, L58
9.	<i>Anderson Island Park & Recreation District - Charles Hinds</i> 3/30/2016	B4, G1, L33
10.	William Spears 3/30/2016, 4/25/2016	B4, L33
11.	<i>Sierra Club Pierce County - Dorothy Walker</i> 3/30/2016	A1, B4
12.	<i>Plauche' & Carr on behalf of Taylor Shellfish - Jesse DeNike</i> 3/30/2016, 4/29/2016	A2, B5, C4, D4, D6, L1, L3, L5, L6, L7, L9, L10, L11, L12, L13, L15, L16, L17, L20, L23, L24, L25, L26, L29, L32, L34, L38, L40, L41, L43, L44, L45, L46, L48, L51, L53, L56, L59, L61, L63, U6, U7, U8, U9, U10, V1, Y2, Y4, Z1
13.	<i>Taylor Shellfish - Diane Cooper</i> 3/30/2016	A2
14.	<i>Tahoma Audubon Society - Kirk Kirkland</i> 3/30/2016	A1, B4, B6, L33, L37, L54, L57, L58

¹ Citations made by commenters which reference provisions in earlier versions of the ordinance and/or specific amendments were corrected to the language adopted by Ordinance No. 2013-45s4

² Receipt dates of hard copies which duplicate emailed submittals are not listed.

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15.	Roxy Giddings 3/30/2016	L58
16.	Heather McFarlane 3/30/2016, 4/1/2016, 4/4/2016, 4/26/2016, 4/26/16	A1, B1, B4, B6, L27, L28, L31, L58, L62, AA3
17.	Claudia Casebolt 3/30/2016, 4/29/2016	B4, L37, L58, L62
18.	Rock Point Oyster Co - David Steele 3/30/2016, 4/26/2016	B5, L34, L38, L40, L59, L63
19.	Seattle Shellfish - Jim Gibbons 3/30/2016	B5, L13, L34, L38, L40, L56, L59
20.	William Hoeffcker 3/30/2016	AA9
21.	Taylor Shellfish - Diani Taylor 3/30/2016	L59, L63
22.	Peter Sloan 3/30/1206, 4/28/2016	A1, B4, G1, L33
23.	Taylor Shellfish - Erin Ewald, 3/30/2016	L59, L63
24.	John McDonell 3/30/2016, 4/29/2016	A1, B6, L28, L37, L52, L58, L60
25.	Marti Gray 3/30/2016	L22, L58, L60
26.	Rob Wenman 3/30/2016	B4, L58
27.	Ken Rosa 3/30/2016	L59
28.	Jay Johnson 3/30/2016	L59
29.	Coalition to Protect Puget Sound - Laura Hendricks 3/30/2016	A1, B1, B4, L58
30.	William Giddings 3/30/2016	AA10
31.	Jerry Johannes 3/30/2016, 4/28/2016	A1, B2, B4, B6, G1, L33, L58
32.	Bruce Hoefft 3/30/2016	A1, B4, B6, L58, L62
33.	Cindy Johnson 3/30/2016, 4/24/2016	B1, B4, L58, L60, L62
34.	Norma Iwamoto 3/30/2016	AA4
35.	Arcadia Point Seafood - Vicki/Steve Wilson 3/30/2016, 4/29/2016	A2, B5, B7, L12, L16, L56, L63, V2
36.	Bill/Marcia Katica 3/31/2016	B4, L58
37.	Erik Hodge 3/31/2016	B4, L58

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38.	Randy Johnson 3/31/2016	B4
39.	Deanna Charles 3/31/2016	B4
40.	Erin Charles Bentsen 3/31/2016	B4
41.	Gayle Shriner 4/2/2016	B4, L58
42.	John Wiborg 4/4/2016	B4, L58
43.	Kim Robinson 4/4/2016	B4
44.	Jeff Robinson 4/4/2016	B4
45.	Todd Overby 4/6/2016	B4, L58
46.	Gail Howe-Jennings 4/9/2016	W1
47.	Sylvia Haase 4/9/2016	B6, L58
48.	John Alessio 4/10/2016	B4, L58, L60
49.	Julie Andrzejewski 4/10/2016	B4, L58
50.	Robert Spaulding 4/12/2016	B4, L57, L58, L60
51.	<i>Marine Floats Corporation</i> - Lorrie Chase 4/12/2016	T3, T7, T10, T15, T16
52.	Eloise Richardson 4/12/2016	B4
53.	Robert Evans 4/12/2016	B4
54.	Lynn/Richard Lloyd 4/12/2016, 4/27/2016	B4, L58, L60
55.	<i>Anderson Island Citizens Advisory Board</i> - Joe Howells 4/13/2016	G1, L33, L58
56.	John Lambert 4/15/2016	B4
57.	<i>Squaxin Island Tribe</i> – Jeff Dickison 4/15/2016	B3, B5, L56, AA1
58.	Ken Castile 4/18/2016	U4, AA7
59.	<i>Trustees of Lake Minterwood Beach Club</i> – Robyn McGilvrey/Robin Harvey 4/19/2016	W1
60.	<i>Washington Department of Natural Resources</i> – Celia Barton 4/21/2016	A4, G2

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COMMENT NO.	ORGANIZATION - COMMENTER NAME (DATE RECEIVED)	SUMMARY/RESPONSE (TABLE 3 – BELOW)
61.	Paul Gruver 4/22/2016	L31, L39, L50, L60
62.	Kelly Carpenter (Johnson) 4/22/2016	B4, L58
63.	Randy and Debbie Johnson 4/22/2016	B4
64.	Douglas Wheeler 4/23/2016	B4
65.	Mary Green 4/23/2016	B4, L58
66.	Beth Griffith 4/24/2016	B4
67.	Hugh & Janice McMillan 4/24/2016	B4
68.	Lesa Wiborg 4/24/2016	A1, B4, L58
69.	Cathy & Ted Williams 4/24/2015	B4
70.	<i>Washington Department of Natural Resources</i> – Hugo Flores 4/25/2016	I3, Q2, T4, T5, T8, T13
71.	Catherine Wheeler 4/25/2016	B4
72.	Elizabeth Wheeler 4/25/2016	B4, L58
73.	Gail Roberts 4/26/2016	B4
74.	Nan Feagin 4/26/2016	B4
75.	<i>Morton McGoldrick Attorneys at Law</i> - James Handmacher on behalf of John and Christine West 4/26/2016	D5, X1
76.	Lisette West 4/26/2016	A1, B4
77.	Betty Garrison 4/26/2016	A1, B4
78.	<i>Futurewise</i> – Tim Trohimovich 4/26/2016	C1, C2, D1, E1, F2, F3, F4, H1, I2, K1, L54, M1, N1, N2, N3, N4, O1, P1, Q3, R1, S1, T1, T2, T6, T9, T11, T12, U5, X1, Y1, Y5, Y6, Y7, Y8, Y9
79.	Alan Golston 4/26/2016	B4, L58, L60
80.	John and Chris West 4/27/2016	B4, L58
81.	Karen Miller 4/27/2016	A1, B4, L58, L60
82.	<i>Army Corps of Engineers (ACOE)</i> – Amy Reese 4/27/2016	A4, G2
83.	<i>Environmental Protection Agency</i> – R. David Allnutt 4/27/2016	A4, G2

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84.	Robin Johnson 4/27/2016	B4
85.	Ed and Lucy Stephenson 4/27/2016	B4
86.	Clarke Johnson 4/27/2016	B4, L58, L60
87.	Janey and Roger Aiken 4/27/2016	B4, L58
88.	Toni Rex 4/27/2016	A1, B4
89.	Marilyn Beach 4/28/2016	A1, B4, L58
90.	Lawrence Norton 4/28/2016	B4, L58, L60
91.	David McGoldrick 4/28/2016	B4, L58
92.	Jim Kelly 4/28/2016	A3, D5, X1
93.	Patrick and Aileen McGoldrick 4/28/2016	L58, L60
94.	Don Bauhofer 4/28/2016	D2, X1
95.	<i>Gordon Thomas Honeywell</i> - William Lynn for Richard Shaw 4/28/2016	D3, X1
96.	Tom Watkins 4/28/2016	D5, X1
97.	Ginger and Parks Anderson 4/28/2016	D5, X1
98.	Kelly Stewart, Lindsey Reese, Morgan Demaree 4/28/2016	D2, X1
99.	<i>Goldstein Law Office, PLLC for Zittel's Marina</i> - Jason Zittel 4/28/2016	G2
100.	Jo Ellen Nelson 4/28/2016	B4, G1, L33, L58
101.	Nancy Pearson 4/18/2016	A1, B6, G1, L33, L58
102.	Leslie Foss 4/28/2016	D2, L59, X1
103.	Rebel Nichols 4/18/2016	AA6
104.	David Kovanen 4/28/2016	J1, Q1, T14, U1, U2, U3
105.	<i>Nisqually Indian Tribe</i> - David Troutt 4/29/2016	B3, B5, C3, F1, I1, L2, L19, L29, L30, L36, L56, AA2
106.	Carol Johnson 4/29/2016	D2, L61, X1

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COMMENT NO.	ORGANIZATION - COMMENTER NAME (DATE RECEIVED)	SUMMARY/RESPONSE (TABLE 3 – BELOW)
107.	Harry Rydell 4/29/2016	B5, D2, L56, L59, L61, X1
108.	James Morton 4/29/2016	D5, X1
109.	Amy Bettsworth 4/29/2016	A1, B4, G1, L33
110.	<i>Taylor Shellfish (Minterbrook)</i> - Aly Prohim 4/29/2016	L59, L63, B5
111.	Brynn Rydell 4/29/2016	D2, X1, L61
112.	<i>Troutlodge</i> - John Dentler 4/29/2016	B5, B7, L1, L3, L4, L5, L8, L12, L15, L20, L21, L23, L24, L25, L26, L29, L30, L38, L40, L41, L42, L47, L49, L51, L55, L63
113.	<i>Chelsea Farms</i> - Shina Wysocki 4/29/2016	B5, L59, L63
114.	Ken Johnson 4/29/2016	D2, L61, X1
115.	<i>Taylor Shellfish</i> - Brian Phipps 4/29/2016	B5, L59, L63
116.	<i>Taylor Shellfish (Burley Lagoon)</i> – Justin Lanman 4/29/2016	B5, L38, L59, L61, L63
117.	Judy Sloan 4/29/2016	A1, B4, G1, L33
118.	Erin Reetz 4/29/2016	A3, D5, X1
119.	<i>Gordon Thomas Honeywell</i> – Margaret Archer on behalf of Erin Reetz 4/29/2016	D5, X1
120.	Bill Reetz 4/29/2016	A3, D5, X1
121.	<i>Taylor Shellfish</i> – Saleh Prohim 4/29/2016	B5, L59, L63
122.	<i>Taylor Shellfish (Rocky Bay & Filucy Bay)</i> – Teiaysash Prohim 4/29/2016	B5, L59, L63
123.	<i>Fresh Food Revolution Board</i> – Kathleen Rose 4/29/2016	L63

TABLE 2 lists all the individuals or organizations that provided comment outside of the comment period.

TABLE 2: COMMENTS RECEIVED OUTSIDE OF THE COMMENT PERIOD		
COMMENT No.	ORGANIZATION – COMMENTER NAME (DATE RECEIVED)	SUMMARY/RESPONSE (TABLE 3 – BELOW)
1-OC	Bill Trandum 3/3/2016	L31, L62
2-OC	Tom Bettesworth 4/29/2016 5:24pm	A1, B4, G1, L33, L58
3-OC	Hannah Danapilis 4/29/2016 7:41pm	A1, B4, G1, L33, L58
4-OC	Steve Sloan 4/29/2016 7:41pm	A1, B4, G1, L33, L58
5-OC	Michael Sloan 4/29/2016 7:49pm	A1, B4, G1, L33, L58
6-OC	<i>Chelsea Farms</i> - Kyle Lentz 4/30/2016	B5, L59
7-OC	<i>City of Gig Harbor</i> – Ron Williams 5/2/2016 Note: in a July 13, 2016 letter to the Department of Ecology, Gig Harbor Mayor Jill Guernsey requested that this comment letter be pulled from the record.	L29, L38
8-OC	Joe Leitzinger 5/3/2016	D5, X1

The Department of Ecology (Ecology) has attempted to summarize the intent of the comments received during the official comment period in the matrix. Ecology provided the county with complete copies of all comments, whether letter, email or oral testimony, for review. All comments have been read by Ecology and will be taken into account when the state makes its final decision.

Table 3 is a summary of comments received during the State public comment period and the county’s response. Some comments have been paraphrased and grouped by topic.

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
	Pierce County Review and Approval Process General comments			
A1	General comment Public Participation	2, 4, 5, 6, 7, 8, 11, 14, 16, 22, 24, 29, 31, 32, 68, 76, 77, 81, 88, 89, 101, 109, 117, 2-OC, 3-OC, 4-OC, 5-OC	Numerous commenters noted the proposed SMP is a product of hours of study, research and consideration of points of view and is responsive to the needs of Pierce County citizens. They expressed appreciation for the county’s efforts including the opportunity for the public to participate. The county has done its job “informing and involving its citizens in countless public meetings, hearings, and informal gatherings.”	Comment Noted and Appreciated
A2	General comment Public Participation	12, 13, 35	Commenters express concern regarding the process near the late stage of the County’s review and approval process and assert the late addition of provisions addressing aquaculture are not the result of the detailed and informed review required by state law, and the provisions conflict with the SMA, SMP Guidelines and numerous other laws and policies pertaining to shellfish aquaculture. The Legislative intent of the SMA is to “plan for and foster all reasonable and appropriate uses.” The Pierce County SMP focuses on the “plan for” but is lacking on the “foster”.	Comment Noted
A3	General comment Public Notice	92, 118, 120	The commenters indicate Fox Island property owners were not notified of proposed environment designation changes from Conservancy to Residential along the southwest shoreline. Comments assert the county did not comply with public notice requirements in RCW 90.58.130 and request the proposed SMP be remanded to the county for additional public comment after due notice is provided to all stakeholders.	Consistent with all applicable requirements, the County undertook a significant public notice process as part of its SMP update. <ul style="list-style-type: none"> • Newspaper ads were placed in the Tacoma News Tribune, Peninsula Gateway and Puyallup Herald. • Approximately 15,000 postcards were mailed to inform the public of

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				<p>the update and 20 public meetings were held in 2012 alone (note: the shoreline environment designation along this stretch of Fox Island has been in the SMP, unchanged, since 2012).</p> <ul style="list-style-type: none"> Two meetings were held at Peninsula High School (July 25 and August 1) at which environment designations were specifically discussed. There were also open houses in Lakebay and Gig Harbor (July 16 and 11, respectively) and presentations to the Gig Harbor and Key Peninsula Land Use Advisory Commissions
A4	General comment Agency consultation	1, 60, 82, 83	The comments state the addition of prohibitions on activities within the Nisqually Reach Aquatic Reserve were made at the last minute, without public review or agency consultation as required. It’s noted the SMA requires the county to “Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact.” RCW 90.58.100(1)(b).	<p>Comment Noted</p> <p>The revisions made are the result of the public comment process, completed in a manner consistent with applicable requirements.</p>
	State Review and Approval Process General Comments			
B1	General comment Public Notice	16, 29, 33	Commenters question how Ecology notified people about the hearing. Many people are interested in the SMP process but were unable to attend the hearing because of late notice, only learning of the meeting second hand. Others assert notice was provided late “to give the shellfish industry one more try to circumvent the people’s will to limit aquaculture in Pierce County.”	Comment Noted
B2	General comment Public Participation	31	Commenter noted that many interested people on Anderson Island could not attend the hearing because the ferry schedule prevented them from attending at the scheduled time.	Comment Noted
B3	General comment State Approval Process – Tribal Treaty Rights	57, 105	Ecology should send the amendments back to the county with required changes particularly related to aquaculture and consistent with the SMA. Included should be the recognition that the county does not have the authority to unilaterally prohibit aquaculture activities that are part of Tribal Treaty rights.	<p>Comment Noted.</p> <p>The County recognizes the limits to its authority on this matter and included the following language within the Applicability section of the SMP (Section 18S.10.030 (8)) to make this clear: “The shoreline jurisdiction does not include</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
				land owned by tribal members or tribes within their tribal reservation, or lands held in trust by the federal government for tribes or of tribal members.
B4	<p>General comment State Approval Process</p>	<p>2, 4, 5, 6, 7, 8, 9, 10, 11, 14, 16, 17, 22, 26, 29, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 48, 49, 50, 52, 53, 54, 56, 62, 63, 64, 65, 66, 67, 68, 69, 71, 72, 73, 74, 76, 77, 79, 80, 81, 84, 85, 86, 87, 88, 89, 90, 91, 100, 101, 109, 117, 2-OC, 3-OC, 4-OC 5-OC</p>	<p>Comments request approval of the SMP as submitted; many commenters specifically point to retention of all aquaculture provisions with no changes based upon the following:</p> <ul style="list-style-type: none"> • The SMP represents “the will of the people”. • “The social value of work done by citizens, through their local government processes cannot be overlooked.” • Protecting the public interest is vital in managing shorelines (RCW 90.58.010) and the public interest is evident in the testimony throughout the County. “This public interest should carry massive weight as compared to special interest.” • It will prevent unrestricted activities along shorelines and intertidal areas, including intense aquaculture proliferation • Provides provisions for accountability and oversight of industrialized commercial aquaculture • The shellfish industry’s last minute proposed revisions are an effort to thwart the public process involved in developing an SMP, and industry representatives requested the results of the transparent and public process used to develop 18S.40.040 be disregarded and overridden during the state hearing. • Ensures protection of Puget Sound while recognizing the value and role of responsible aquaculture in the county • The SMP is supposed to increase protections not to allow industrial aquaculture to gain a foothold for their expansion efforts” • Despite the Shellfish Initiative, “Ecology’s job is to protect Puget Sound for all Washingtonians, not just to accommodate the shellfish industry.” 	<p>Comments Noted</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
B5	<p>General comment State Approval Process</p>	<p>12, 18, 19, 35, 57, 105, 107, 110, 112, 113, 115, 116, 121, 122, 123, 6-OC</p>	<p>Commenters request Ecology deny the SMP and, if not denied, revised to ensure consistency with the SMA and SMP Guidelines based on the following:</p> <ul style="list-style-type: none"> • Proposed shellfish provisions directly conflict with the SMA, SMP Guidelines and numerous other laws and policies • Instead of fostering aquaculture as a preferred, water-dependent use, the SMP would prevent new shellfish farms in the county through outright prohibitions or by imposing such onerous and unreasonable regulations and permitting requirements as to practically prevent new farms from being established. • The SMP Guidelines recognize aquaculture as in the statewide interest and capable of producing long-term benefits and protecting the resources and ecology of the shoreline. • Proposed regulations prohibit and discourage shellfish farming and the county will lose the diversity of large and small shellfish businesses. • The regulations fail to allocate the burden of addressing cumulative impacts to meet “no net loss” across all developments and uses. • It renders existing farms nonconforming and with the intention of phasing them out of existence. By doing so the SMP fails to protect critical saltwater habitat and actively attempts to eliminate it from the County. 	<p>The County recognizes that aquaculture is a water-dependent, preferred use of the water with a long history in Pierce County, and it is not the intent of the SMP to prohibit aquaculture throughout the County, nor phase out existing farms.</p> <p>However, the County must address the conflicts that exist between aquaculture and other shoreline uses.</p> <p>The SMP addresses these conflicts by restricting or prohibiting commercial aquaculture in specific portions of its shorelines. These include areas of unique ecological value (such as adjacent to the Natural Shoreline Environment and within portions of the Nisqually Aquatic Reserve), and areas with significant potential for use conflicts, such as Wollochet Bay.</p> <p>The SMP also prohibits expansion of aquaculture into areas with recognized water quality problems, and areas developed at an intensity, that are inconsistent with commercial aquaculture.</p> <p>We would also note that the prohibition on commercial aquaculture in the Nisqually Reserve, which at first glance appear significant, actually affects a relatively small portion of the tidelands. The Department of Natural Resources estimates that the prohibition would affect roughly 30% of the shorelines in the reserve, the remainder being private tidelands that are not included within the reserve.</p>
B6	<p>General comment State Approval Process</p>	<p>2, 7, 14, 16, 24, 31, 32, 47, 101</p>	<p>Commenters question why Ecology has taken so long to review the SMP thus delaying implementation of the updated regulations. The agency had the opportunity to comment, and was consulted by county staff, on earlier drafts. Assertions are made that the delay is related to the “last ditch effort” to make changes in the SMP to benefit the aquaculture industry. Doubts are expressed regarding the objectivity of state (and county) agencies in review of geoduck aquaculture related issues.</p> <p>The general public has little opportunity to provide input with “exactly 3 minutes before a microphone” while shellfish industry lobbyists, growers and associations regularly meet with state and county planners and shellfish legal counsel “data drop” volumes of material.</p> <p>Comments additionally assert Ecology has been heavy handed in review of other SMPs,</p>	<p>Comments Noted</p>

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			<p>acting as an advocate for geoduck and net pen aquaculture and exceeding the agency’s authority under the administrative code in how shorelines are regulated (e.g. Jefferson County and Bainbridge Island).</p> <p>The State should respect the County’s process which:</p> <ul style="list-style-type: none"> • was open and transparent and was a ten year process with stakeholders at every level • the public interest is evident in testimony during the county’s process and merits “massive weight as compared to special interests” • the provisions in the SMP are in response to citizen involvement and aquaculture industry input 	
B7	<p>General comment State Approval Process</p>	35, 112	<p>Ecology should review the SMP with the following in mind:</p> <ul style="list-style-type: none"> • consistency with state economic policy • consistency with state aquaculture policy and statewide interest in aquaculture as expressed in the Washington State Shellfish Initiative • the benefits of local seafood production and its relationship to human health 	Comment Noted
	<p>18S.10 Introduction</p>			
C1	<p>18S.10.025 Constitutional Protection</p>	78	<p>To ensure consistency with the U.S. and Washington constitutions, the commenter suggests the following revision: <u>Consistent with United States and Washington State constitutions, no person shall be deprived of ...</u></p>	These constitutional protections exist regardless of whether they are explicitly stated.
C2	<p>18S.10.050 H.4 Interpretation H. Maps</p>	78	<p>Futurewise recommends 18S.10.050 (H)(4)(b) be deleted because it is inconsistent with the requirement that environment designation changes require SMP amendments.</p> <p>b. Where the County Council, as part of an ordinance approving Title 18S PCC, inadvertently approves SEDs that divide a parcel, the entire parcel shall be considered to be within the classification of the majority of the parcel; i.e., the portion which is greater than 50 percent of the lot area, except for those split by the Aquatic SED.</p>	The referenced language is consistent with Department of Ecology guidance.

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
C3	<p>18S.10.055 Recognition of Legally Established Development</p>	105	<p>It’s noted that the SMP clearly identifies the relationship of the SMP to legally established development, but does not address established development that was <u>not</u> legally established. <i>“This problem should be addressed explicitly, and substantial penalties imposed. Otherwise, regulatory review will treat an illegal shoreline development as if it is a new application and thus likely will reward illegal activity.”</i></p>	<p>There are no exemptions or allowances provided for development that occurred without the appropriate County review and approval. The commenter is advised to refer to Section 18S.10.070 and Chapter 18.140 for compliance language.</p>
C4	<p>18S.10.055 Recognition of Legally Established Development B. General</p>	12	<p>The comment states that 18S.10.055, as written, does not differentiate between fallow aquaculture areas and other types of shoreline uses or structures that have been abandoned or discontinued.</p> <p>Revisions are requested to prevent conflict with state law, specifically the Bush and Callow Land Acts. Numerous Bush Act lands, many with existing farms, are located in the county. Under the Bush Act, tidelands sold to private parties retain the right to farm <i>“even if these aquatic lands have been dormant for many years.”</i> Aquaculture uses may continue regardless of their nonconforming status under the local SMP and Bush Act lands.</p> <p>B.3. If a nonconforming use or use of a non-conforming structure is abandoned or discontinued for more than three years, the nonconforming rights shall expire and any subsequent use or structure shall be conforming. A use authorized pursuant to PCC 18S.10.055 E.3. shall be considered a conforming use for purposes of this subsection. <u>Dormant or fallow areas of aquaculture farms are not considered discontinued or abandoned. The determination of whether aquaculture is abandoned and hence subject to the three-year provision in this subsection shall be made on a case-by-case in consultation with the operator. In its determination, the County shall consider such factors as whether the property was acquired under the Bush or Callow Acts of 1895, the use of crop rotation and fallowing, state or federal permit requirements, pest infestations, seed or juvenile availability, market fluctuations, and pollution of the farm site from other uses or developments.</u></p>	<p>The County recognizes the difference between at “abandonment” and “dormancy””, as applied to aquaculture.</p> <p>A claim of dormancy will be reviewed by the County on a case by case basis.</p>
	<p>18S.20 Shorelines of Statewide Significance and Shoreline Environment Designations (SED)</p>			

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
D1	18S.20.030 Natural SED	78	<p>Futurewise recommends additional shoreline segments, totaling approximately 84 miles of marine and freshwater shorelines, be included in the Natural designation in order to protect the health of Puget Sound. It’s suggested that implementing the recommended changes would ensure there is adequate buffer width, limited vegetation removal, uses limited to very low intensity and the exclusion of modifications that alter the natural functions and natural visual character. These are elements are not assured under the current Conservancy designation for most of the areas recommended for change.</p> <p>See <i>Attachment A-List of Recommended Environment Changes</i> (Futurewise letter dated 4/27/2016) appended to this Summary for specific recommendations</p>	<p>The County is confident that its assignment of shoreline environments is consistent with established State guidelines and accurately reflects existing use patterns, shoreline characteristics, and community interests.</p>
D2	18S.20.030 Natural SED South Key Peninsula - Case Inlet (North Bay)	94, 98, 102,106, 107, 111, 114	<p>Comments by property owners oppose designation of their family-owned property as Natural, and believe the existing and historic activities on their property – ongoing commercial and forestry uses and geoduck farming, is not consistent with the designation criteria. Concern is expressed that the designation would prohibit ongoing historic uses of the property in the future and it’s suggested that Conservancy is more consistent with existing uses.</p> <p>Parcels #0020084002, 0020162000, 0020093002</p>	<p>The shoreline along these parcels, which is currently in Natural designation, remains largely undeveloped and contains unique shoreforms consistent with the Natural designation (unstable slopes, lagoon, spit).</p> <p>Under the proposed designation of Natural, neither forestry, agriculture, nor residential development would be prohibited.</p> <p>Existing aquaculture would remain an approved activity which may be modified pursuant to the allowances of 18S.10.055 E., with additional review required should there be a change in species cultivated or a change to farm size or location.</p>
D3	18S.20.030 Natural SED Anderson Island (Oro Bay) – Shaw Property	95	<p>The commenter asserts the shoreline area of the Shaw property does not meet the criteria for a Natural designation based on current and future uses of the property and on existing ecological and geological conditions.</p> <p>The property has a long-term history of, and based on County’s Agricultural Resource zoning on 75% of the property, is identified as having a long-term future in agricultural use; there also has been historic use of the site for shellfish aquaculture and an interest in continuing this in the future. Concern is expressed that the basis for the designation may be some potential future project (an estuarine restoration at East Oro Bay mentioned in the 2009 Inventory).</p> <p>Parcels #011981012, 019083017, 019081011, 0119081010, 019081009</p>	<p>Parcels -1009 and 1010 do not appear to fall within shoreline jurisdiction so, the Natural designation would not apply to them. Parcel -3017 is proposed for Conservancy designation.</p> <p>Parcel -1011 is an “L” shaped parcel, with the long axis directed north-south. The bulk of the parcel lays outside shoreline jurisdiction. The portions that fall within jurisdiction are proposed to be Conservancy.</p> <p>-1012 is a large parcel, within which an estuary and spit are located. Only the western, undeveloped portion of the shoreline area is proposed to be Natural. This shoreline is undeveloped and well vegetated and consistent with the criteria of “Natural”.</p>

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D4	<p>18S.20.030 B.5 Natural SED B. Management Policies</p>	12	<p>The commenter requests revisions to include aquaculture as an allowed use within the Natural SED and in Aquatic areas abutting the Natural SED:</p> <p>B.5. Low intensity <u>aquaculture</u>, agricultural and forestry uses may be <u>allowed consistent</u> when they are limited to ensure <u>no net loss of ecological functions that the intensity remains low</u>.</p> <p>These revisions are requested based on the following:</p> <ul style="list-style-type: none"> • under the SMA and the SMP Guidelines, aquaculture is a preferred, water-dependent use • potential locations for aquaculture are restricted to areas with suitable environmental conditions • imposing a blanket prohibition is overly restrictive and fails to foster a preferred water-dependent use • local government is required to encourage and to protect this use from damage by other activities • aquaculture is recognized as a use that can “protect the resources and ecology of the shoreline” • Aquatic areas abutting Natural SEDs are particularly suited to aquaculture and the use can coexist with and contribute to the goals of the Natural SED. • Substantial and well-established commercial aquaculture activities, using a range of cultivation methods, already occur in several Aquatic areas abutting Natural SEDs • Prohibiting aquaculture in the Natural SED renders many historic shellfish farms nonconforming • Some of the areas abutting Natural SEDs are Bush Act lands specifically deeded for the purpose of shellfish farming 	<p>The Natural environment shoreline designation is relatively limited in the County (roughly 21% of the 224 miles of shoreline).</p> <p>The County proposes to prohibit aquaculture in the Natural Environment, while carefully allowing a limited number of other uses, so as to protect these relatively intact shoreline areas.</p> <p>Legally established shellfish farms adjacent to the Natural Shoreline Environment are allowed to continue as a nonconforming use and may be modified pursuant to the allowances of 18S.10.055 E.</p>
D5	<p>18S.20.050 Residential Shoreline SED Fox Island-south shore</p>	75, 92, 96, 97, 108, 118, 119, 120, 8-OC	<p>Numerous commenters oppose re-designation of the south/southwestern shore of Fox Island from Conservancy to Residential and contend it is inconsistent with the designation criteria in the SMP.</p> <ul style="list-style-type: none"> • 18S.30.040 states a Conservancy designation should be applied to shoreland areas that meet <u>one or more</u> of the six listed criteria including (2) areas of low density residential development and (4) high recreational value 	<p>The less developed parcels to the south of the referenced shoreline are proposed to be Conservancy, the ones to the north are to be Natural.</p> <p>The parcels being discussed are, save for one, developed with one or more structures, largely devoid of riparian vegetation, and their shorelines have been armored. This character is consistent with a Residential designation, not the Conservancy.</p>

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<ul style="list-style-type: none"> • WAC 173-26-211(5)(b)(iii) states a rural conservancy designation should be applied to shorelines accommodating residential uses outside urban growth areas or the shoreline is of high recreational value • County zoning is Rural 10 and the existing designations are either natural or conservancy • The south side of the island undulates from high to low bank with small residential enclaves; woody debris is common • There are no existing residential docks along 7 miles of sandy beach and re-designation would encourage the proliferation of new docks • The existing public access at Kamus Drive provides unrestricted access to a pristine shoreline where most of the tidelands are publicly owned • The SMA emphasizes protection of these public areas • RCW 90.58.020 and the preferences listed for Shorelines of Statewide Significance are cited <p>In addition, the SMP fails to comply with planning requirements to use the Inventory & Characterization to help determine where moorage facilities should be located including recommendations on limits to moorage facilities on pristine shorelines such as the south shore of Fox Island.</p> <p>It’s asserted that the Cumulative Impacts Analysis does not support a “no net loss” conclusion as</p> <ul style="list-style-type: none"> • the 5 mile shoreline on southwest Fox Island is one of the few South Sound beaches that remains intact and minimally degraded • It is reasonably foreseeable that a change in SED to Residential will result in future docks and piers on the beach which will not result in “no net loss”. <p>(Also see comment regarding lack of public notice about the proposed re-designation)</p>	<p>A change in designation has no bearing on any existing use of Kamus Drive for public access, nor does it change the underlying ownership of the shore lands and the public’s ability to access the shore.</p> <p>The requirements for construction of a dock or pier is the same under the Residential and Conservancy designations and policy 18S.40.140 B(1) (Water Access Facilities) makes clear that such facilities are not to “adversely affect” other preferred uses such as public access.</p> <p>The Inventory & Characterization report discusses the potential demand for moorage (Section 8.1.2 Demand for Water-Dependent Uses). The Use Table explains where Water Access Facilities may be allowed and where they are prohibited. residential dock, residential docks</p>
D6	<p>18S.20.070 B.2 Aquatic SED B. Management Policies</p>	12	<p>The comments recommend the following revisions to ensure consistency with the Guidelines and the SMA framework.</p> <p>B.2.Development that adversely impacts the ecological functions of <u>critical</u> marine and freshwater habitats should not be permitted except where necessary to achieve the objectives of RCW 90.58.020, and then only when their all identified impacts are mitigated as necessary to assure <u>no net loss of ecological functions</u> maintenance of shoreline ecological functions and processes.</p>	<p>“Critical “ marine habitats would appear to be a reference more specific to the language of Chapter 18E.40, which discusses critical saltwater habitats. In contrast, 18S.30.030 refers more broadly to aquatic shoreline processes.</p>

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			<p>The revised language reflects the Act’s careful balance between development and protection of the shoreline and the mandate to plan for and foster “all reasonable and appropriate uses”. The balance between development and protection is reflected in the hierarchy of use preferences in the SMP Guidelines (WAC 173-26-176 and 173-26-181).</p> <p>The SMP Guidelines addressing management of Aquatic SEDs specifically prohibit developments with adverse impacts on the ecological functions of critical saltwater and freshwater habitats unless specific criteria are met including mitigation of impacts to ensure no net loss of ecological functions.</p> <p>The creation of a new policy standard in the SMP conflicts with the requirement that local jurisdictions must generally allow for aquaculture in appropriate areas so long as it does not result in a net loss of ecological functions or significantly conflict with navigation or other water-dependent uses.</p> <p>The county has also failed to meet its obligation to demonstrate how this provision does not conflict with its mandate under the Guidelines to “[p]reserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish beds” on shorelines of statewide significance, which include all Aquatic areas seaward of extreme low tide.</p>	
	<p>18S.30 General Policies and Regulations</p>			
E1	<p>18S.30.020 C Archaeological, Cultural and Historic Resources C. Regulations</p>	78	<p>Futurewise recommends consultation with affected Indian Tribes prior to development activities and suggests this could save time and money because many shoreline areas in the County are rated “high risk” or “very high risk” for potential archaeological resources, based on the Department of Archaeology and Historic Preservation (DAHP) predictive model. To address this, the addition of the following new provision is recommended:</p> <p><u>C. 3. Before issuing a permit or exemption in areas the Washington State Department of Archaeology and Historic Preservation archaeological predictive model recommends or advises a survey, a cultural resources site inspection or evaluation by a professional archaeologist shall be required in coordination and</u></p>	<p>The County currently does include, and will continue to include, similar language in all its correspondence to shoreline property owners:</p> <p>“In the event that any ground-disturbing activities or other project activities related to this development, or in any future development, uncover protected cultural material (e.g., bones, shell, antler, horn or stone tools), the following actions will be taken...”</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<p><u>consultation with affected Indian tribes. The requirement to conduct a cultural resources site inspection can be waived by the Administrator where a previous inspection and evaluation by a professional archaeologist has documented that cultural or archaeological resources are not on the site. If cultural or archaeological resources are discovered, the application shall comply with 18S.30.020.C.2.</u></p>	<p>As well as: “Compliance with all applicable laws pertaining to Archaeological Resources (RCW 27.53, 27.44 and WAC 25-48) and with human remains (RCW 68.50) is required. Failure to comply with these requirements could result in a misdemeanor and possible civil penalties and constitute a class C felony.”</p>
F1	<p>18S.30.030 Ecological Protection</p>	105	<p>The commenter notes the section “seems to establish a very good description of the values to be protected and a “no net loss of ecological functions and processes” standard.” However, concerns are expressed regarding the scope of the no net loss standard (is it county-wide or watershed-wide or what?). It’s suggested that along marine shorelines, the appropriate scope of no net loss is the drift cell.</p> <p>It’s recommended that “a clear and workable definition of no net loss be added to the SMP”.</p> <p>Similar concerns are expressed regarding cumulative impacts with a recommendation that the SMP include “a clear and workable definition of cumulative impact and cumulative impact analysis.”</p>	<p>No Net Loss: The SMA provides no definition of No-Net-Loss and is silent on the scale at which No-Net Loss is to be defined. The SMA allows local jurisdictions to address No Net Loss through careful selection of shoreline environment designations, careful implementation of regulations and policies, and restoration at various scales.</p> <p>Practically speaking, No-Net-Loss is most easily defined on the project level scale and that will generally be the focus of the County’s review. However, there may be instances where No Net Loss is evaluated on some other scale, such as a drift cell.</p> <p><u>Cumulative Impact Analysis (CIA):</u> Similar to No-Net-Loss, there is no single accepted definition or process.</p> <p>This can lend itself to confusion because it allows people to apply a rather broad range of definitions of their own choosing.</p> <p>However, given the variety of ways in which the term “CIA” is used (see Discussion), it is difficult to see how one definition can be arrived at that would prove serviceable.</p> <p>As such, the County doesn’t propose to create a definition but, rather will apply the requirement on a project specific basis in a manner consistent with the policies of the SMA (see Discussion).</p> <p><u>Discussion:</u></p> <p>“CIA” is used in the County’s SMP in both a very general sense (vegetation is preserved to mitigate the “...cumulative impacts of shoreline development”) and a very narrow sense (“in the granting of all shoreline variances, consideration shall be given to the cumulative impacts of additional requests for like actions.” (emphasis added). CIA is also found in the aquaculture section</p>

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				<p>(“...analysis of cumulative impacts for....more complex projects.”). Finally, a CIA was done as part of the SMP process to ensure that the SMP’s policies, programs, and regulations appropriately addressed adverse cumulative.</p> <p>Though the County does not propose to provide a definition of CIA, we can say that, when a CIA is required, the “universe” of issues towards which the analysis will apply can be found in RCW 90.58.020 (Use Preference):</p> <ul style="list-style-type: none"> (1)statewide interest over local interest; (2)natural character of the shoreline; (3)long term over short term benefit; (4)resources and ecology of the shoreline; (5)public access.....; (6)recreational opportunities.....; (7)any other element as defined in RCW 90.58.100 .
F2	<p>18S.30.030 D.6 Ecological Protection D. Regulations – Critical Areas Wetlands</p>	78	<p>Because of the requirement that SMPs achieve no net loss of wetland area and functions (WAC 173-26-221(2)(c)(i)(A)), Futurewise recommends proposed regulation D.6 be deleted because it exempts certain Category III and Category IV wetlands from the mitigation requirements.</p> <p>Wetland functions benefit county residents, property owners and businesses including removal of pollutants such as nitrogen. This is important because many rely on wells for drinking water and the county has already lost significant wetland area and functions.</p>	<p>Outside shoreline jurisdiction, certain Category III and IV wetlands are exempt from the County’s wetland regulations. The referenced section removes that exemption and identifies that these same wetlands remain regulated if they are within shoreline jurisdiction.</p>
F3	<p>18S.30.030 E Ecological Protection E. Regulations – Shoreline Buffers Table 18S.30.030-2 Standard Shoreline Buffers and Setbacks</p>	78	<p>The comment describes the importance of protecting riparian vegetation to maintain ecological functions (such as delivery of large organic debris, shading and sediment removal) consistent with RCW 90.58.020 and the SMP Guidelines.</p> <p>Given that, Futurewise believes the SMP should have wider science-based buffers and that none of the proposed buffers in the table are wide enough to maintain shoreline functions. The following buffer widths are necessary and recommended: Natural – 200 feet, Conservancy – 150 feet and Residential – 100 feet.</p>	<p>The buffers chosen are within the range of widths known to provide protection to the functions referenced by the respondent.</p> <p>Also, the shoreline buffers are merely one aspect of the County’s requirements pertaining to vegetation retention. The Ecological Protection section includes both policies and regulations that identify the need to retain vegetation within the entire shoreline jurisdiction, not just the shoreline buffer.</p> <p>Finally, the shoreline regulations work in tandem with our critical area regulations, which may have separate buffer requirements associated with wetlands, steep slopes, or fish & wildlife habitat features</p>
F4	<p>18S.30.030 E Ecological Protection E. Regulations – Shoreline</p>	78	<p>Lake Tapps setback: Concern is expressed that the SMP proposes only a setback as these do not require the retention of vegetation, only limits on buildings and impervious surfaces. Because the riparian vegetation won’t be protected by the setback, this important shoreline function will not be retained. It’s recommended that</p>	<p>The shorelines of Lake Tapps have been extensively developed with only a relatively few lots remaining undeveloped.</p> <p>So few lots (103, based on review completed in 2013), and so little riparian</p>

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	Buffers Table 18S.30.030-2		a buffer or vegetation maintenance and restoration requirement be adopted for Lake Tapps.	vegetation, remain as to make a formal buffer along the few remaining undeveloped lots, unwarranted. As such, and with the involvement and consent of The Department of Ecology, Council chose to require a setback instead of a more restrictive buffer. However, Section 18S.30.030 C (Mitigation Sequencing) and G (Vegetation Conservation) still apply, which means that development along Lake Tapps must still demonstrate avoidance and minimization of impacts by retaining vegetation, particularly trees. Also, the Tapps setback does not benefit from “averaging” or “reduction” allowances of 18S.30.030, which are specific to buffers.
G1	18S.30.040 C.1 Excavation, Dredging, Filling, and Grading C. Regulations	4, 6, 9, 22, 31, 55, 100, 101, 109, 117, 2-OC, 3-OC, 4-OC, 5-OC	Dredge Disposal-Nisqually Reach Aquatic Reserve 18S.30.040 (C)(1)(d): Commenters request the provision prohibiting dredge material disposal within the Reserve be retained based on the following: <ul style="list-style-type: none"> • Dredge disposal is contrary to the purposes of the Reserve and may harm Puget Sound. • The Reserve is a unique, pristine area and should be kept in its natural state • Dredge disposal has a negative impact on Anderson Island Park district property • Dumping of toxic waste should not be allowed • The area is designated an Important Bird Area by the Audubon Society 	Comment Noted
G2	18S.30.040 C.1 Excavation, Dredging, Filling, and Grading C. Regulations	60, 82, 83, 99	Dredge Disposal-Nisqually Reach Aquatic Reserve 18S.30.040 (C)(1)(d): Commenters request this provision be struck based on the following: <ul style="list-style-type: none"> • The underlying County Findings of Fact (#’s 40 and 41) are incorrect and not based on fact. • There was no agency consultation or opportunity for comment on this provision • The County does not have studies in the record supporting the prohibition evaluating whether ecological harm is occurring or assessing economic costs • The Anderson/Ketron disposal site is the South Sound regional disposal site, and is one of several Puget Sound sites established per WAC 332-30-166(10)(e). 	Comment Noted The Nisqually Reserve is an area of unique environmental resources, supporting a variety of Federal and State listed species of regional importance. The restriction proposed acknowledges the County’s desire to emphasize the protection of these important regional resources.

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			<ul style="list-style-type: none"> • The disposal site is an existing approved use within the Reserve Management Plan • Environmental and regulatory oversight, including monitoring, is in place through the Dredged Material Management Program agencies • National Marine Fisheries Service has evaluated impacts of dredged material disposal on endangered species and approved the use through the year 2040 • The site is located within a “shoreline of statewide significance” and the SMP must be consistent with the use preferences set forth in RCW 90.58.020, the first of which is “recognize and protect the statewide interest over local interest”. The disposal sites have been recognized by the Legislature in RCW 79.105.500 as “essential to the commerce and well-being of the citizens of the state of Washington”. 	
H1	<p>18S.30.050 C.1 Shoreline Access C. Regulations-Residential</p>	78	<p>Commenter requests Regulation C.1 be revised to include public access to ensure consistency with the Guidelines requirement that residential developments creating more than four lots or housing units provide public access (WAC 173-26-221(4)(d)(iii)). As currently written, residential developments of more than five lots or dwelling units are not required to provide <u>any public access</u>.</p>	<p>WAC 173-26-221(4)(d)(iii) allows a jurisdiction some flexibility in providing for public access when developing shoreline properties for residential use. It also acknowledges that effective public access can be accomplished through the course of a larger public planning process.</p> <p>As part of the SMP update, Pierce County has conducted an inventory of sites with public access to the shoreline and water. Appendix G of the SMP update provides maps showing the location of these public accesses. This helps to improve public awareness of and access to public shorelines. The SMP update also requires shoreline access to be integrated into non-residential shoreline development. As a truly regional asset, public shorelines within other Pierce County jurisdictions will also continue to provide shoreline access to all residents of Pierce County</p> <p>Also, PCC 18S.30.050 C. does not allow for individual lots on subdivisions of 5 lots or more to extend to the water. Consequently, piers, docks, and other structures associated with individual residences will not be allowed. This will then preserve for public use, those public tidelands and other publicly owned areas below the ordinary high water mark (OHWM).</p> <p>Adjacent areas landward of the OHWM will be required to maintain the natural</p>

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				visual appearance and ecological functions of the waterfront, which will thereby contribute to public enjoyment of the shoreline. In all cases with developments of 5 or more lots, all residents within the subdivision will have access to the shoreline and adjacent upland, and decreasing public demand on other public shorelines in the vicinity.
I1	18S.30.070³ Shoreline Stabilization	105	There are policies that provide good protection to shoreline ecological functions but there are no regulations that implement these policies (see B5 and B6 for example). The comment recommends the SMP be amended to include regulations which directly implement these policies.	No specific regulation was provided in the SMP as these issues are addressed through existing codes, principally: Title 17A – Site Development and Stormwater Drainage and Title 18E –Development Regulations Critical Areas
I2	18S.30.070 Shoreline Stabilization	78	The commenter appreciates the many good policies and regulations in this section but believes additional standards are needed to protect shoreline functions from adverse impacts of shoreline stabilization. <ul style="list-style-type: none"> • The proposed regulations don’t include standards addressing critical saltwater. A regulation consistent with WAC 173-26-221(2)(b)(iii)(C) should be added. • WAC 173-26-231(3)(a)(iii)(B) and (C) have very specific standards that current science has shown is necessary to protect Puget Sound and other shorelines from ecological damage. While some of the requirements are included, the proposed section needs to include all the requirements in WAC 173-26-231(a)(iii). 	Compliance with WAC 173-26-221 is met by Section 18S.30.030 Ecological Protection, which applies to all development within shoreline jurisdiction and which includes adherence to the hierarchical mitigation sequencing requirement of “avoid – minimize-mitigate”
J1	18S.30.090 C.2 Water Oriented Development C. Regulations	104	The commenter expresses concern that 18S.30.090 (C)(2) is vague, undefined and onerous, and that it could prohibit accessory dwelling units and duplexes within 200’ of the OHWM. Questions are raised regarding the meanings/interpretations of “portion of a use that in non-water-oriented”, “portion of a use” and “single-family residence”.	<ul style="list-style-type: none"> • Duplexes fall within the definition of “Other Housing Types”, as provided within the Use Table (18S.60.030-1) and are allowed within the Conservancy and Residential shoreline designations • ADUs are considered an “accessory use” and are allowed in the Conservancy, Residential, and Natural shoreline environments (where they require an Administrative Conditional Use). • Regarding water-oriented use: The SMA has three over-arching policies, based on the legislative findings detailed in RCW 90.58.020. The three policies are (emphasis added): <ol style="list-style-type: none"> 1. Protect the environmental resources of state shorelines 2. Promote public access and enjoyment opportunities 3. Give priority to uses that require a shoreline location

³ Comment letter references 18S.30.040 but the comment is clearly about shoreline stabilization (18S.30.070).

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				<p>This last policy stems from the language of RCW 90.58.020:</p> <p>“..uses shall be preferred which.....are unique to or dependent upon use of the states shorelines”.</p> <p>To this end, the SMP expresses a preference for “water oriented” uses. Non-water oriented uses are not necessarily prohibited but, the regulations do in fact require that an applicant demonstrate why a use that is not dependent upon the shoreline, be situated in shoreline jurisdiction</p> <ul style="list-style-type: none"> • The term “portion of a use that is non-water oriented” is a bit awkward but, it comes into play when someone propose a use that is generally water-oriented (a marina, for example) but, which includes some other use (a video rental store, as an example) that is not dependent on the shoreline. • “Single family residence” <p>WAC 173-27-040 defines “Single family residence” to mean:</p> <p>“a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark”</p> <ul style="list-style-type: none"> • A “launching ramp” is one specific type of water access facility. A launching ramp is not a railway, a dock, or some other type of water access feature. <p>The intent of 18S.40.140 (D)(10) is not prohibit water access facilities nor is it intended to totally prohibit launching ramps. The language prohibits the construction of a launching ramp that would serve four or fewer residential parcels.</p>

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				<ul style="list-style-type: none"> The threshold dollar amount for Substantial Development Permits are established by the State and beyond the authority of the County’s SMP The comment regarding a prohibition on basements is unclear. Basements are not prohibited.
K1	18S.30.100 Water Quality, Stormwater and Nonpoint Pollution	78	Commenter expresses support for the proposed section and recommends addressing additional pollution-generating uses and activities. Additional recommendations include limiting floating homes and live-aboards to marinas with sewage systems and the prohibition of many pollution sources within shoreline jurisdiction because of the proximity to water and the risks associated with facility failures.	Comment Noted
	18S.40 Use and Development Policies and Regulations			
L1	Aquaculture 18S.40.040 Introduction	12, 112	Commenter requests revisions to ensure the county’s SMP recognizes aquaculture as a preferred use as well as a water-dependent use consistent with the SMA and Guidelines. “The intent of the Aquaculture policies and regulations is to manage the culture and farming of fish, shellfish, or other aquatic plants and animals. Aquaculture is a water-dependent use <u>and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.</u> Local government shall consider local ecological conditions ...” Additional comments assert neither the SMA nor rules authorize the county to “manage” aquaculture nor does the county have expertise in this and requests this be deleted for consistency with the SMA.	Comment Noted

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
L2	Aquaculture 18S.40.040 B.1 B. Policies	105	Policy B.1 (p. 43, line 24) requires review of “aesthetic qualities of the project area”, but there is no definition of “aesthetic qualities” and no reference to the SMA section that justifies such evaluation for a water dependent use. The Tribe recommends this language be removed from the document at all places it is found.	Through the course of stakeholder meetings, and the creation of the aquaculture section of the SMP, the concern about the visual impact of aquaculture activities was made abundantly clear. We recognize that aesthetics are a subjective issue but, we also recognize that enjoyment of the aesthetic qualities of the shoreline are a recognized aspect of the SMA
L3	Aquaculture 18S.40.040 B.2 B. Policies	12, 112	2. Give preference to aquaculture projects that do not involve the placement of tubes, structures, or alterations to the shoreline. The commenters requests Policy B.2 be struck based on the following: <ul style="list-style-type: none"> • This conflicts with the classification of aquaculture as a preferred water-dependent use and the identification of shellfish beds as critical saltwater habitats • The SMA and SMP Guidelines promote all kinds and methods of aquaculture. This provision specifically and arbitrarily discourages many common aquaculture activities and specifically discourages geoduck aquaculture • Is unsupported by, and contradicts the most current, accurate and complete scientific and technical information (see Washington Sea Grant research) • Since any “alteration” would be discouraged under this policy statement, this policy results in a de facto preference against all forms of aquaculture. 	This language reiterates, and is consistent with, the mitigation sequencing pathway described in Table 18S.30.030-1 as well as RCW 90.58.020 which recognizes the importance of preserving the natural character of the shoreline.
L4	Aquaculture 18S.40.040 B.3 B. Policies	112	The commenter requests Policy B.3 be struck because feed is required for fin fish aquaculture. The policy is designed to impede aquaculture and make it a disfavored use contrary to the policies of the SMA and SMP Guidelines. 3. Give preference to projects that involve minimal or no supplemental food sources, pesticides, herbicides, or antibiotic applications.	This language reiterates, and is consistent with, the mitigation sequencing pathway described in Table 18S.30.030-1 as well as RCW 90.58.020 which recognizes the importance of preserving the natural character of the shoreline.
L5	Aquaculture 18S.40.040 B.4	12, 112	The following revisions to Policy B.4 are recommended: <ol style="list-style-type: none"> 4. Design, locate, and operate aquaculture activities in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes. Aquaculture should not be permitted where it 	The County’s critical areas ordinance applies within shoreline jurisdiction and aquaculture is subject to review under both 18S and Title 18E.40 (Regulated Fish

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
	B. Policies		<p>would result in a net loss of shoreline ecological functions; adversely affect the quality or extent of habitat for Federal and State listed species and species of local importance including eelgrass, kelp, and other macroalgae; adversely impact other habitat conservation areas or connectivity between such areas; or significantly interfere with navigation or other water-dependent uses.</p> <p>These revisions will:</p> <ul style="list-style-type: none"> • Ensure consistency with the SMA and Guidelines, specifically WAC 173-26-241(3)(b)(i)(C). The additional qualifications add significant uncertainty without achieving any greater protections. <p>The policy, as written, fails to strike the balance between “shoreline utilization and protection” required by the SMA. It would instead be utilized to prohibit aquaculture if there are <u>any</u> potential impacts to virtually any species or habitat, even if the proposal otherwise satisfies all the criteria in the Guidelines including the no net loss standard. This violates WAC 173-26-201(2)9e)(ii)(A) which does not require mitigation beyond the no net loss standard.</p> <p>Comments also raise concerns regarding county expertise in determining adverse impacts to listed species or critical habitat and suggests this be left to state and federal agencies.</p>	and Wildlife Species and Habitat Conservation Areas). The language of 18S.40.040 is intended to emphasize those review requirements.
L6	Aquaculture 18S.40.040 B.5 B. Policies	12	<p>The comment requests Policy B.5 be struck:</p> <p>5. Individual aquaculture uses and developments shall be separated by a sufficient distance to ensure that significant adverse cumulative effects do not occur.</p> <p>This policy would unnecessarily restrict aquaculture, is duplicative of permitting requirements, and is unsupported by and inconsistent with current science and technical information.</p>	<p>County Comment</p> <p>This policy stems from the two-year aquaculture stakeholder process and it addresses concerns over cumulative impacts resulting from individual farms, within separate parcels, extending along large sections of shorelines. The policy does not mandate any particular separation and, it is expected that the 10 foot setback required between farm boundary and property line will be sufficient.</p>
L7	Aquaculture 18S.40.040 B.7 B. Policies	12	<p>Revision of Policy B.7 is requested:</p> <p>7. Monitor and identify aquaculture project environmental impacts that have been identified to result from an aquaculture project and that may result in a net loss of shoreline ecological functions. Monitoring protocols should be consistent with the recommendations of local, State, and Federal agencies with expertise. The results of monitoring shall <u>may</u> be used to identify necessary changes to project-specific aquaculture operations and to aquaculture permitting</p>	Comment Noted

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<p>requirements.</p> <p>The proposed policy assumes monitoring is necessary for all aquaculture projects even when such impacts have not been identified. This is inconsistent with state law. The requirement to monitor all potential impacts without limitation is also inconsistent with the standard set by the SMA and Guidelines.</p> <p>The SMP already requires monitoring of identified impacts as part of mitigation sequencing which applies to all projects. Aquaculture is the only use for which the county proposes to impose additional, stand-alone monitoring requirements outside of mitigation sequencing.</p>	
L8	<p>Aquaculture 18S.40.040 B.8 B. Policies</p>	112	<p>The commenter states that any food production system will have some negative impact so while Policy 8 seems to give flexibility to aquaculture practices, the exception that <i>any “negative impacts[s]” must be avoided or minimized</i>, could be used to prohibit all aquaculture. The State Environmental Policy Act (SEPA) provides the overall policy for identifying, evaluating, discussing and mitigating <u>significant</u> adverse impacts.</p>	Comment Noted
L9	<p>Aquaculture 18S.40.040 B.8 B. Policies</p>	12	<p>Revisions to Policy B.8 are requested because</p> <ul style="list-style-type: none"> • Mandatory monitoring is inconsistent with state law and policy and unsupported by scientific or technical information • Monitoring should be required only where there is a demonstration that it is necessary to ensure compliance with permit conditions <p>8. Give flexibility to aquaculture practices, provided that the overarching concern shall be avoidance or minimization of negative impacts as set forth in Title 18S PCC. The County shall <u>should</u> establish monitoring procedures <u>that are necessary</u> to ensure that aquaculture operations are in compliance with permit conditions.</p>	Comment Noted

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
L10	Aquaculture 18S.40.040 B.9 B. Policies	12	<p>The following revision of Policy B.9 is requested:</p> <p>9. Limit the scale and period of operation of aquaculture practices that are unproven or that involve impacts of an indeterminate nature. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Experimental forms of aquaculture require latitude in their development, and the County should consider the potential impact of experimental aquaculture on existing uses and natural systems.</p> <p>The revisions are needed for the following reasons:</p> <ul style="list-style-type: none"> • Placing artificial limits on unproven forms of aquaculture is the exact opposite of the approach in the SMP Guidelines • To ensure that new and experimental forms of aquaculture are given the support they need to develop • Potential impacts must be assessed and addressed on a case-by-case basis 	Comment Noted.
L11	Aquaculture 18S.40.040 B.10 B. Policies	12	<p>Revision to Policy B.10 is requested to ensure the SMP encourages all forms of aquaculture. As proposed, the policy:</p> <ul style="list-style-type: none"> • is contrary to the SMA, SMP Guidelines and state and federal policy to promote shellfish aquaculture in Washington state • appears to assume aquaculture for restoration has fewer impacts or greater ecological benefits than commercial aquaculture <p>10. Encourage aquaculture activities proposed solely for purposes of shoreline restoration and enhancement.</p>	Comment Noted.
L12	Aquaculture 18S.40.040 B.11 B. Policies	12, 35, 112	<p>One commenter requests Policy B.11 be struck entirely because:</p> <ul style="list-style-type: none"> • the provision is internally inconsistent with other SMP provision applicable to aquaculture • is duplicative because a conditional use permit (CUP) is required for all aquaculture and an analysis of cumulative impacts must be conducted before the permit is issued • it conflicts with the review criteria for CUPs and implies only “more complex” projects are subject to a review of cumulative impacts. It is also unclear what constitutes a “more complex” project <p>Other commenters raise concerns that:</p>	<p>It is unclear what inconsistency is being referenced</p> <p>The requirement for a cumulative impact analysis for certain aquaculture proposals can be included as part of the analysis required for CUPs. These analyses are additive, not duplicative</p> <p>The CUP analysis requirement is specific to the potential for impacts associated with similar “like” projects. The requirement for analysis specific to aquaculture expands upon that. If the aquaculture project is not “more complex”, the only cumulative impact in need of study are those related to “like projects”</p>

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<ul style="list-style-type: none"> the expense of conducting a cumulative impacts analysis may be “out of reach of most small growers” the requirement is duplicative of SEPA requirements lacks supporting evidence in the county record to require the analysis even where not warranted 	
L13	Aquaculture 18S.40.040 C.1 C. Regulations-General	12	<p>The commenter requests regulation C.1 be struck based on the following:</p> <p>1. Applications for aquaculture shall be subject to the Aquaculture Application Requirements of Chapter 18S.70 PCC – Appendix C.</p> <p>The regulation, and Appendix C Aquaculture Application requirements:</p> <ul style="list-style-type: none"> Are directly contrary to the SMP Guidelines and Ecology’s recommendations that permitting should be streamlined and improved Imposes such extensive application requirements that it would effectively ban shellfish aquaculture applications in the county, particularly from small and medium-sized growers. Imposes an unreasonable burden without any reasonable justification Application requirements should be aligned with state and federal application materials <p>No other use – regardless of its potential impacts-is subject to similarly burdensome application requirements.</p>	<p>The contents of Appendix C were arrived at through the course of a two year stakeholder process, which included representatives of the aquaculture industry</p>
L14	Aquaculture 18S.40.040 C.2 C. Regulations-General	6	<p>Retain the following regulation:</p> <p>C.2 Aquaculture operations are subject to all applicable State approved management guidelines. Where such guidelines are less restrictive than the County requirements, the County’s requirements shall apply.</p>	<p>Comment Noted</p>
L15	Aquaculture 18S.40.040 C.3 C. Regulations-General	12, 112	<p>Revision of regulation C.3 is requested:</p> <p>3. The proposed project location shall be suitable for aquaculture with <u>no net loss of ecological functions</u> little or no modification to the shoreline environment. Mechanized grading shall not be permitted.</p> <p>The proposed standard is vague and could prohibit any and all new aquaculture. The county provides no definition of “modification” but all aquaculture activities could fall under this prohibition as all types of shoreline use and development (even restoration) involve some amount of modification.</p>	<p>The County’s language does not prohibit aquaculture and the “little or no modification” requirement has been a common condition of approval of aquaculture projects for several years.</p> <p>It is intended to be consistent with the mitigation sequencing pathway described in Table 18S.30.030-1 as well as RCW 90.58.020 which recognizes the importance of preserving the natural character of the shoreline.</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
				It should be noted that this language, which is specific to modifications of the shoreline waterward of ordinary high water, originated from the two year stakeholder process that included aquaculture industry representatives. Those representatives made clear that there is little or no need for any modification of a shoreline to make it appropriate for aquaculture.
L16	<p>Aquaculture 18S.40.040 C.4 C. Regulations-General</p>	12, 35	<p>Comments request regulation C.4 be struck:</p> <p>4. Aquaculture activities shall be set back a minimum of 10 feet from adjacent parcels not associated with the aquaculture activity. The 10-foot setback requirement shall be increased when the shoreline contains multiple individual aquaculture activity areas and it is demonstrated that a greater distance is needed between areas or adjacent parcels to ensure maintenance of other shoreline uses, such as recreation or public access, or to ensure protection of shoreline functions and processes. The expanded setback required shall be based upon water body and shoreline characteristics and an analysis of legally established shoreline development.</p> <p>This should be deleted as there is no evidence to suggest that a 10’ or greater buffer is necessary to protect adjacent parcels or other shoreline uses from aquaculture activities or that there is any relation between setbacks from property lines and shoreline functions and processes. This would threaten the economic viability of small farms where the farmable area is limited by narrow parcel widths and tidal elevations. Small growers often lease tideland associated with a single parcel. On average this is a total of 6,000 square feet. Imposing a 10 foot buffer from adjacent parcels results in a loss of about one-third of the plantable area and adds to the infeasibility for a small farmer.</p>	<p>This language stems from the County’s two –year stakeholder process, during which there was concern over the potential for certain shoreline uses, such as recreation or access, being excluded from an area of shoreline as a result of continuous farms along the shore.</p> <p>The language also speaks to concerns expressed by shoreline landowners over inadvertent trespass onto their properties. There was a desire for some setback distance between a farm and their properties.</p>
L17	<p>Aquaculture 18S.40.040 C.5 C. Regulations-General</p>	12	<p>Revision of Regulation C.5 is requested:</p> <p>5. Aquaculture activity boundaries shall be illustrated on a site plan that includes a depiction of the real property boundaries consistent with the legal description of the property. Aquaculture activity boundaries and property corners shall be staked according to Chapter 58.17 RCW and Chapter 332-130 WAC.</p> <p>Conducting a survey of a proposed farm and real property boundaries is unnecessary for the county’s evaluation of an application for shellfish farms and would be a significant additional cost without discernable benefit.</p>	<p>This addresses concerns over property line accuracy that were expressed during the two-year aquaculture stakeholder process. This concern has been voiced consistently over the course of the last decade, and has been a source of argument before the Hearing Examiner and the Shorelines Hearing Board</p> <p>This language does not mandate “survey” in the traditional sense and the County retains the discretion to allow GPS methodology (see Chapter 18S.70 – Appendix C Aquaculture Application Requirements)</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
L18	Aquaculture 18S.40.040 C.5 C. Regulations-General	2	The shellfish community should be willing to guarantee they are not encroaching on neighbors’ or State tidelands. There can be contentious debate over boundaries and a formal survey is crucial to understand and mark these locations. This is how upland disputes are often settled.	Comment Noted
L19	Aquaculture 18S.40.040 C.7 C. Regulations-General	105	Regulation C.7 should be struck : 7. Shellfish aquaculture projects shall not involve the use of supplemental feed, pesticides, herbicides, antibiotic, vaccines, growth stimulants, antifouling agents, or other chemicals. When such products are used for finfish aquaculture, usage data shall be maintained by the applicant/operator and shall be provided to the County upon request. The county adds a blanket prohibition of a variety of activities that an aquaculture project might employ with no shoreline management policy justification. <i>“These potential activities have nothing to do with shoreline regulations or the SMA, but rather are permit conditions for the project itself. This entire section should be deleted.”</i>	This language originated from the County’s two-year aquaculture stakeholder process. The language was intended to apply to shellfish aquaculture occurring waterward of ordinary high water. It does not prohibit supplemental feed, herbicides, etc. for finfish.
L20	Aquaculture 18S.40.040 C.7 C. Regulations-General	12, 112	One commenter suggests revising Regulation C.7 as follows: 7. Shellfish aquaculture projects <u>located below OHWM</u> shall not involve the use of supplemental feed, pesticides, herbicides, antibiotic, vaccines,... This regulation should be revised to clarify that a prohibition on the use of additives applies only to intertidal and subtidal aquaculture rather than upland forms. Because shellfish hatcheries and other forms of upland aquaculture can’t operate without the use of the products listed in the regulation, this provision would act as a total ban in conflict with state and federal law and policy. Other comments contend the provision is arbitrary and capricious, is not supported by best available science nor does it have any factual support. Records are kept by operators of feed, chemical usage or vaccine usage and are regulated by state and federal authorities.	This language was intended to pertain to shellfish aquaculture that occurs waterward of ordinary high water.
L21	Aquaculture 18S.40.040 C.8 C. Regulations-General	112	The commenter states Regulation C.8 is intended to impede aquaculture and violates the SMA and rules which mandate that aquaculture be treated as a preferred water dependent use. Additionally, <ul style="list-style-type: none"> There is no definition for “known to be harmful” and County staff lacks expertise to make a determination on this basis. 	The County recognizes that aquaculture is a water-dependent, preferred use of the water and that other agencies are responsible for regulation of water quality. 18S.40.040 C.8 does not prohibit the use of herbicides, pesticides, etc, unless they are shown to cause a significant impact which cannot be mitigated. As such, this language is consistent with the SMA and its requirement that uses in

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			<ul style="list-style-type: none"> The Environmental Protection Agency and Ecology regulate water quality under the Clean Water Act SEPA already provides the means for identifying, analyzing and discussing significant adverse impacts to the environment and identifying mitigation measures. The provision “conflicts with adjacent uses” is vague 	<p>the shoreline environment adhere to the mitigation sequencing pathway of ‘avoid-minimize-mitigate’.</p> <p>The “uses” included within the phrase “adjacent uses” are those discussed in Section 18S.40 – Use and Development Policies and Regulations.</p>
L22	<p>Aquaculture 18S.40.040 C.9 C. Regulations-General</p>	25	<p>Commenter fully supports the addition of “recreation” into the regulation as one of the legally established uses that must be protected from conflict with aquacultural practices</p>	<p>Comment Noted</p>
L23	<p>Aquaculture 18S.40.040 C.9 C. Regulations-General</p>	12, 112	<p>Revision to Regulation C.9 is requested:</p> <p>9. Aquaculture activities shall not substantially and materially significantly conflict with areas devoted to legally established water-dependent uses of the aquatic environment. Such uses include, but are not limited to navigation, moorage, recreation, sport or commercial fishing, underwater utilities, and scientific research.</p> <p>The revision is necessary to comply with the Guidelines which sets the appropriate standard for reconciling potential conflicts between aquaculture and other water-dependent uses. “Substantially and materially” is not defined in the SMP and could result in conflicting interpretations which would create uncertainty in the siting and review of aquaculture projects.</p> <p>Other comments suggest the regulation is vague as it is focused on “areas” rather than actual conflict which would result in the prohibition, or substantial and direct material adverse effect on an existing use. The regulation should be revised to focus on “<i>actual effects on a use</i>”.</p>	<p>Comment Noted</p>
L24	<p>Aquaculture 18S.40.040 C.10 C. Regulations-General</p>	12, 112	<p>Revision to Regulation C.10 is requested:</p> <p>10. The operator of any aquaculture activity shall provide contact information to abutting waterfront property owners and shall, in a timely manner, respond to and rectify any complaint relating to materials, equipment, or operation activities <u>as necessary to comply with permit conditions</u>.</p> <p>This revision is necessary to ensure the requirement to respond to and rectify complaints is rooted in the terms and conditions of a county-approved permit that is</p>	<p>The noted language would only apply in the context of a County permit or approval. It would not be applied retroactively</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<p>consistent with both the SMA and the SMP. Without this, third party complaints could impose new terms and conditions of operation unrelated to the operation’s compliance with its permit.</p> <p>Other comments suggest the county has exceeded its authority by requiring that the aquaculture operator <i>rectify any complaints</i>. The provision assumes all complaints are legitimate and must be rectified whether or not the situation is compliant with existing law. The provision treats aquatic farmers as a disfavored use and all other uses as superior.</p>	
L25	<p>Aquaculture 18S.40.040 C.11 C. Regulations-General</p>	12, 112	<p>Revision of regulation C.11 is requested:</p> <p>11. Predator control shall not involve deliberate killing or harassment of birds, <u>non-invasive</u> invertebrates, or mammals. Approved controls include, but are not limited to plastic tubes or netting. Predator control equipment shall be removed <u>if and when the equipment is no longer necessary to perform protective functions</u> as defined within the approved schedule, but no longer than two years after installation.</p> <p>While expected that most predator controls will not be needed for more than 2 years, there may be circumstances where this is not the case. This requirement could then threaten a farm’s viability and deter certain forms of aquaculture. The proposed revision would allow flexibility for operators.</p> <p>Troutlodge comments that they cover their hatcheries with metal avian exclusion fencing which lasts for several decades before replacement is needed. This proposed regulation would require replacement every two years. The county has failed to undertake the research and investigation necessary to support the proposed SMP.</p>	<p>The language of 18S.40.040 C.11 pertaining to a two year limit for predator exclusion, was not meant to apply to upland facilities</p>
L26	<p>Aquaculture 18S.40.040 C.13 C. Regulations-General</p>	12, 112	<p>Revisions to Regulation C.13 are requested:</p> <p>13. <u>All required monitoring shall be reasonable, proportionate to the anticipated impacts of a project, and imposed only as necessary to verify compliance with permit conditions.</u> The duration and frequency of aquaculture monitoring, <u>if required</u>, shall be unique to each farm. A monitoring plan shall be submitted consistent with Chapter 18S.70 PCC – Appendix C, Aquaculture Application Requirements. A monitoring schedule shall may be established as a condition of each permit approval. At a minimum, monitoring shall occur prior to bed preparation and prior to subsequent cycles of planting and harvest. More frequent monitoring may be required based on the complexity or intensity of the proposal.</p> <p>As discussed with respect to Policy 7, mandatory monitoring is excessively burdensome,</p>	<p>The monitoring requirements for aquaculture were established through the course of the County’s two-year long aquaculture stakeholders group. The need to monitor is clear given the SMA requirement to ensure no-net-loss of ecological function of the shoreline.</p> <p>The language of 18S.40.040 C.13 acknowledges that monitoring will be unique to each farm and that the only absolute requirement is that some level of monitoring occur prior to initial bed planting and prior to subsequent planting/harvest activities. The exact level of detail to be included within the monitoring program will vary greatly. For example, a small clam farm that</p>

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			<p>has no scientific basis and is inconsistent with the SMA and the Guidelines. This would increase the cost of farming with a disproportionate impact on small businesses. Imposing monitoring on all aquacultural uses incorrectly assumes that all aquaculture has adverse environmental impacts that necessitate monitoring, inconsistent with state law which considers shellfish aquaculture a use, that when properly managed has long term over short term benefits and can protect the resources and ecology of the shoreline.</p> <p>The revisions would allow monitoring on a case-by-case basis when appropriate and justified, and tailored to the impacts and project.</p> <p>Troutlodge suggests this would establish duplicative and redundant reporting requirements. Reporting is required by state and federal agencies and adding additional reporting to the county is unnecessary.</p>	<p>harvests natural stock by rake, without any predator exclusion devices, can expect to have minimal monitoring requirements. A large farm, involving more disruptive farming techniques, in an ecologically sensitive area, can expect to have additional monitor requirements.</p> <p>Field work data and monitoring reports completed for State and Federal agencies can suffice for the information required by Pierce County – as long as it contains the information requested by the County.</p>
L27	<p>Aquaculture 18S.40.040 C.13 C. Regulations-General</p>	2, 16	<p>Comments request monitoring provisions be retained and express concern regarding the industry’s request to eliminate baseline studies and site monitoring. In order for accountability and transparency, an objective baseline study is necessary so the extent of change and impacts from “industrial installations” can be known.</p> <p>Related to water quality, the commenter notes that in certain areas, upland property owners can be required to have their septic systems operations and maintenance monitored. “If we have to do it, so should the industry accept monitoring.”</p> <p>Additionally, as aquaculture operations expand beyond their home base, monitoring and cleanup of marine debris is very important.</p>	Comment Noted

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
L28	Aquaculture 18S.40.040 C.14 Regulations-General	2, 7, 16, 24	<p>18S.40.040 C.14: Commenters request this provision be retained based on the following:</p> <ul style="list-style-type: none"> • The SMP purpose states the county should “...allow for all reasonable and appropriate uses of Pierce County’s shorelines without degradation to environmental quality, risk to health or safety...” • Ensures oversight and accountability which is necessary. “All Aquaculture is not equal” and using different growing and harvesting methods and different procedures can impact adjacent neighbors • The county needs the freedom to consider all issues relating to changing species or methods of operation and the public needs the opportunity to understand potential impacts and review and comment on such proposals. • Caution must be used because it is difficult to backtrack. Scientific knowledge “is always tentative and subject to revision with new discoveries and evidence.” • Regulation, monitoring, oversight and accountability is required at all times and are necessary to protect critical habitats and balance other ecological functions • Addresses the “industrialized over-reach of the expansion of aquaculture” 	Comments Noted
L29	Aquaculture 18S.40.040 C.14 Regulations-General	12, 105, 112, 7-OC	<p>18S.40.040 C.14: Commenters request this provision be struck based on the following:</p> <p>14. Introduction of a new shellfish species, changing the shellfish species cultivated, expansion of the physical area cultivated or relocation of the aquaculture operation is considered a new use/development, and shall require a new permit and compliance with this SMP.</p> <ul style="list-style-type: none"> • There is no scientific, technical or other justification • It is inconsistent with the SMA and SMP Guidelines as it would require a permit for nearly any change to existing shellfish farms • It imposes a hardship uniquely on aquaculture operators and is unnecessary as WAC 173-27-100 directly addresses the need to obtain a permit revision or a new permit. • It adds restrictions and prohibitions about species used in an aquaculture project without shoreline management policy justification and is a regulatory 	<p>This language is not intended to require review “from square one” anytime there is any change to an existing farm. There may certainly be occasions where a farm changes in a manner that does warrant this but, the real intent of this language is to ensure that the County is aware of the scale of aquaculture activities along its shorelines.</p> <p>In cases where the proposed change is to a nonconforming farm, and the change doesn’t serve to enlarge or expand the farm, the “permit” required by Pierce County would be for the “Confirmation of a Nonconforming Use”</p> <p>In cases where the proposed change is to a conforming farm, and the change doesn’t serve to enlarge or expand the farm, the “permit” required by Pierce County would be for the “Revision to a Shoreline Permit”</p>

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
L30	Aquaculture 18S.40.040 C.15 Regulations-General	105, 112	<p>burden</p> <p>18S.40.040 C.15: Commenters request this provision be struck based on the following:</p> <p>15. Introduction of a new finfish species, changing the finfish species cultivated, expansion of the physical area cultivated or relocation of the finfish aquaculture operation is considered a new use/development, and shall require a new permit and compliance with this SMP.</p> <ul style="list-style-type: none"> • It adds restrictions and prohibitions about species used in an aquaculture project without shoreline management policy justification and is a regulatory burden • Changing species often requires few changes to structures or operations (thus minimal impact) • Farmers often rotate crops which may be good for the environment and a reasonable means to respond to changes in markets and product demand. • There is no rational basis for such a requirement 	<p>This language is not intended to require review “from square one” anytime there is any change to an existing farm. There may certainly be occasions where a farm changes in a manner that does warrant this but, the real intent of this language is to ensure that the County is aware of the scale of aquaculture activities along its shorelines.</p> <p>In cases where the proposed change is to a nonconforming farm, and the change doesn’t serve to enlarge or expand the farm, the “permit” required by Pierce County would be for the “Confirmation of a Nonconforming Use”</p> <p>In cases where the proposed change is to a conforming farm, and the change doesn’t serve to enlarge or expand the farm, the “permit” required by Pierce County would be for the “Revision to a Shoreline Permit”</p> <p>No revision proposed</p>
L31	Aquaculture 18S.40.040 C.16 Regulations-General	16, 61, 1-OC	<p>Comment proposes requiring review of aquaculture sites after every planting/harvest cycle to ensure improved practices and best environmental protection and compliance records and proposes revising the provision to read:</p> <p>16. Aquaculture activities allowed pursuant to an approved Shoreline Conditional Use Permit shall not be subject to review of a new Shoreline Conditional Use Permit for subsequent cycles of planting and harvest unless specified in the original Shoreline Conditional Use Permit.</p> <p>Failure to require reviews will “allow current harm to continue”, as well as allow as-yet-undiscovered cumulative harm to continue unabated.</p> <p>Additional comments object to the use of an Administrative Conditional Use Permit without public hearing for any aquaculture and assert permits should expire in 5 years or a single harvest cycle and not be issued “in perpetuity”</p>	<p>To address concerns over impacts from aquaculture, the County is requiring project-specific monitoring. Monitoring will be unique to each farm but, its intent is the same – to assess impacts of the farm upon the shoreline environment.</p> <p>Monitoring results may be used to revise the scale or frequency of farming activities.</p>

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
L32	Aquaculture 18S.40.040 C.16 C. Regulations-General	12	Revision of Regulation C.16 is requested: 16. Aquaculture activities allowed pursuant to an approved Shoreline Conditional Use Permit shall not be subject to review of a new Shoreline Conditional Use Permit for subsequent cycles of planting and harvest unless specified in the original Shoreline Conditional Use Permit. The revision will ensure the regulation is consistent with the Guidelines and Ecology's recommendations. Additionally, there are no standards provided for when, if ever, it would be appropriate to require a new permit, and requiring them intermittently imposes a unique burden for aquaculture operators inconsistent with the preferred status of this water-dependent use.	
L33	Aquaculture 18S.40.040 C.17 C. Regulations-General	6, 9, 10, 14, 22, 31, 55, 100, 101, 109, 117, 2-OC, 3-OC, 4-OC, 5-OC	Commercial Aquaculture - Nisqually Reach Aquatic Reserve 18S.40.040 C.17: This regulation prohibiting commercial shellfish aquaculture in the Reserve should be retained based on the following: <ul style="list-style-type: none"> • aquaculture facilities located in intertidal, shoreline and on the water have the potential to interfere with marine based emergency services to Anderson Island • this activity will harm Puget Sound and have a negative impact on Park District shoreline property • it is consistent with Commissioner Goldmark's prohibition on geoduck aquaculture made in 2011 • Plastics are an issue, particularly for birds and the area is designated an International Bird Area 	Comment Noted
L34	Aquaculture 18S.40.040 C.17 C. Regulations-General	12, 18, 19	Commercial Aquaculture - Nisqually Reach Aquatic Reserve 18S.40.040 C.17: This regulation prohibiting commercial shellfish aquaculture in the Reserve should be struck based on the following: <p>17. With the exception of Olympia Oyster propagation which is a conditional use, new commercial shellfish aquaculture operations are prohibited within the Nisqually Reach Aquatic Reserve.</p> <ul style="list-style-type: none"> • it is inconsistent with the Nisqually Reach Management Plan developed by a multi-stakeholder group including DNR • lacks scientific and technical justification • will prevent new aquaculture in significant portions of the county 	The prohibition on commercial aquaculture affects a small portion of the tidelands in the Reserve. The majority of the tidelands, approximately 70%, are in private ownership. This prohibition does not apply to them. The prohibition also does not extend to shellfish aquaculture research.

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<ul style="list-style-type: none"> DNR is responsible for implementing the Management Plan and the plan does not recommend banning aquaculture and does support aquaculture research. 	
L35	<p>Aquaculture 18S.40.040 C.17 C. Regulations-General</p>	1	<p>Commercial Aquaculture - Nisqually Reach Aquatic Reserve 18S.40.040 C.17: DNR requests this regulation prohibiting commercial shellfish aquaculture in the Reserve be struck based on the following:</p> <ul style="list-style-type: none"> The regulation was drafted without any involvement or knowledge of DNR or consideration of the Nisqually Reach Aquatic Reserve Management Plan The need for the amendment is not clear, eliminating the opportunity for DNR to rectify the County’s concerns The Reserve Management Plan was adopted September 2011 after “an extensive public process and included the perspectives of <i>all</i> interested parties including those...in opposition to shellfish aquaculture and those whose livelihood depend on it.” The proposed amendment undermines the adopted plan and the public process for that plan The prohibition is contrary to adopted Management Actions of the Plan including #16 “Support shellfish aquaculture research...in a variety of areas supporting recreational and commercial shellfish...” and #18 “Support research that will help inform the potential impacts and benefits of shellfish aquaculture on aquatic habitat and species in the reserve.” The prohibition would eliminate the ability to conduct research and evaluate new and improved alternatives to current shellfish aquaculture practices that could lessen the impacts The prohibition would apply only to public tidelands (roughly 30% of the shorelines in the area) as private tidelands are not included in the reserve. It inhibits the ability to enhance recreational shellfish opportunities and limits opportunities for public access to public lands which is inconsistent with RCW 90.58.020 use preferences for Shorelines of Statewide Significance 	<p>The prohibition on commercial aquaculture affects a small portion of the tidelands in the Reserve. The majority of the tidelands, approximately 70%, are in private ownership. This prohibition does not apply to them.</p> <p>The prohibition also does not extend to shellfish aquaculture research.</p>

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
L36	Aquaculture 18S.40.040 C.17 C. Regulations-General	105	Commercial Aquaculture - Nisqually Reach Aquatic Reserve 18S.40.040 C.17: The Nisqually Tribe requests this regulation prohibiting commercial shellfish aquaculture in the Reserve be <u>struck</u> based on the following: This arbitrarily “places an aquaculture near-prohibition on the Nisqually Reach Aquatic Reserve. This reserve is in the middle of and constitutes a major portion of the Nisqually Indian Tribe’s marine territory and treaty secured fishing area. There is no justification in the record for Pierce County to establish such a prohibition, and in fact this prohibition creates a conflict within the SMP itself (see page 11, section ⁴). The Washington Department of Natural Resources, the agency which established the reserve, strongly disagrees with this prohibition being added to the SMP. We have reviewed and agree with the DNR letter including its description, conclusions and recommendations. This section should be deleted.”	Section 18S.10.030 (8) informs that: “The shoreline jurisdiction does not include land owned by tribal members or tribes within their tribal reservation, or lands held in trust by the federal government for tribes or of tribal members.
L37	Aquaculture 18S.40.040 C.18 C. Regulations-General	14, 17, 24	Commercial aquaculture – prohibition in estuaries: Commenters request Regulation C.18 be <u>retained</u> for the following reasons: <ul style="list-style-type: none"> Concerns with what is happening in the estuaries that are so biologically diverse and sensitive supplying food for migrating ducks in the winter, spawning for forage fish and the fresh water streams so salmon can migrate Have heard that if industrial geoducks are permitted, the aquaculture industry may divert the fresh water flow of natural streams with sandbags which would be harmful to the migrating salmon and the environment. Are necessary to protect critical habitats as well as balance other ecological functions. 	Comment Noted
L38	Aquaculture 18S.40.040 C.18 C. Regulations-General	12, 18, 19, 112, 116, 7-OC	Commercial aquaculture – prohibition in estuaries: Commenters request Regulation C.18 be <u>struck</u> for the following reasons: 18. Aquaculture is prohibited in Estuaries within 300 feet of the mouth of freshwater streams (as measured at extreme low tide). <ul style="list-style-type: none"> It serves no clear ecological purpose and conflicts with the SMA and Guidelines by arbitrarily prohibiting shellfish aquaculture in significant areas throughout the county. 	The noted language refers to the point in an estuary where extreme low tide intersects with the stream channel – if present. At extreme low tide, in certain estuaries, there may be no freshwater stream. In those situations, this prohibition would not apply

⁴ Reference in comment letter is incomplete. Page 11 of the SMP contains 18S.10.070 G. Rights reserved or otherwise held by Indian Tribes pursuant to treaties, executive orders, or statutes shall not be impaired or limited by any action taken or authorized by the County under the Master Program, and all such rights shall be accommodated.

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<ul style="list-style-type: none"> • It presumes aquaculture will have negative impacts in estuaries and that these can’t be addressed by more targeted development regulations or best management practices. • It is vague. “Mouth” of a freshwater stream is not defined. By some interpretations, this regulation could close whole bays and estuaries, including areas deeded under the Bush Act and farmed for decades. • It appears specifically targeted to stop the historic Burley Lagoon shellfish farm • Sepa provides the legal framework and opportunity for analyzing impacts and mitigation for impacts. • The County “should not foreclose <u>all</u> opportunities based on the supposition that <u>all</u> forms of aquaculture are incompatible with other values and uses in such areas.” • Prohibiting farms in existing areas should they need or choose to plant a different crop or rotate areas, handicaps a farmer to respond to its customers or the changing environment” • Aquaculture lawfully uses freshwater from streams for hatcheries in upland locations. 	
L39	Aquaculture 18S.40.040 C.19 C. Regulations-General	61	Comment requests addition of Von Geldern Cove to the list of areas where aquaculture would be prohibited because of population density, reliance on septic systems and wells, small tidal exchange increasing the potential for water quality impacts from geoduck aquaculture and the similarities with other listed areas.	Comment Noted
L40	Aquaculture 18S.40.040 C.19 C. Regulations-General	12, 18, 19, 112	Comments request this provision be struck based on the following: 19. Aquaculture is prohibited adjacent to residential neighborhoods in Horsehead Bay, Wollochet Bay, Lay Inlet and adjacent to Raft Island due to water quality and visual impacts. <ul style="list-style-type: none"> • It seeks to prohibit a preferred water-dependent use rather than address water quality problems and water pollution in the listed residential areas and assumes these uses are incompatible before knowing anything about a particular proposal. 	The County recognizes that aquaculture is a water-dependent, preferred use of the water. The County also recognizes other shoreline uses, and the potential for aquaculture to conflict with those uses. The potential is particularly great in highly developed areas such as the noted water bodies. The SMP addresses these conflicts by restricting or prohibiting commercial aquaculture in specific portions of its shorelines, while allowing it elsewhere

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<ul style="list-style-type: none"> Prohibiting aquaculture in residential areas due to water quality and visual impact concerns is inappropriate and inconsistent with state law. 	
L41	Aquaculture 18S.40.040 C.20 C. Regulations-General	12, 112	<p>Comments request this provision be struck based on the following:</p> <p>20. Aquaculture proposals that could result in significant adverse environmental impacts as demonstrated through a scientific analysis shall be prohibited.</p> <ul style="list-style-type: none"> It is inconsistent with the SMA and SMP Guidelines It creates a completely different standard of review for aquaculture than for other uses and development. It would mandate that because an effect “could” occur, all aquaculture must be disapproved. It fails to account for mitigation sequencing. It is vague and would be impossible to consistently interpret and administer. It is unclear what “scientific analysis” would be sufficient to determine whether the regulation was triggered. It does not clarify who must fund or perform the “scientific analysis”, whether it must occur in addition to the analyses required under the CUP criteria, or what type of analysis qualifies as “scientific”. The uncertainty would not only discourage aquaculture but could result in a de facto prohibition throughout the county if strictly interpreted. 	Comment Noted
L42	Aquaculture 18S.40.040 D.1 and D.3 D. Regulations-Impact Avoidance	112	<p>The comment requests Regulations 1 and 3 be struck as they are overly burdensome. There is no basis in fact for prohibiting permanent lighting. Troutlodge hatcheries must have this for safety and other reasons. Aquaculture should not be treated differently from other water-dependent and non-water dependent uses.</p> <p>1. Proposals shall minimize adverse impacts from noise, light, and glare on nearby properties to the extent feasible.</p> <p>3. Permanent lighting shall not be permitted except as required for navigation.</p>	The restriction on lighting is specific to aquaculture within water bodies, as evidenced by the reference to navigation
L43	Aquaculture	12	The regulation should be revised for the following reasons:	Comment Noted

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
	<p>18S.40.040 D.5 D. Regulations-Impact Avoidance</p>		<p>5. All equipment and structures and/or tubes, nets, and bands, shall be marked to identify ownership, and shall be removed as defined by a County approved schedule.</p> <ul style="list-style-type: none"> • It artificially burdens aquaculture without scientific or ecological justification and constrains projects contrary to the SMA and Guidelines. • Requiring gear to be removed within a prescribed schedule would threaten the viability of some farms (protective nets are used during the entire grow-out cycle for manila clams). • It would preclude some forms of aquaculture entirely, fail to encourage the activity and provide flexibility to respond to changing environmental and market conditions. 	<p>The requirement for gear removal on an approved schedule will provide the flexibility desired</p>
L44	<p>Aquaculture 18S.40.040 D.6 D. Regulations-Impact Avoidance</p>	12	<p>The regulation should be revised for the following reasons:</p> <p>6. Proposals shall <u>utilize best available demonstrate</u> methods to be used to secure tubes, nets, bands and other equipment and structures <u>to prevent</u> so that they will not escapement from the site during the life of the operation.</p> <p>If strictly interpreted, this provision could set a “no potential to escape” standard that would be impossible to achieve. The revision ensures operators will use the best available methods to prevent escapement, consistent with the SMA and SMP Guidelines.</p>	<p>Comment Noted</p>
L45	<p>Aquaculture 18S.40.040 E.1 E. Regulations-Harvest and Processing</p>	12	<p>The regulation should be revised for the following reasons:</p> <p>1. Commercial aquaculture operators have a right to harvest from a farm once planted. Harvesting during low tides may occur at night or on weekends only if low tide harvesting is necessary.</p> <p>The regulation is vague and could be interpreted to preclude successful intertidal aquaculture, and it implies harvesting at night or on weekends during high tide is not allowed.</p> <p>The Guidelines recognize the need for latitude and growers need the flexibility to harvest at both low and high tides.</p>	<p>The language reflects concerns expressed by shoreline property owners about harvest-related noise at night and during the weekend.</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
L46	Aquaculture 18S.40.040 E.2 E. Regulations-Harvest and Processing	12	<p>The regulation should be revised for the following reasons:</p> <p>2. Harvest activities shall be conducted in a manner that minimizes turbidity and... activities within fine-grained beaches that are susceptible to sediment transport may be required to utilize <u>feasible</u> sediment containment methods, such as sediment control fencing, hose line, or cloth tubes.</p> <p>Some of the listed sediment containment methods may not be feasible to employ for some types of harvest activities or in certain circumstances. The revision ensures containment methods don’t make shellfish farming and harvesting economically or operationally infeasible.</p>	Comment Noted
L47	Aquaculture 18S.40.040 E.2, E.5 and E.6 E. Regulations-Harvest and Processing	112	<p>Troutlodge opposes regulations 2, 5 and 6 for the following reasons: they are vague, unnecessary and duplicative, and further:</p> <p>E.2 – in many cases it is necessary to utilize pumps and these are placed on the ground or on a concrete pad.</p> <p>E.5 - In any food or industrial production system, waste typically accumulates in appropriate bins or receptacles until regularly scheduled removal. As written, this wouldn’t be allowed. No other shoreline use is subject to similar requirements.</p> <p>E.6 - State laws already require regular reporting including reporting of mortality. This regulation is duplicative and unnecessary. There is no definition for “significant” in the context of mortality events or “immediate” in the context of reporting. Finally, it’s not clear the county has the expertise to evaluate the information.</p>	<p>E.2 The requirement to locate pumps on rafts or boats is specific to aquaculture occurring in-water. The referenced section explains that the requirement is related to the avoidance of turbidity and aquatic vegetation.</p> <p>E.5 The intent of the requirement was to avoid the un-managed accumulation of waste and debris. The placement of debris into bins or receptacles, to be removed and properly disposed of would meet this requirement.</p> <p>E.6 This requirement merely adds the County into the existing reporting requirements. It does not add to any required monitoring.</p>
L48	Aquaculture 18S.40.040 F.1 F. Regulations-Structures	12	<p>The regulation should be struck based on the following:</p> <p>1. The installation of structures and/or equipment shall demonstrate the following:</p> <p style="padding-left: 20px;">a. The structures and/or equipment proposed are the minimum necessary for feasible aquaculture operations;</p> <p>It is inconsistent with state law and policy and lacks any scientific and technical justification. It would apply to every proposal, is vague, treats aquaculture as a disfavored use, and is an attempt to prohibit aquaculture on the basis of visual and aesthetic concerns contrary to the SMA, Guidelines and state policy.</p>	The referenced language is consistent with Mitigation Sequencing requirements of 18S. Ecological Protection

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
L49	Aquaculture 18S.40.040 F.1 and F.2 F. Regulations-Structures	112	Troutlodge opposes Regulations 1 and 2 for the following reasons: <ul style="list-style-type: none"> • They would impede and prevent aquaculture rather than foster the water-dependent use. • They are burdensome, unnecessary and unreasonable 	Comment Noted
L50	Aquaculture 18S.40.040 F.2 F. Regulations-Structures	61	Comment requests an additional standard to measure height above the water to reduce visual impacts (blight), navigation restrictions and impacts to people’s enjoyment of the shorelines, consistent with the policy of the SMP	The requested change would effectively preclude any structure upon the water
L51	Aquaculture 18S.40.040 G.1 G. Regulations-Species	12, 112	Commenters request this provision be struck based on the following: G. 1. Aquaculture activities shall not be located within tidal channel portions of streams and rivers with direct utilization by anadromous species. <ul style="list-style-type: none"> • The regulation is vague as it fails to define “tidal portions of streams and rivers” and could potentially prohibit aquaculture over a large area without any discernable justification • It fails to recognize aquaculture sites are naturally limited • There is no apparent scientific or factual basis in the record for this prohibition and is based on unsupported supposition • It fails to give latitude to a preferred water-dependent use and to foster all reasonable and appropriate uses in the shoreline. • It potentially prohibits aquaculture in areas designated as shorelines of statewide significance and inconsistent with the requirement to “preserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide significance, such as commercial shellfish beds (WAC 173-26-251 (3)(c)(ii)) 	“Tidal channel portion” refers to the thalweg (the line connecting the lowest portions of a stream) as this provides the first and last wetted channel opportunity by which salmonids access and leave anadromous streams.
L52	Aquaculture 18S.40.040 G.1	24	Comments support retention of the language in G.1 which is necessary to protect critical habitats as well as balance other ecological functions	Comment Noted

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
	G. Regulations-Species			
L53	Aquaculture 18S.40.040 G.2 G. Regulations-Species	12	Regulation G.2: The comment recommends deletion of the reference to the Department of Health because the Department of Fish and Wildlife has sole authority over the introduction of new aquatic species for cultivation in Washington State waters.	This requirement stems from the 2-year stakeholder process and dates back to 2009.
L54	Aquaculture 18S.40.040 G.3 and G.4 G. Regulations-Species	14, 78	Regulations G.3 and G.4: Commenters support the proposed prohibition of new finfish facilities in marine waters south and west of the Tacoma Narrows or within aquatic reserves based on the following: <ul style="list-style-type: none"> • Need is well documented in the county’s record • This is consistent with SMP Guidelines requirements for no net loss of shoreline ecological functions • There are potential impacts from nutrient loading and the use of chemicals • Potential Impacts to natural fish runs from fish escapement 	Comment Noted
L55	Aquaculture 18S.40.040 G.3 and G.4 G. Regulations-Species	112	Regulations G.3 and G.4: Troutlodge requests both regulations be struck because neither are based on any scientific or factual basis in the record supporting these prohibitions and it is a preferred water-dependent use which should be fostered. Regulation G.3 should be struck based on the following: <ul style="list-style-type: none"> • Fish fin aquaculture is heavily regulated to ensure impacts are minimized and mitigated • The regulation would foreclose future opportunities for business in the county which would create jobs and provide healthy seafood Additionally, Regulation G.4 should be struck based on the following: <ul style="list-style-type: none"> • It’s based on the supposition that aquaculture would interfere with aquatic reserves but aquatic reserves serve many purposes • It assumes finfish aquaculture is detrimental to native salmon populations • It’s not clear whether the intent of the provision is retroactive. This should be 	These restrictions, which do not apply to existing farms, recognize that high summer water temperatures and relatively low flushing rates exist south and west of the Narrows, which raise concerns over the potential for significantly negative impacts from finfish aquaculture

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			clarified.	
	Aquaculture – General Comments			
L56	General comment Aquaculture - preferred use	12, 19, 35, 57, 105, 107	<p>Commenters assert the regulations are inconsistent with aquaculture as a preferred use:</p> <ul style="list-style-type: none"> • Aquaculture is a preferred water-dependent use (RCW 90.58.020) that must be fostered. • The SMP Guidelines recognize this use as in the statewide interest and capable of producing long-term benefits and protecting the resources and ecology of the shoreline. (WAC 173-26-241(3)(b)(i)(A)) • The county has chosen to prioritize all other water-dependent, preferred uses and developments above shellfish aquaculture • It places undue regulatory burdens on this aquatic industry and seems designed to discourage development of new and expanded aquaculture projects in the county. • The county failed to incorporate the development and results of the most current science (Washington Sea Grant research) into its aquaculture provisions 	<p>The County recognizes that aquaculture is a water-dependent, preferred use of the water. The County also recognizes the legitimacy of other shoreline uses, and the potential for there to be conflict between the various uses. To address these concerns, the County is proposing to restrict or prohibit commercial aquaculture in specific portions of its shorelines, while allowing it elsewhere.</p> <p>The Aquaculture application requirements defined in 18S.70 -Appendix C, were the result of a two year stakeholder process.</p>
L57	General comment Aquaculture – preferred use	7, 14, 50	<p>Comments assert aquaculture regulations are necessary:</p> <ul style="list-style-type: none"> • Aquaculture should not be viewed as the preferred use of our shorelines but, rather, one use among many. Commercialized, industrialized aquaculture is not entitled to Washington’s shorelines simply because it wants them for private enterprise. • Aquaculture is a “preference” but not a “priority” in the SMA, and local regulations for administering the SMA defer to counties to decide how to adapt best available science to the county’s shoreline. • All aquaculture is not equal. Growing oysters does not utilize the same growing and harvesting methods as geoducks. Seeding and harvesting oysters differs from placing millions of tubes into the substrate, netting them and using high 	Comments Noted

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<p>pressure hoses to disrupt Puget Sound substrate for harvest. Procedures and methods for all types of aquaculture may change. Oversight is necessary.</p> <ul style="list-style-type: none"> • Fish pens are “an Atlantic salmon feed lot”...that puts a tremendous amount of pollution into the water column.” We feel that we can justify what we’re doing based on the science that we experienced that we’ve had in other counties in other states.” 	
L58	<p>General comment Aquaculture and Puget Sound</p>	<p>2, 4, 7, 8, 14, 15, 16, 17, 24, 25, 26, 29, 31, 32, 33, 36, 37, 41, 42, 45, 47, 48, 49, 50, 54, 55, 62, 65, 68, 72, 79, 80, 81, 86, 87, 89, 90, 91, 93, 100, 101, 2-OC, 3-OC, 4-OC, 5-OC</p>	<p>Commenters expressed deep concern over the health of Puget Sound in general and along their particular shorelines. Concerns include water quality overall as well as fish and wildlife habitat. Impacts are often attributed to commercial aquaculture. Changes are described along specific beaches and it’s suggested these changes are a direct result of aquaculture activities, particularly geoduck farms. Changes include increases in marine debris particularly plastics (micro-plastics and entanglement), reductions in overwintering birds, alterations in currents and beach sediment composition, interruptions to sediment flow, and decreases in water quality.</p> <p>The following are some of the comments received:</p> <ul style="list-style-type: none"> • “I cannot see the South Puget Sound ecology being hijacked for commercial purposes” • “I have seen a decline in the health of Puget Sound due to aquaculture” • “It’s difficult enough to maintain the balance of nature in our sensitive marine environment without the disturbance and damage caused by commercial farming and aggressive harvesting.” • “It is time to take a stand for a more natural ecosystem...” • “I continue to wonder why the geoduck cancer continues to desecrate our waters.” • One of our most valuable assets visited by people from around the world • Need to be careful to protect this fragile shoreline and minimize the negative impacts from commercial operations • Monocultures can fundamentally alter ecosystems • Shellfish industry doesn’t police itself enough to prevent damage to the shoreline or wildlife from floating debris • “We cannot afford to value monetary profits more highly than we value the environment of Puget Sound.” 	<p>Comments Noted</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<ul style="list-style-type: none"> • “If we allow shellfish companies to dominate the policy making regarding regulation of geoduck and other aquaculture, then we will find ourselves powerless to change course if and when it becomes apparent that we have stressed the ecosystem too much.” 	
L59	<p>General comment Aquaculture and Puget Sound</p>	<p>12, 18, 19, 21, 23, 27, 28, 102, 107, 110, 113, 115, 116, 121, 122, 6-OC</p>	<p>Comments from those directly involved in and/or supportive of aquaculture also express a strong connection to Puget Sound:</p> <ul style="list-style-type: none"> • Shellfish are an important part of the Puget Sound ecosystem and provide cleaner water by filtering out excessive nutrients • The industry has a long history of environmental stewardship protecting water quality for shellfish and other natural resources • Healthy shellfish populations and a strong shellfish industry mean a healthy Puget Sound. • The industry has had a positive effect on water quality monitoring • Beds are critical salt water habitat and must be protected. Preferred use and supported by national and state shellfish initiatives. • Pierce County has repeatedly requested funding and support from Ecology to improve the health of marine areas like Burley lagoon, Filucy, Minter and Rocky Bays so that these areas may be upgraded and approved for commercial shellfish. • Areas that have been farmed maintain biodiversity and contribute to ecosystem services • Shellfish farming needs the right conditions and is vulnerable to pollution. • At the state, national and international levels, Washington shellfish farms and farming practices are considered best examples of sustainable farming. • Aquaculture is recognized in the Washington Shellfish Initiative as important “to promote critical clean-water commerce, elevate the role that shellfish play in keeping our marine waters healthy and create family wage jobs.” • Aquaculture activities are in alignment with Puget Sound Partnership Action Agenda to clean up Puget Sound with a target of adding 10, 800 harvestable acres by 2020 	<p>Comments Noted</p>

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
L60	<p>General comment Aquaculture - use conflicts</p>	<p>7, 24, 25, 33, 48, 50, 54, 61, 79, 81, 86, 90, 93</p>	<p>Commenters express concern over the use conflicts between aquaculture and other activities:</p> <ul style="list-style-type: none"> • Burley Lagoon, a residential shoreline, is subject to operations 24 hours day, all days and nights of the week. The character and nature of our neighborhood [Burley Lagoon] has changed with the arrival of industrialized aquaculture on our shoreline • It’s a messy and noisy business and not fit for residential areas; noise and light come into windows at night • Aquaculture equipment creates unsafe conditions for water recreation • The intrusion of aquaculture would negatively impact the experience for all recreational uses • “Zoning” our beaches should be managed in an attempt to keep industrial activities in non-residential, non-recreational areas • There are Issues related to trespassing and impacts to the beach • Access to Puget Sound waterways for recreation and enjoyment is guaranteed to the people and the aesthetic values are also protected and included in the SMA..... • Opposed to any leasing of WA sea beds for commercial aquaculture after seeing plastic screens, containers etc. washing up on the beach. • As a landowner with shoreline I have an added interest in protecting the beauty and value of my property. • “Commercial interests should not be given rights to exploit our shoreline nor cause damage to adjacent properties.” 	<p>The County is aware of the use conflict concerns expressed about aquaculture. Given the wide range of activities occurring within the shoreline environment, the presence of public and private tidelands, the subjective nature of many concerns, and the language of the SMA itself, such conflicts can hardly be avoided.</p> <p>The County worked to address these concerns, in regards to aquaculture, through a two year stakeholder process that included shoreline property owners, industry representatives, tribal interests, natural resource agency folks, and non-governmental resource entities.</p> <p>The County feels that the regulations created are consistent with State law and guidance, and represent a compromise between shellfish growers, property owners, and the public.</p>
L61	<p>General comment Aquaculture – use conflicts</p>	<p>12, 106, 107, 111, 114, 116</p>	<p>Those supporting the industry suggest:</p> <ul style="list-style-type: none"> • Concerns are based on aesthetics and not on scientific reality. • Constantly deal with trespassers from the park and neighbors running 3 and 4-wheelers along our beach • Despite doing everything practical to respond to concerns about operations while ensuring they can conduct necessary farming activities, it appears the only solution that will satisfy neighbors is if the shellfish farm in Burley Lagoon ceases to operate 	<p>Comments Noted</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<ul style="list-style-type: none"> • There are vocal and influential property owners who are principally opposed to the idea of working waterfronts • Pollution from upland activities (septic systems, pesticide and fertilizer use, pets and farm animals) impacts shellfish beds 	
L62	<p>General comment Aquaculture – economics</p>	7, 16, 17, 32, 33, 1-OC	<p>Commenters in support of regulating commercial aquaculture expressed the following regarding economic concerns:</p> <ul style="list-style-type: none"> • Why is their (the industry’s) bottom line more important than the thousands of individuals who own or use the beaches for recreation and enjoying nature? • When the tidelands become profit driven “all the goods go to one purpose-production”. • Other uses are important to the state’s economy such as outdoor recreation, including fishing and water-oriented activities • The aquaculture industry seems to be based on economic concerns rather than environmental concerns. • Not trying to put anyone out of business, just want responsible siting in keeping with the environment. • Concerned with expansion of industry “that is now patently exporting to another continent and the impact that growth can have.” • Geoduck cultivation in south Puget Sound benefits just two families and no one should be allowed to turn South Puget Sound into “their own personal economic engine”. • We expect consideration of the environment while making a profit and have Ecology to uphold those expectations. We can’t afford to value monetary profits more highly than we value the environment of Puget Sound, and there must be oversight on this industry to ensure that. 	Comments Noted
L63	<p>General comment Aquaculture – economics</p>	12, 18, 21, 23, 35, 110, 112, 113, 115, 116, 121, 122, 123, 6-OC, 7-OC	<p>Commenters in support of commercial aquaculture express concerns regarding the potential economic impacts of the proposed SMP:</p> <ul style="list-style-type: none"> • The disproportionate impact from complex requirements in the SMP will all but close the door to small business • Aquaculture regulations are excessive and unrealistic as they are economically and technically unreachable for a new farmer. • The plan is biased on one side and does not take into account the rights of 	<p>The County recognizes the long history of shellfish farming in Pierce County as well as its economic, social, and cultural value, and we recognize the contribution of the shellfish industry towards improving water quality.</p> <p>The aquaculture section, the bulk of which was written through a two –year stakeholder process, is as detailed as it is in an effort to address the provisions</p>

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			<p>business, the rights of landowners who wish to lease their lands or farm themselves</p> <p>Economic benefits from aquaculture activities include:</p> <ul style="list-style-type: none"> • We are proud of the jobs we provide and the economic services that our small business (Chelsea Seafood) brings to the county. However, the cost of permitting is extraordinary and we have had to turn down families hoping we can manage their tidelands • Farms provide employment for community families where we farm, produces food, jobs and helps diversify the county’s economy. Tax revenue which ripples through the economy • Providing jobs, supporting the tax base and providing healthy fish and fish products for anglers and company clients. • Jobs provided help sustain and diversify the local economy and Taylor Shellfish is engaged in the community in other ways including beach cleanups, participation in civic groups, donations made to numerous organizations • Federal/state funding provided to clean up water in commercial growing areas in the county, money that wouldn’t be available but for the presence of commercial shellfish farming. 	<p>of State law, Department of Ecology guidance, and the conflicting, comments and concerns of the public and industry.</p> <p>The County is aware that the level of review resulting from the regulations may be of concern for some growers. However, we trust that smaller growers will recognize that, though the review process detailed will apply equally to every farm, the scale and intensity of the review will vary from farm to farm.</p> <p>For example: larger farms, farms in shoreline areas with unique resource or use characteristics, and farms proposing technologies new to the County, can be expected to require additional review beyond that needed for smaller, more “routine” farms</p>
M1	<p>18S.40.050 C.3 Commercial, Civic and Industrial C. Regulations</p>	78	<p>Futurewise recommends the following revision to 18S.40.050 C.3: “Non water-oriented commercial, <u>civic or industrial</u> uses, or portions of a use...” It’s also recommended that regulations be added prohibiting chemical and waste storage within shoreline jurisdiction and requiring a conditional use permit for pipe lines to manage adverse impacts.</p>	<p>Non-water oriented commercial and civic uses in shoreline jurisdiction are prohibited in all but the Residential and High Intensity shoreline environments. In the Conservancy environment, they are prohibited unless they fall into one of three fairly limited scenarios, detailed in 18S.40.050 C(3) a-c.</p> <p>Non-water oriented industrial uses are prohibited in all Aquatic shoreline environments except for High Intensity</p> <p>Where allowed, industrial uses require a conditional use permit</p>
N1	<p>18S.40.060 Flood Hazard Management</p>	78	<p>Futurewise recommends protecting intact areas in the Natural designation and limiting flood control in these areas through the use table. New structures should not be allowed in the channel migration zone and structural methods should be a conditional use.</p>	<p>18S.40.060 D allows for structural methods only where nonstructural methods will not work – regardless of shoreline environment</p>

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
N2	18S.40.060 C.1 Flood Hazard Management C. Regulations-General	78	<p>Commenter suggests additional criteria addressing mitigation sequencing is needed and recommends adding the following standards to 18.40.060 C.1:</p> <p><u>d. Methods chosen for the project are those that minimize impacts to ecological functions, minimize the number of constructed elements, minimize the area of construction; and minimize the area of flood function obstruction; and</u></p> <p><u>e. Compensatory mitigation is provided to ensure no-net-loss of ecological functions, by providing compensatory flood storage, removal of dikes and similar structures, improving flood constrictions (bridges, etc.), substantial habitat restoration activities, etc.</u></p>	Mitigation sequencing, defined within 18S.30.030, is a requirement of flood hazard management, and all use and development within shoreline jurisdiction
N3	18S.40.060 C.7 Flood Hazard Management C. Regulations-General	78	<p><u>Channel migration zones:</u> Futurewise expresses concern related to the protection of Channel Migration Zones (CMZ) in the SMP because:</p> <ul style="list-style-type: none"> • Mapped CMZs are limited to partial segments of only the largest rivers • The only protection provided is regulating it the same as a floodway. <p>The incomplete mapping does not meet the requirements of the SMP Guidelines. It’s recommended that the county “establish the floodway as a proxy for the CMZ where it has not yet been mapped.” This will provide some protection, mainly for flood aspects of the CMZ. In addition, it’s recommended that a new section <i>18E.40.040.E Channel Migration Zone Protection</i>, be added that addresses the sediment and habitat issues of CMZs.</p>	The County feels that development in these areas is addressed effectively through the language of the SMP and the existing regulations found in Title 18E.70 – Flood Hazard Areas.
N4	18S.40.060 D Flood Hazard Management D. Regulations-Structural Flood Hazard Reduction Measures	78	The commenter recommends addition of a regulation to meet WAC 173-26-221(3)(c)(iii) which requires structures to be outside wetlands and vegetation buffers.	<p>The referenced WAC expresses a preference for structures outside of critical areas but, it also acknowledges that there may be instances where no alternative exists for purposes of reducing flood hazards.</p> <p>Application of the mitigation sequencing requirements of 18E.30.030 ensures that flood control measures are undertaken in a way that avoids, or minimizes to the degree possible, impacts to regulated features.</p>
O1	18S.40.080 C Mining C. Regulations	78	<p>Futurewise supports the prohibition of mining within the OHWM and wetlands and also recommends prohibiting this use in the channel migration zone and floodway due to un-mitigatable ecosystem -wide impacts.</p> <p>Applications should include an assessment of sediment transport impacts and floodplain excavation should minimize avulsion risks. Phasing work is recommended to</p>	<p>The County feels that development in these areas is addressed effectively through the language of the SMP and the existing regulations found in Title 18E.70 – Flood Hazard Areas.</p> <p>Section 18E.70.020 B requires that channel migration zones be regulated as</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
			minimize impacts with new phases contingent upon a compliance review of old phases.	floodways – within which new mining would not be allowed. Concerns over sediment transport are adequately addressed through the County’s existing NPDES permit and Title 17A – Site Development and Stormwater Drainage.
P1	18S.40.090 Recreation	78	Comments note that many recreation policies are good but aren’t implemented in the regulations. Consistent with the SMP Guidelines, recreational uses/facilities need to be designed so flood control and stabilization is not required. Additionally, a regulation minimizing impacts and areal extent, through co-locating uses, is needed.	Commented Noted
Q1	18S.40.100 Residential	104	Concern is expressed that the proposed SMP (unlike existing Pierce County Code 20) does not mention duplexes, that there are existing legal duplexes and these should be treated the same as a single-family residence.	Duplexes fall within the definition of “Other Housing Types”, as provided within the Use Table (18S.60.030-1). New duplexes are allowed within the Conservancy and Residential shoreline designations
Q2	18S.40.100 C.1 Residential C. Regulations-General	70	Line 9, page 54: Comment requests the county clarify the intent of having a use that does not meet standards to be considered “conforming.”	To address the concern of shoreline property owners about their property being considered non-conforming, Pierce County chose to pursue an optional approach, as allowed by RCW 90.58.620. This legislation provides for the following: (1) New or amended master programs approved by the department on or after September 1, 2011, may include provisions authorizing: <ul style="list-style-type: none"> (a) Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following to be considered a conforming structure: Setbacks, buffers, or yards; area; bulk; height; or density; and (b) Redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure if it is consistent with the master program, including requirements for no net loss of shoreline ecological functions. (2) For purposes of this section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or overwater structures.

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
Q3	18S.40.100 D Residential D. Regulations - Land Divisions and Boundary Changes	78	To avoid the potential for extensive impacts from long narrow lots that meet area requirements and still allow for homes placed close together, Futurewise recommends a 3:1 lot ratio combined with rural lot area requirements or 300’ lot widths in the Natural and Conservancy designations. This will allow wildlife to pass through residential areas from the shoreline to upland areas.	Comment Noted
R1	18S.40.120 Transportation	78	Futurewise recommends including avoidance and minimization standards and a specific requirement for compensatory mitigation. New bridges should not be allowed unless there is no alternative access and should be shared with adjacent properties. The use of armoring should be minimized. This section should also address accessory transportation modifications, accessory driveways and private bridges.	Transportation projects are subject to the mitigation sequencing requirements of 18E.30.030
S1	18S.40.130 Utilities	78	Futurewise recommends this section include mitigation regulations and compensatory mitigation. Additional construction standards, particularly for underground installations are recommended.	Utility projects, along with all development within shoreline jurisdiction, are subject to the mitigation sequencing requirements of 18E.30.030
T1	18S.40.140 Water Access Facilities	78	Boating facilities should be regulated as a use, and docks and boating structures regulated as a modification. To ensure common impacts of intense multi-user facilities are addressed, Additionally, Futurewise recommends implementing SMP Guidelines requirements for all boating facilities including: protection of aesthetic quality and views, covered moorage, moorage on state waters, public access standards and location standards (such as not needing dredging and having adequate site access).	Boating Facilities – Comment Noted. No revision proposed SMP Guidelines – SMP Guidance compliance is met through: <ul style="list-style-type: none"> • Chapter 18S.30.060, which addresses aesthetics and views; • 18S.30.050, which speaks to public access; • 18S.40.140 (C) 9, which speaks to State waters; • 18E.30.030 – Mitigation Sequencing; and • Title 17B – Construction and Infrastructure Regulations, which discusses site access adequacy
T2	18S.40.140 A Water Access Facilities A. Applicability	78	Futurewise recommends the term “water dependent” be replaced with “water access” in the sentence and that the section describe boating facilities in in a separate sentence such as: “This section also applies to multi-user boating facilities, such as community docks and marinas.”	Comment Noted

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	PIERCE COUNTY RESPONSE
T3	18S.40.140 B.8 Water Access Facilities B. Policies	51	The commenter expresses concern about leaving vague phrases up to interpretation and requests the following phrases be more clearly defined: <i>“majority of the time”</i> in Policy B.3 and <i>“constricted body of water”</i> in Policy B.8.	“Majority of the time” is defined with its customary meaning which, in this case, means : if the water access facility cannot be used more frequently than it can be used, The definition of “Constricted Body of Water” can be found in Chapter 18S.70-Appendix A Definitions, Acronyms and Abbreviations
T4	18S.40.140 C.4 Water Access Facilities C. Regulations-General	70	Regulation C.4 (Line 25, page 59): Department of Natural Resources (DNR) supports the language, but the use of “maximum extent feasible” implies that new enclosed and/or covered facilities may be allowed. DNR recommends adding the following language: <u><i>New covered moorage will not be allowed on state-owned aquatic lands.</i></u>	Comment Noted
T5	18S.40.140 C.9 Water Access Facilities C. Regulations-General	70	Regulation C.9 (Line 41, page 59): The use of the term “State land” may create confusion, since other state agencies besides DNR own lands. The following language is suggested: <i>...if on state-owned aquatic lands,...</i>	Comment Noted
T6	18S.40.140 C Water Access Facilities C. Regulations-General	78	Futurewise suggests that all docks and boating facilities inherently have impacts and believes a regulation is needed to address compensatory mitigation such as the following recommended provision: <u>18. Compensatory mitigation shall be provided in the form of removing excess or redundant boating structures, fill, armoring, other alterations, or planting vegetation in aquatic or upland areas. Compensatory mitigation should emphasize in-kind mitigation before using out-of-kind mitigation.</u>	All development within shoreline jurisdiction is subject to the mitigation sequencing requirements of Section 18E.30.030
T7	18S.40.140 D Water Access Facilities D. Regulations-Residential	51	Joint use dock incentives: The commenter notes the Gig Harbor Community Plan advocates for incentives to encourage shared docks yet the SMP contains no incentives allowing for greater flexibility in joint-use facility design. Incentives that are clear and specific be included.	Comment Noted
T8	18S.40.140 D.1 Water Access Facilities D. Regulations-Residential	70	Regulation D.1.b (Line 28, page 60) implies that a vacant parcel can have a water access facility when the residential use has not been established. Is this consistent with the SMA and Ecology Guidelines? DNR would suggest Pierce County clarify the logic behind this language.	The County recognizes the right of property owners to access the water and allows one to propose a dock on a vacant lot that may be used as recreational property. We do distinguish between vacant lots and developed lots through the permit review process. A dock on a lot with a residence may be exempt from the requirement to obtain a Substantial Development, whereas a dock on a vacant

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				parcel would not be.
T9	18S.40.140 D.1 Water Access Facilities D. Regulations-Residential	78	<p>Futurewise is supportive of many of the innovative and thoughtful dock regulations in D. Regulations - Residential, and has some recommended changes.</p> <p>For the following reasons, D.1.a and b should be deleted:</p> <p>D.1.a. allows non-waterfront lots on a waterfront road to build docks. This is inappropriate unless the lot also has land on the water side of the road.</p> <p>D.1.b allows vacant land to have docks contrary to the Guidelines requirements for both modifications in general and docks specifically, and encourages speculative modifications. There are non-permanent alternatives that allow people to recreate.</p> <p>This provision also allows multi-family development (duplexes) to have docks while Guidelines are very specific that non-water-dependent uses (residential) may not have a dock except for a single-family residence.</p>	<p>County regulations allow one to propose a dock on a vacant lot because we recognize that the owner of a lot used on a recreational basis has a right to access the water.</p> <p>There are relatively few scenarios in which one could build a dock without actually owning waterfront property. One example would be along Lake Tapps, where the Cascade Water Alliance (CWA) might be the waterfront lot owner. In these limited instances, CWA requires that a deed exist that would allow for the dock construction.</p> <p>In these limited scenarios, one would have to have the permission of the shoreline property owner to construct anything</p>
T10	18S.40.140 D.2 Water Access Facilities D. Regulations-Residential	51	Regulation D.2.c states that facilities such as boat lifts and jet ski lifts attached to docks are considered permitted uses. A lift would still require a substantial development permit (approximately \$5000). Where is the reasonable nexus of the impact to the fee?	Fees are based upon the cost of the service provided and the establishment of fees lays outside the realm of the SMP update
T11	18S.40.140 D.4 and D.5 Water Access Facilities D. Regulations-Residential	78	<p>D.4 and 5 address sharing dock facilities. It’s recommended the following provision be added to both 4 and 5 to implement dock-specific mitigation sequencing aspects of avoidance and minimization:</p> <p><u>New docks that are approved shall include provisions to share the dock in the future with adjacent waterfront properties that do not have a dock or declined to participate at the time of construction. Such provisions shall address compensation of construction costs, maintenance cost sharing, authorization for access and use, and other matters typical of shared facility agreements such as subdivisions.</u></p>	Comment Noted
T12	18S.40.140 D.8 Water Access Facilities D. Regulations-Residential	78	D.8 – Futurewise strongly supports this provision and recommends additional language to protect public use of the water: <i>“Nor shall dock configurations that are not straight (such as L-shaped), in combination with close proximity to adjacent in-water facilities, act to effectively enclose the water area for private use.”</i>	Comment Noted
T13	18S.40.140 D.9 Water Access Facilities	70	Regulation D.9 (Line 34, page 61): New boathouses will not be allowed on state-owned aquatic lands by DNR. Therefore, the following language is recommended: <u>New boathouses will not be allowed on state-owned aquatic lands.</u>	Comment Noted

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	D. Regulations-Residential			
T14	18S.40.140 D.10 Water Access Facilities D. Regulations-Residential	104 ⁵	Boat launch ramps are handled in a contradictory way throughout 18S. They are expressly allowed at the same time they are expressly prohibited. While boathouses are allowed behind the OHWM, it appears that any sort of facility utilized to launch or retrieve vessels is prohibited. See Regulation D.10 which prohibits launching ramps waterward of the OHWM, 18S.60. 015 G which prohibits residential launching ramps in all SEDs, the definition of “launching ramp” in Appendix A: “a boating facility utilized for launching and retrieving vessels” and the broad definition for “boating facility”. How can railways seem to be allowed while also seeming to be encompassed in the definition of a launching ramp. (see also 18S.60.015 below)	“Launching ramps” and “railways” are listed as distinct, different, types of “Water Access Facilities”. The prohibitions on the use of launching ramps for residential facilities do not extend to railways.
T15	18S.40.140 E.1 Water Access Facilities E. Regulations-Recreational and Marina	51	The comment asks why Regulation E.1.a proposes to preclude any guest or visitor moorage spaces.	SMP makes no distinction between user types and speaks only to number of moorage spaces per linear frontage
T16	18S.40.140 H.3 Water Access Facilities H. Regulations-Dimensions	51	The comment notes Regulation H.3 defines “length” as the “linear distance of a facility measured from the OHWM” and references Figure 18S.40.140-1. This figure shows an atypical dock design (constructed of solid wood) and is not representative of current construction methods. The commenter recommends that a float parallel to the shoreline should not be considered part of the dock length as measured from the OHWM and the definition of length should be revised. Additionally, the revised definition of “dock length” should be added to Appendix A.	Comments noted
	18S.60 Permits and Approvals			
U1	18S.60.015 B Prohibited Uses and	104	Provision B prohibits residential launching ramps in all SEDs. How can the county allow a boathouse while prohibiting any facility to launch a boat? (see also 18.S.40.140 D.10 above)	“Launching ramps” are a type of “Water Access Facility”. A launching ramp is

⁵ Comments appear to reference an earlier draft of Title 18S because of references to section 18S.50 which no longer exists.

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	Development			different from a railway, a dock, or some other water access facility. The prohibitions on the use of launching ramps for residential facilities do not extend to other water access facilities. The term “launching ramp” is not inclusive of any and all feature that allows one to put any type of watercraft into the water. Launching ramps are at grade features, typically but not always constructed of concrete or similar material, and used by people towing their boat on a trailer.
U2	18S.60.020 C.1 Shoreline Substantial Development Permit Exemptions	104	C.1 Fair Market Value: Commenter suggests it is unreasonable for a development threshold of \$6,416 to trigger permits which cost more than \$10,000 and that permits should not cost two times the entire project. Because of the cost of permits, a higher development threshold is reasonable.	The dollar threshold for substantial development permits is established by the State.
U3	18S.60.020 C.7 Shoreline Substantial Development Permit Exemptions	104	C.7 Single-Family Residence: Concern is expressed that basements greater than 900 square feet appear to be prohibited (see Table 18S.50-1 ⁶ footnote (7)(c) which limits grading to 250 cubic yards) and asks for the environmental justification for the prohibition?	The referenced language does not prohibit basements. Also, Section 18S.50 was folded into 18S.40.
U4	18S.60.020 C.8 Shoreline Substantial Development Permit Exemptions	58	C.8 Dock: Commenter questions the dollar limit on dock construction which has nothing to do with lake science and may restrict adequate safety or structural design.	The dollar limits referenced are established by the State.
U5	18S.60.030-1 Shoreline Permit Table	78	Futurewise recommends the following improvements to the table: Flood Hazard Management: The SMP should discourage highly impacting structural methods by requiring a conditional use permit Mining: This activity should be prohibited in channel migration zones Shoreline stabilization: Hard stabilization should be a conditional use in Natural and Conservancy SEDs due to potential adverse impacts; for residences existing on the effective date of the updated SMP, hard stabilization may be a permitted use.	

⁶ Table 18S.50-1 was replaced by Table 18S.60.030-1. Shoreline substantial development permit exemptions are now listed in 18S.60.020.C

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U6	18S.60.030-1 Shoreline Permit Table	12	<p>The commenter requests the table be revised to avoid a total prohibition on aquaculture in Aquatic SEDs abutting shorelines designated Natural. The prohibition is inconsistent with aquaculture’s preferred water-dependent use status, lacks scientific and technical support and would make numerous existing and historic farms nonconforming.</p> <p>All Aquaculture <u>C</u> (in the column under N)</p> <p>Notes: (2) Aquaculture is prohibited in Aquatic SEDs abutting Natural SEDs.</p>	Comment Noted
U7	18S.60.040 F Shoreline Substantial Development Permits	12	<p>F. Approval: The commenter states that projects proposed within shoreline jurisdiction are reviewed, conditioned, and mitigated to ensure compliance with the SMA and SMP. Conditioning a permit to comply with “local conditions” will not ensure consistency with the SMA, SMP or other governing law. The term is not defined or explained so there is no guidance or certainty. Revisions to provision F. Approval to address these concerns are recommended.</p> <p>F. Approval. The Director may approve an application for a Shoreline Substantial Development Permit, <u>or</u> approve with additional requirements obtained from other <u>applicable</u> Sections of the County Code above those specified in the Master Program, <u>or</u> require modification of the proposal to comply with specified requirements or local conditions.</p>	Use of the term “local conditions” does not remove the County’s responsibility to administer the SMP in a manner consistent with the SMA
U8	18S.60.060 A Shoreline Conditional Use Permits	12	<p>The comment suggests revision is needed to avoid arbitrary application of the county’s permit review criteria and to ensure certainty, consistency and predictability in shoreline permitting. The County’s authority is limited to ensuring a project’s consistency with the SMA and the SMP. It is inappropriate to condition a project to “prevent undesirable effects” beyond this without qualification.</p> <p>A. Purpose. The purpose of a Shoreline Conditional Use Permit is to allow flexibility in the application of development regulations in a manner consistent with the policies of the Shoreline Management Act (Act). Conditions may be attached to the permit to prevent undesirable effects of the proposal to assure consistency of the project with the Act and the Master Program.</p>	Comment Noted
U9	18S.60.060 D Shoreline Conditional Use Permits	12	<p>The Public Trust Doctrine is not listed as a criterion under WAC 173-26-160. Court decisions have held that the “doctrine is reflected in, and implemented by, the SMA”. If a project is deemed consistent with the SMA, it is also necessarily consistent with the public trust doctrine. Revision of the language is recommended:</p>	Comment Noted

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			<p>D. Decision Criteria.</p> <p>2. A Conditional Use Permit may be authorized provided that the applicant demonstrates all of the following:</p> <p>b. That the proposed use will not interfere with the normal public use of public shorelines, nor use of waters under the Public Trust Doctrine;</p>	
U10	<p>18S.60.080 B Revision to Shoreline Permit</p>	12	<p>The commenter suggests that revision is needed to ensure the regulation is internally consistent and conforms to the Guidelines definition of “within the scope and intent of the original permit”.</p> <p>B. Review Process</p> <p>2. If the County determines that the proposed changes are within the scope and intent of the original permit,...</p> <p>a. No additional overwater construction development in an Aquatic SED, except that pier, dock, or float construction may be increased by 500 square feet, or 10 percent...</p>	Comments Noted
	<p>18S.70 Appendices C. Aquaculture Application Requirements E. Pierce County Shoreline Jurisdiction Descriptions F. Shoreline Environment Designation Maps</p>			
V1	<p>Appendix C. Aquaculture Application Requirements</p>	12, 19	<p>This entire appendix should be deleted. (see comments regarding 18S.40.040 C.1 for reasoning)</p>	Comments Noted
V2	<p>Appendix C. Aquaculture Application D. Cumulative Impacts Analysis-Expanded</p>	35	<p>The commenter notes the requirement appears to be universal given the examples of “more complex projects”</p> <ul style="list-style-type: none"> • Conducting an analysis is costly and likely out of reach of most small growers • It may be appropriate to require when conditions warrant. However, a blanket 	<p>The referenced section doesn’t define scenarios under which a Cumulative Impact Analysis will be required. It provides examples of when additional baseline information may be needed – <u>in those situations where a cumulative impact analysis has been required.</u></p> <p>There is understandable concern that a cumulative impact analysis is always to</p>

TABLE 3: COMMENT SUMMARY/RESPONSE TABLE

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	Information Requirements		requirement goes beyond reasonableness. (Also see comment on Policy B.11 in 18S.40.040)	be some extensive, multi-year and multi-factor analysis. This isn't the case. What will be required in all cases, through the course of the Conditional Use Permit required for aquaculture projects, is “consideration to the cumulative impact of additional requests for like actions in the area” (18S.60.050 D-3).
W1	Appendix E. Shoreline jurisdiction descriptions WRIA 15 Freshwater-Lake Minterwood	46, 59	Comments request re-evaluation of Lake Minterwood as a shoreline as it may be less than 20 acres in size. The lake is privately owned and artificial with water levels maintained by a well. The lake is not a navigable shoreline lake, is restricted to non-motorized boats and accessible only to community members - there is no public access.	We re-examined the size of Lake Minterwood and it remains large enough (just under 21 acres in size – not including any associated wetlands that may be present) to be subject to the SMP A body of water need not be navigable to be regulated as a Water of the State. Similarly, boat use, access, and ownership are not jurisdictional factors.
X1	Appendix F. Shoreline Environment Designation Maps	Fox I. - 75, 92, 96, 97, 108, 118, 119, 120, 8-OC Anderson I.- 95 North Bay - 94, 98, 102,106, 107, 111, 114 Countywide - 78	Numerous comments were submitted related to proposed environment designation changes along shorelines on Fox Island, Anderson Island and Case Inlet – North Bay. Futurewise recommends re-designation of numerous marine and freshwater shoreline segments (over approximately 84 miles) throughout the County. (See comments on 18S.20 Shorelines of Statewide Significance and Shoreline Environment Designations (SED) above)	The County took the suggested revisions into consideration and feel confident that our environment designations are accurate.
	Exhibit D to Ordinance – 18E. Critical Area Regulations			
Y1	18E.20.035 C Use and Activity Regulations-	78	Small wetland exemptions: Futurewise recommends deleting proposed 18E.20.035.C which exempts category III wetlands of less than 2,500 square feet and category IV wetlands less than 10,000 square feet from the mitigation requirements of PCC	The referenced section, which comes from the County’s Critical Areas Regulations, was not a part of the County’s SMP update.

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	C. Review Waiver Allowances		18E.30.050, Wetland Mitigation. (See also comment on 18S.30.030 above)	The exemption for smaller Category III and IV wetlands does not apply within shoreline jurisdiction.																
Y2	18E.40.040 D Fish and Wildlife Habitat Conservation Areas D. Submerged Aquatic Vegetation (SAV)	12	<p>The comment requests Provision D be revised as follows:</p> <p>D. Submerged Aquatic Vegetation (SAV). Native eEelgrass, kelp, and intertidal vascular plants shall be protected by maintaining an undisturbed area between regulated activities described in Table 18E.40.040-1 and the boundary of the bed...These widths may be adjusted by the Department...</p> <table border="1" data-bbox="720 695 1669 1307"> <thead> <tr> <th colspan="2" data-bbox="720 695 1669 748">NEW Table 18E.40.040-1. Submerged Aquatic Vegetation</th> </tr> <tr> <th data-bbox="720 748 975 824">Regulated Activity</th> <th data-bbox="975 748 1669 824">Required Undisturbed Area Widths*</th> </tr> </thead> <tbody> <tr> <td data-bbox="720 824 975 971">Shellfish Harvest Aquaculture</td> <td data-bbox="975 824 1669 971">16 feet Intertidal Manual Harvest: 25 feet Intertidal Mechanical Harvest: 50 feet Subtidal: 180 feet</td> </tr> <tr> <td data-bbox="720 971 975 1047">Mussel Rafts</td> <td data-bbox="975 971 1669 1047">50 feet within low energy shoreline areas including, but not limited to, bays, coves, and estuaries.</td> </tr> <tr> <td data-bbox="720 1047 975 1084">Fish Pens</td> <td data-bbox="975 1047 1669 1084">300-feet</td> </tr> <tr> <td data-bbox="720 1084 975 1161">Docks and Floats</td> <td data-bbox="975 1084 1669 1161">4-feet vertical separation or 25-feet horizontal separation, whichever is greater.</td> </tr> <tr> <td data-bbox="720 1161 975 1237">Other</td> <td data-bbox="975 1161 1669 1237">A minimum separation of 25-feet shall be required for all other activities.</td> </tr> <tr> <td colspan="2" data-bbox="720 1237 1669 1307">*Required undisturbed area widths do not apply to eelgrass that establishes naturally following commencement of approved aquaculture activities.</td> </tr> </tbody> </table> <p>The revisions are necessary because:</p> <ul style="list-style-type: none"> • The proposed undisturbed widths (buffers) between shellfish aquaculture and submerged aquatic vegetation conflict with the SMP Guidelines and are unsupported by current scientific and technical information. • Current science and technical information demonstrates that any impacts to 	NEW Table 18E.40.040-1. Submerged Aquatic Vegetation		Regulated Activity	Required Undisturbed Area Widths*	Shellfish Harvest Aquaculture	16 feet Intertidal Manual Harvest: 25 feet Intertidal Mechanical Harvest: 50 feet Subtidal: 180 feet	Mussel Rafts	50 feet within low energy shoreline areas including, but not limited to, bays, coves, and estuaries.	Fish Pens	300-feet	Docks and Floats	4-feet vertical separation or 25-feet horizontal separation, whichever is greater.	Other	A minimum separation of 25-feet shall be required for all other activities.	*Required undisturbed area widths do not apply to eelgrass that establishes naturally following commencement of approved aquaculture activities.		<p>Comment noted</p> <p>The buffer widths proposed were based on available studies and literature</p> <p>Recognition that these buffer requirements may not be apply to every aquaculture proposal, or that research may show that a larger or smaller buffer is more appropriate, is provided by the language of 18E.40.040 D: “These widths may be adjusted by the Department during the review process to reflect site specific conditions, current research, and advances in technology”.</p>
NEW Table 18E.40.040-1. Submerged Aquatic Vegetation																				
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			<p>eelgrass associated with geoduck harvest is temporary, localized and within the range of natural sediment disturbances and supports a position that no buffers are necessary and that a 16-foot standard buffer provides more than adequate protection.</p> <ul style="list-style-type: none"> • The proposed buffers are unjustified and prejudicial treatment of aquaculture compared to other uses which have a proposed 25 foot buffer and may not be water-dependent or preferred uses • The proposed 180 foot buffer for subtidal harvest is based on outdated information • Any eelgrass protections must be limited to native eelgrass • Buffers imposed by state and federal agencies are more than adequate <p>If Ecology or the County decline to include a definition of eelgrass as native <i>Z. marina</i>, the 18E.40.040D must be amended to specify that the buffers imposed apply only to the native species and exclude <i>Z. japonica</i>.</p>	
Y3	<p>18E.40.040 D Fish and Wildlife Habitat Conservation Area Standards D. Submerged Aquatic Vegetation (SAV)</p>	2	<p>The comments note that as citizen observers, they are aware of the debate surrounding aquaculture and protection of eelgrass. They question how the industry can function near eelgrass beds without destroying them especially when moving equipment and workers in and out of the work zone. They ask, having observed workers dragging sacks of PVC tubes through the sediment as well as the impacts from harvest via pressure hoses.</p>	<p>The County is requiring a buffer around submerged aquatic vegetation to avoid impact to these important habitat areas.</p> <p>Table 18E.40.040.1 defines the separation distance between eelgrass and various in-water activities</p>
Y4	<p>18E.40.040 E Fish and Wildlife Habitat Conservation Area Standards E. Forage Fish Spawning and Holding Areas</p>	12	<p>The comment requests revisions as follows:</p> <ol style="list-style-type: none"> 1. Regulated activities waterward of the ordinary high water mark (OHWM), in areas of confirmed spawning habitat <u>confirmed by WDFW or a project applicant</u>, shall be suspended during spawning periods unless a survey by a qualified professional <u>person</u> confirms that spawning is not occurring or approval is obtained from WDFW. <p>The revisions are requested based on:</p> <ul style="list-style-type: none"> • This provision is overly burdensome and vague and should be revised to 	<p>Comment Noted</p>

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			<p>recognize WDFW as the authority that documents areas of confirmed spawning habitat, or that project applicants may confirm the presence of spawn.</p> <ul style="list-style-type: none"> • “Qualified professional” does not appear to be defined in the county’s SMP. • Shellfish aquaculture rarely overlaps with surf smelt and sand lance but may overlap with tidal elevations suitable for herring spawn. Shellfish growers attend WDFW training sessions which satisfy conditions in verifications issued by the Corps of Engineers under NWP 48. Ecology also recognizes that qualified individuals rather than professionals can conduct baseline forage fish surveys. 	
Y5	18E.40.050 Mitigation Requirements	78	The tiered levels of mitigation plans needs to apply to all development that adversely impacts shorelines and needs additional details for compensatory mitigation in a mitigation manual.	Marine shorelines are not, by themselves, regulated as a Critical Area. As such, the County’s fish and wildlife regulations do not speak to them. However, pursuant to 18S.30.030, “all development” within shoreline jurisdiction is subject to mitigation sequencing.
Y6	18E.40.060 Buffer Requirements Table 18E.40.060-1 Fish and Wildlife Habitat Conservation Area Buffer Requirements	78	<p>The proposed 100-foot Type S1 buffers are not adequate to perform the ecological functions provided by riparian vegetation. Maintaining these functions is consistent with RCW 90.58.020 and the SMP Guidelines.</p> <p>The Type S1 buffers should be at least 150 feet wide to perform the important habitat functions and comply with the SMA and the SMP Guidelines. See also comments on 18S.30.030 above.</p>	Type S1 Waters (“Marine Shoreline Critical Salmon Habitat”) are a subset of the larger marine shoreline area, representing approximately 17% of that larger area (approx. 31 miles out of 181 miles). It is a habitat type whose buffer is separate from that required for any particular shoreline environment or other critical area. The S1 100 foot buffer may be smaller than the shoreline environment buffer, or the buffer associated with a wetland, in which case the larger buffer will be applied.
Y7	PCC 18E.80.020 B Landslide Hazard Areas	78	<p>The commenter notes the proposed SMP adopts the existing Pierce County critical areas regulations within shoreline jurisdiction which is generally supported. However, it does not include Washington State Department of Natural Resources online “Natural Hazards” map which includes updated information on the location of landslides.</p> <p>It’s recommended the following provision be added to incorporate updated information:</p> <p><u>6. Areas mapped as landslides on the current version of Washington State Department of Natural Resources Division of Geology and Earth Resources natural</u></p>	As allowed for in Section 18E.10.140 – Appendix A, Mapping Sources; as updated landslide mapping is made available by the Department of Natural Resources, the County will update its “Critical Areas Atlas – Landslide Hazard Areas” mapping.

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			<u>hazards web based map.</u>	
Y8	PCC 18E.80.030 B Landslide Hazard Areas	78	<p>The comment suggests this should be updated to require analysis of landslide hazards with the potential to damage buildings or harm the occupants of the sites.</p> <p>The Oso slide destroyed homes in shoreline jurisdiction and shows that landslides can damage people and property at a distance greater than the 300’ review area in B.5</p> <p>5. A field investigation and geological assessment shall be completed under the responsible charge of an appropriately licensed geotechnical professional(s) to evaluate whether or not an active landslide hazard area exists <u>with the potential to damage buildings on the site or harm the occupants within 300 feet</u> of the site. (See Figure 18E.80-5 in Chapter 18E.120.)</p>	<p>Comment Noted</p> <p>The referenced section, which comes from the County’s Landslide Hazard regulations, was not a part of the County’s SMP update.</p>
Y9	PCC 18E.80.050 A Landslide Hazard Areas A. Buffer Requirements	78	<p>Futurewise recommends updating this section to require safe buffers. See recommended language:</p> <p>2. A buffer of undisturbed vegetation shall be required for an active landslide hazard area. The required buffer width is the greater amount of the following distances:</p> <p>a. Fifty feet from all edges of the active landslide hazard area limits;</p> <p>b. A distance <u>a geotechnical professional</u> of one-third the height of the slope if determines will keep the regulated activity is at the top, side, or bottom of the active landslide hazard safe from damage from a landslide area and a distance of one-half the height of the slope if the regulated activity is at the bottom of an active landslide hazard area, or the distance recommended by the geotechnical professional.</p>	<p>Comment Noted</p> <p>The referenced section, which comes from the County’s Landslide Hazard regulations, was not a part of the County’s SMP update.</p> <p>Subsection “B” of that section gives the County the authority to require a buffer larger than 50 feet or, as determined by a geotechnical professional.</p>
	Title 18 - Development Regulations-General Provisions			
Z1	18.25.030 Definitions	12	The commenter points out that non-native eelgrass is listed as a Class C noxious weed which should be controlled. Because the SMP does not define “eelgrass” it could be	Comment Noted

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			<p>interpreted to protect both native and non-native species.</p> <p>Addition of the following definition is recommended to avoid conflict with state law and policy:</p> <p><u>“Eelgrass.” means the native species of eelgrass, <i>Zostera marina</i>.</u></p>	
	<p>Pierce County SMP General comments</p>			
AA1	<p>General comment Tribal treaty rights</p>	57	<p>SMP provisions propose to restrict activities that fall clearly within the Treaty rights of the Squaxin Island Tribe including all marine waters north of the Tacoma Narrows. The Tribe’s rights to fish and shellfish have been litigated and protects the Tribe’s interest in both naturally occurring and enhanced populations.</p> <p>Pierce County has not engaged with the Tribe in a cooperative management relationship. Instead they have chosen a path in direct conflict with federal law. The County does not have the authority to unilaterally prohibit aquaculture activities that are part of Tribal Treaty rights.</p>	<p>Pierce County fully supports the Tribe’s rights and addressed this concern by the applicability section of 18S.10.030(8) which states: “The shoreline jurisdiction does not include land owned by tribal members or tribes within their tribal reservation, or lands held in trust by the federal government for tribes or of tribal members.”</p>
AA2	<p>General comment Tribal treaty rights</p>	105	<p>The SMP places a near prohibition on aquaculture in the Nisqually Reach Aquatic Reserve, which is in the middle of and constitutes a major portion of the Nisqually Indian Tribe’s marine territory and treaty secured fishing area. There is no justification in the county record for this prohibition and it creates a conflict with language in the SMP protecting tribal treaty rights.</p>	<p>Pierce County fully supports the Tribe’s rights and addressed this concern by the applicability section of 18S.10.030(8) which states: “The shoreline jurisdiction does not include land owned by tribal members or tribes within their tribal reservation, or lands held in trust by the federal government for tribes or of tribal members.”</p>
AA3	<p>General comment Public Trust Doctrine</p>	16	<p>Public Trust Doctrine guarantees our uses of the waters, even over private tidelands. Uses other than shellfish farms, such as recreation, are important to the State’s economy</p>	<p>Comment Noted</p>
AA4	<p>General comment</p>	34	<p>All shorelines should be public; private and commercial use should stop and public access expanded.</p>	

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	Shoreline use		SMP doesn’t do enough to restrict private residential development and promote protection of shorelines.	Comment Noted
AA5	General comment Public access	3	Areas such as wetlands and river shorelines are purchased with public funds (taxpayer money). The county repeatedly fences these and posts No Trespassing signs. These areas should be open to the public.	<p>Many County owned properties allow public access. Others, due to safety concerns, restoration activities, or past unauthorized activities on the property, are fenced.</p> <p>Other areas, which may appear to be a wetland or pond, are actually a stormwater pond which may be required by code to be fenced.</p> <p>The County also owns and manages levee properties along the Puyallup, White and Carbon rivers. Many of these levees are constructed on exclusive easements granted by private property owners to Pierce County. That right cannot be conveyed to the general public for access.</p> <p>There are a number of properties along County rivers where recreation uses such as walking and fishing can occur. The County Surface Water Management website identifies these access points. Additional access point to shorelines can be found on the Pierce County Parks and Recreation website.</p>
AA6	General comment Climate change/sea level rise	103	An important aspect of shoreline management is dealing with effects of climate change. Land owners need to have clear options to adapt to rising sea level – there may be opportunity in providing actions in the setback area while still protecting these sensitive areas. “Please add a section providing desirable means of adapting to the changes that are coming.”	Comment Noted
AA7	General Comment Lake Tapps	58	Comments focus on unique physical and biological characteristics of Lake Tapps and concern that the proper scientific justification is utilized when establishing regulations on the lake. Supports inclusion of the specifications (addressing residential development, vegetation conservation and docks, among others) included in the draft “Proposed Lake Tapps Reservoir Shoreline Plan” dated 5/2/2014 (revised 4/6/2016) into the SMP.	We appreciate the time and effort of the Lake Tapps Community Council in preparing the document: “Proposed Lake Tapps Reservoir Shoreline Plan”. However, we feel the SMP is consistent with, and addresses, the various concerns expressed in that document.

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AA8	General Comment Property rights/wetland regulations	3	The cost and burden of saving wetlands is falling on landowners rather than the public. If property is valuable as wetland, floodplain or habitat, the cost should be shouldered by the public, giving fair financial restitution, rather than placing unfair financial costs and restrictions on landowners.	Comment Noted
AA9	General Comment Property Taxes	20	Commenter questions the fairness of the tax structure which results in a huge difference in property taxes assessed to waterfront property owners and those paid by aquaculture tideland owners and suggests waterfront property owners are subsidizing the aquaculture industry while the industry “destroys our waterfront views and wildlife”	Comment Noted
AA10	General Comment Use of science	30	Commenter states that science is based on facts, from which are developed ideas of relationships and finally widespread theories to coordinate among the known facts. The known facts continue to change and the observations of the various interest groups vary considerably as to what the actual effect of shellfish farms is on current and future property owners of the area. Sympathy for the decision makers is expressed as those responsible try to sort out a complex issues and determine what is in the best interest of the greatest number of people for the longest time.	Comment Noted